



Oversight Model of the South African Legislative Sector



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FOREWORD



The Oversight Model of the South African Legislative Sector represents a giant step towards a formulation of a unified framework for the Legislative Sector of South Africa. The approach to a common oversight practice in South Africa is to encourage the development of common standards, vision and principles, and implementation of best oversight practices in South Africa. The aim is to see the model being incorporated as an integral part of the Sector and a guide in the overall oversight function of the South African Legislatures. The model is expected to contribute immensely to conducting of effective oversight by the Legislatures over the Executive. This will result in enhancement of service delivery and improved quality of life for all South Africans. The success of this new approach will depend on partnerships we forge and type of relationships that exist between the Legislative Sector, the Executive and the people of South Africa.

The implementation of the model will create opportunities for partners to contract on service delivery outcomes and support one another in attaining them. It will make it possible for oversight partners to operate in unison in the attainment of set targets in different service delivery areas. The consistent interactions and site visits as set out in the model will ensure that Legislatures remain effective and visible in their functions as institutions of the people.

Public participation is a central constitutional imperative that is enshrined and supported by the model. It is therefore, essential as elected representatives of the people, that the Legislative Sector involves the public in all activities involving oversight. We are convinced that as the South African Legislative Sector positions itself and gets ready for the roll-out of the Oversight Model, Legislatures will be able to produce outputs that are aligned with the Legislative Sector's strategic objectives and mandate.

MV Sisulu
Chairperson of the Speakers' Forum of South Africa

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Appreciation is also extended to all respondents from all legislatures who took the time to respond to, and submit the questionnaires.



LIST OF ACRONYMS

| | |
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| ABC | Activity-Based Costing |
| ACPs | Accountability Cycle Priorities |
| AG | Auditor-General |
| AIDS | Acquired Immunodeficiency Syndrome |
| ATC | Announcements, Tablings and Committee Reports |
| BCM | Budget Cycle Model |
| BIMS | Budget Information Matrices |
| CBO | Community-Based Organisation |
| CBS | Community-Based Structure |
| CPF | Community Policing Forum |
| F/Y | Financial Year |
| FIS | Focussed Intervention Study |
| HIV | Human Immunodeficiency Virus |
| HRC | Human Rights Commission |
| ISDs | Institutions Supporting Democracy |
| IT | Information Technology |
| KPI | Key Performance Indicator |
| LSS | Legislative Sector Support |
| MEC | Member of the Executive Council |
| MPL | Member of the Provincial Legislature |
| MTBPS | Medium-Term Budget Policy Statement |
| MTEF | Medium-Term Expenditure Framework |
| NGO | Non-Governmental Organisation |
| OGCSF | Oversight Guide for the Committee Staff Forum |
| PAC/SCOPA | Public Accounts Committee/Standing Committee on Public Accounts |
| PEBA | Programme Evaluation and Budget Analysis |
| PFMA | Public Finance Management Act |
| POA | Parliament Oversight and Accountability |
| PSOM | Public Sector Oversight Model |
| PPPO | Public Participation and Petitions Office |
| SOM | Sector Oversight Model |
| SALSA | South African Legislatures Secretaries Association |
| SOIP | Strategic Oversight Intervention Process |

1. Concepts Defined

- Accountability:** *A social relationship where an actor (an individual or an agency) feels an obligation to explain and justify his or her conduct to some significant other (the accountability forum, accountee, specific person or agency).*
- Committee Inquiry:** *A study undertaken by a standing or special committee of the House. It may be initiated as a result of a standing or special order or, in the case of a standing committee, by the committee itself.*
- Co-operative Government:** *When all spheres of government and all organs of state within each sphere co-operate with one another in mutual trust and good faith by fostering friendly relations, assisting and supporting one another, informing one another of, and consulting one another on matters of common interest, coordinating their actions and legislation with one another, adhering to agreed procedures, and avoiding legal proceedings against one another.*
- Constitutional Democracy:** *A form of government, where a constitution guarantees basic personal and political rights, fair and free elections, and independent courts of law.*
- Good Governance:** *Epitomised by predictable, open and enlightened policy-making, a bureaucracy imbued with professional ethos acting in the furtherance of the public good, the rule of law, transparent processes, and a strong civil society participating in public affairs.*
- Legislature:** *Includes Parliament and all Provincial Legislatures of South Africa. They are institutions constitutionally charged with the responsibilities of making laws, conducting oversight of the Executive, exercising public participation and co-operative governance.*
- Members' Statements:** *When Members of Parliament, who are not Cabinet Ministers, can speak for up to one minute each on matters they consider to be important.*
- Ministerial Accountability:** *A notion and practice that ensures effective accountability of the Executive to the legislature.*
- Money Bill:** *In the Westminster system (and, colloquially, in the United States), a money Bill or supply Bill is a Bill that solely concerns taxation or government spending (also known as appropriation of money), as*

opposed to changes in public law. It is often referred to as a Section 77 Bill by South Africa's constitution. One of the Money Bills is the annual Appropriation Bill or the "Budget", as the Bill is commonly referred to,". Money Bills can only be amended through an Act of Parliament.

Organs of State:

Any department of state or administration in the national, provincial or local sphere of government, or any other functionary or institution exercising a power of performing a function in terms of the Constitution of the Republic of South Africa or a provincial constitution, or exercising a public power or performing a public function in terms of any legislation, but this does not include a court of a judicial officer.

Oversight:

The proactive interaction initiated by a legislature with the Executive and administrative organs ...that encourages compliance with the constitutional obligation on the Executive and administration to ensure delivery on agreed-to objectives for the achievement of government priorities.

Parliamentary institute: *A policy/research and development think tank found in established parliamentary systems.*

Public Involvement: *A process whereby people and/or State Institutions Supporting Constitutional Democracy in South Africa exercise their collective and individual initiatives to promote their interests in decision-making and oversight.*

Resolutions-Tracking: *Tracking of status of the implementation of resolutions/decisions of the House, by departments and/or committees of the legislature.*

Sub-ordinate Legislation: *Refers to delegated legislation (also referred to as secondary legislation). It is law made by an executive authority under powers given to them by primary legislation in order to implement and administer the requirements of that primary legislation. It is law made by a person or body other than the legislature but with the law legislature's authority. It includes Regulations (Ministerial), Orders, Notifications and Rules.*

Tools of Analysis: *Instruments used in the analysis of oversight information to confirm the veracity of information regarding performance.*

2. Introduction



The Parliament of the Republic of South Africa (RSA) and the Provincial Legislatures, are established in terms of the Constitution of the Republic of South Africa, Act 108 of 1996.

Central to democratic governance, legislatures in South Africa have organised themselves into a sector through a voluntary agreement. They have formed a Speakers' Forum that is supported by the South African Legislatures Secretaries Association (SALSA). The sector has established a secretariat referred to as the Legislative Sector Support (LSS) to provide overall co-ordination within the sector.

The development of the model came as a result of consultations initiated by the Speakers' Forum with a view to improving and enhancing the Legislative Sector's performance on oversight. It further served to ensure a co-ordinated approach to the sector's application of oversight practice in each legislature.

Working on this mandate, SALSA commissioned a project to develop an oversight model for the South African Legislative Sector. To this end, a project team consisting of officials from the Legislative Sector was established to develop a Sector Oversight Model. Various stakeholders were consulted during the model's development process.

Based on several sources, it is noteworthy that various legislatures across South Africa have their frameworks, methods, practices and approaches to oversight.

The conventional Westminster view on oversight, as inherited by many former British colonies, is often rather adversarial and in some instances oversight is professed to be the purview of opposition politicians and not the legislature as an institution¹.

Legislatures were established as key arms of ²government with constitutional obligations to make laws, exercise oversight and ensure the involvement of the citizens in legislative processes. These institutions have in the past 15 years, developed systems, structures, and procedures for discharging their constitutional mandates. Since 1994, particular emphasis has been placed on the oversight role of legislatures, especially as it relates to ensuring government compliance with approved public spending³.

The model presents the South African legislative sector with an opportunity to reflect on the role of legislatures in conducting oversight.

¹ Parliament of the Republic of South Africa, (2009). **Oversight and Accountability Model**, in Parliament, p. 7.

² Constitution of the Republic of South Africa, Act 108 of 1996, Section 239

³ *Ibid*, p. 7.



The purpose of this model is to define oversight for the South African legislative sector. It further establishes a baseline for systems, mechanisms, and tools for conducting oversight. It further standardises practices on oversight guided by its prescripts in response to public sector planning, policy-making; budgeting and performance.

The three documented oversight models, Programme Evaluation and Budget Analysis (PEBA), Oversight Guide for the Committee Staff Forum (OGCSF), and the Parliament's Oversight and Accountability (POA) model, were considered in the development of this model, as were known practices and approaches reported in the various responses to the questionnaire designed for this project. Furthermore, the model is designed to ensure observance of our democratic values as enshrined in the Constitution during government performance and oversight by legislatures.

Finally, the development of the model reveals a need for comprehensive oversight legislation.

3.Oversight According to the Elements of the Sector Oversight Model

Any attempt to expand or to entrench a comprehensive and detailed oversight process such as that envisaged by the scope of the Sector Oversight Model (SOM) would have to confront two realities.

Firstly, the term 'oversight' in the South African political context, as in many others, is customarily perceived as the purview of opposition politicians. Those exercising oversight are generally afforded the luxury of hindsight, and are ultimately divorced from the responsibility for failure. The model attempts to redefine this image of oversight by introducing an oversight regime based less on institutional or political confrontation. Instead, it tries to redefine legislatures as a central component in the Public Service delivery machine. The redefinition rests on the understanding that if the legislatures' oversight role is exercised in pursuit of good government, then the legislatures also bear some responsibility for overall government performance.

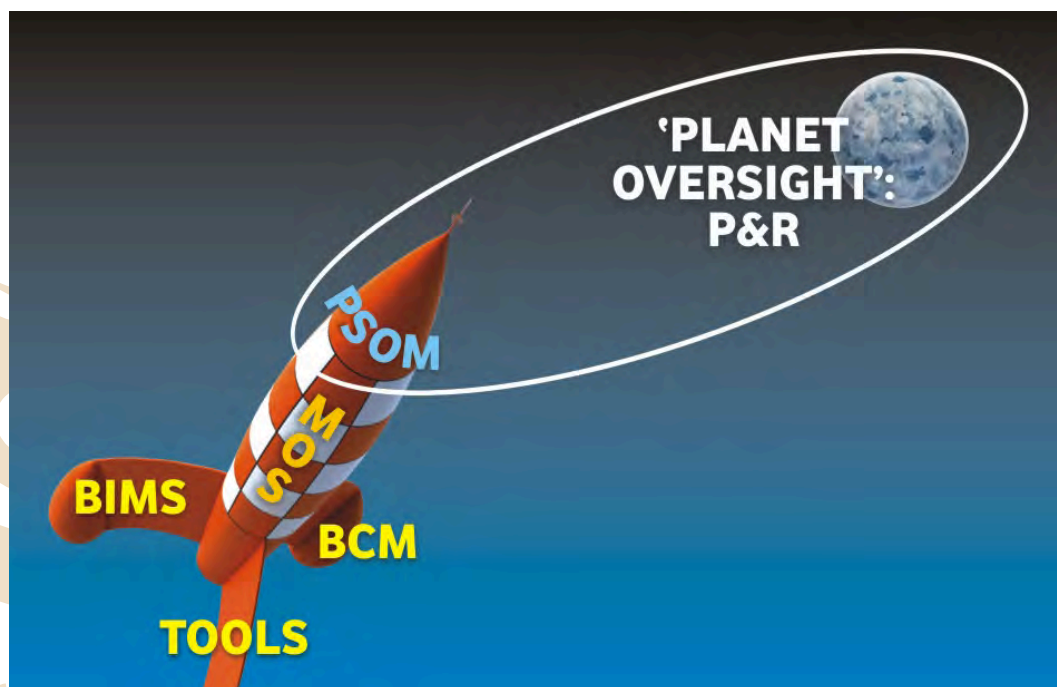
Secondly, the Westminster-based parliamentary system sanctions a government with a clear majority to pursue the platform upon which it was brought to power. Therein lies government's prerogative. Yet, the need for accountability, transparency, and

representativity are never taken for granted.⁴ Securing these three essential principles in the system, without compromising its strengths, is what the Budget Cycle Model (BCM) seeks to achieve.

The purpose of this model is to set a standard for the practice and conduct of oversight in the South African legislative sector. It is not the intention of the model to be applicable to all legislatures at the same time. Legislatures are expected to adopt elements of the model that they are individually able to implement, depending of their peculiar circumstances and available resources at any given time.

4. The Public Sector Oversight Model

Given the state of affairs described above, it is necessary to identify the key elements of legislative oversight, that is, the evaluation of the efficacy of Public Service programmes and the appropriateness of financial resource allocations and management, and the relationships between these key elements. The result is a simple conceptual model that captures these elements and arranges them in an appropriate manner.



⁴ House of Commons Reform, P. 208-9.

The PSOM itself is no guide to action. It simply presents a paradigm or a framework by which the oversight that is informed by performance evaluation and budget analysis needs to be understood. The activation of the PSOM requires separate instruments: the Budget Cycle Model (BCM); the Budget Information Matrices (BIMs); and a toolkit of basic performance evaluations and budget analyses.

Essentially, the PSOM states that the priorities, inputs and outputs of a programme must achieve a desirable equilibrium with the outcomes they produce. For example, in a given year, the Department of Safety prioritises the reduction of highway hijackings. Reduction of highway hijackings would be the priority.

The department devotes a given number of vehicles and personnel to patrolling the highways, which constitutes the input. The number of hours spent patrolling the highways are the output. The reduction in levels of highway hijackings is the desired outcome. The priority, inputs and outputs are balanced against the outcomes they generate.

5. The Role of Legislatures in Relation to Oversight and Accountability as Mandated by the Constitution

5.1. Constitutional mandate

In the South African context, oversight and accountability are constitutionally mandated functions of legislatures to scrutinise and oversee executive action and any organ of state.

Oversight entails the informal and formal, watchful, strategic and structured scrutiny exercised by legislatures, including Parliament, in respect of the implementation of laws, the application of the budget, and the strict observance of statutes and the Constitution. In addition, and most importantly, it entails overseeing the effective management of government departments by individual members of the relevant executive authority in pursuit of improved service delivery for the achievement of a better quality of life for all people.

In terms of the provisions of the Constitution, Parliament and the Provincial Legislatures must maintain oversight of all organs of state, including those at provincial and local government levels.

Accountability can be broadly defined as a social relationship where an actor (an individual or an agency) feels an obligation to explain and justify his or her conduct to some significant other (the accountability forum, accountee, specific person or agency).

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Accountability is the hallmark of modern democratic governance. Democracy remains clichéd if those in power cannot be held accountable in public for their acts or omissions, for their decisions, their expenditure or policies. Historically, the concept of accountability was closely linked to accounting in the financial sense. It has, however, moved far beyond its origins and has become a symbol of good governance both in the public and private sectors. Accountability refers to institutionalised practices of giving account of how assigned responsibilities are carried out.

5.2. Constitutional provisions on oversight and accountability

The relevant constitutional provisions that refer directly and indirectly to oversight and accountability are as follows:

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| Section 41(2) | An Act of Parliament must establish or provide for structures and institutions to promote and facilitate intergovernmental relations, and for appropriate mechanisms and procedures to facilitate settlement of intergovernmental disputes. |
| Section 42(3) & (4) | <p>(3) The National Assembly is elected to represent the people and to ensure government by the people under the Constitution. It does this by choosing the President, by providing a national forum for public consideration of issues, by passing legislation and by scrutinising and overseeing executive action.</p> <p>(4) The National Council of Provinces represents the provinces to ensure that provincial interests are taken into account in the national sphere of government. It does this mainly by participating in the national legislative process and by providing a national forum for public consideration of issues affecting provinces.</p> |
| Section 55(2) | The National Assembly must provide for mechanisms – (a) to ensure that all executive organs of state in the national sphere of government are accountable to it; and |

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| | <p>(b) to maintain oversight of -</p> <p>(i) the exercise of national executive authority, including the implementation of legislation; and</p> <p>(ii) any organ of state.</p> |
| Section 55(2) | <p>The National Assembly must provide for mechanisms to ensure that all executive organs of state in the national sphere of government are accountable to it; and to maintain oversight of—</p> <p>(i) the exercise of national executive authority, including the implementation of legislation; and</p> <p>(ii) any organ of state.</p> |
| Section 56 | <p>The National Assembly or any of its committees may—</p> <p>(a) summon any person to appear before it to give evidence on oath or affirmation, or to produce documents;</p> <p>(b) require any person or institution to report to it;</p> <p>(c) compel, in terms of national legislation or the rules and orders, any person or institution to comply with a summons or requirement in terms of paragraph (a) or (b); and</p> <p>(d) receive petitions, representations or submissions from any interested persons or institutions.</p> |
| Section 66(2) | <p>The National Council of Provinces may require a Cabinet member, a Deputy Minister or an official in the national executive or a provincial executive to attend a meeting of the Council or a committee of the Council.</p> |
| Section 67 | <p>Not more than 10 part-time representatives designated by organised local government representing the different categories of municipalities may participate in the proceedings of the National Council of Provinces, when necessary, but may not vote.</p> |
| Section 69 | <p>The National Council of Provinces or any of its committees may—</p> <p>(a) summon any person to appear before it to give evidence</p> |

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| | <p>on oath or affirmation, or to produce documents;</p> <p>(b) require any person or institution to report to it;</p> <p>(c) compel, in terms of national legislation or the rules and orders, any person or institution to comply with a summons or requirement in terms of paragraph (a) or (b); and</p> <p>(d) receive petitions, representations or submissions from any interested persons or institutions.</p> |
| Section 70(1) | <p>The National Council of Provinces may –</p> <p>(a) determine and control its internal arrangements, proceedings and procedures; and</p> <p>(b) make rules and orders concerning its business, with due regard to representative and participatory democracy, accountability, transparency and public involvement.</p> |
| Section 89 | <p>(1) The National Assembly, by a resolution adopted with a supporting vote of at least two thirds of its members, may remove the President from office only on the grounds of –</p> <p>(a) a serious violation of the Constitution or the law;</p> <p>(b) serious misconduct; or</p> <p>(c) inability to perform the functions of office.</p> <p>(2) Anyone who has been removed from the office of President in terms of subsection (1)(a) or (b) may not receive any benefits of that office, and may not serve in any public office.</p> |
| Section 92 | <p>(2) Members of the Cabinet are accountable collectively and individually to Parliament for the exercise of their powers and the performance of their functions.</p> <p>(3) Members of Cabinet must ... provide Parliament with full and regular reports concerning matters under their control.</p> |
| Section 93(2) | <p>Deputy Ministers are accountable to Parliament for the exercise of their powers and the performance of their functions.</p> |

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| Section 100(2) | If the national executive intervenes in a province by assuming responsibility for the relevant executive obligation which that province cannot or does not fulfil, the national executive must submit a written notice of the intervention to the National Council of Provinces within 14 days after the intervention began. The intervention must end if the Council disapproves the intervention within 180 days after the intervention began or by the end of that period has not approved the intervention. The Council must, while the intervention continues, review the intervention regularly and may make any appropriate recommendations to the national executive. |
| Section 102 | <p>(1) If the National Assembly, by a vote supported by a majority of its members, passes a motion of no confidence in the Cabinet, excluding the President, the President must reconstitute the Cabinet.</p> <p>(2) If the National Assembly, by a vote supported by a majority of its members, passes a motion of no confidence in the President, the President and the other members of the Cabinet and any Deputy Ministers must resign.</p> |
| Section 59 | (1) The National Assembly must facilitate public involvement in the legislative and other processes of the Assembly and its committees, and conduct its business in an open manner, and hold its sittings, and those of its committees, in public, but reasonable measures may be taken to regulate public access, including access of the media to the Assembly and its committees. |
| Section 114(2) | A provincial legislature must provide for mechanisms to ensure that all provincial executive organs of state in the province are accountable to it; and to maintain oversight of— (i) the exercise of provincial executive authority in the province, including the implementation of legislation; and (ii) any provincial organ of state. |

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| Section 115 | A provincial legislature or any of its committees may— (a) summon any person to appear before it to give evidence on oath or affirmation, or to produce documents; (b) require any person or provincial institution to report to it; (c) compel, in terms of provincial legislation or the rules and orders, any person or institution to comply with a summons or requirement in terms of paragraph (a) or (b); and (d) receive petitions, representations or submissions from any interested persons or institutions. |
| Section 116(1) | A provincial legislature may— (a) determine and control its internal arrangements, proceedings and procedures; and (b) make rules and orders concerning its business, with due regard to representative and participatory democracy, accountability, transparency and public involvement. |
| Section 125(4) | Any dispute concerning the administrative capacity of a province in regard to any function must be referred to the National Council of Provinces for resolution within 30 days of the date of the referral to the Council. |
| Section 130(3) & (4) | (3) The legislature of a province, by a resolution adopted with a supporting vote of at least two thirds of its members, may remove the Premier from office only on the grounds of— (a) a serious violation of the Constitution or the law; (b) serious misconduct; or (c) inability to perform the functions of office. (4) Anyone who has been removed from the office of Premier in terms of subsection (3) (a) or (b) may not receive any benefits of that office, and may not serve in any public office. |
| Section 133(2) & (3) | (2) Members of the Executive Council of a province are accountable collectively and individually to the provincial legislature for the exercise of their powers and the performance of their functions. (3) Members of the Executive Council of a province must |

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| | provide the provincial legislature with full and regular reports concerning matters under their control. |
| Section 139 (2) | If a provincial executive intervenes in a municipality which cannot or does not fulfil an executive obligation by assuming responsibility for the relevant obligation in that municipality the provincial executive must submit a written notice of the intervention to the Cabinet member responsible for local government affairs, the relevant provincial legislature and the National Council of Provinces within 14 days after the intervention began. The intervention must end if the Cabinet member responsible for local government affairs disapproves the intervention within 28 days after the intervention began or by the end of that period has not approved the intervention; or the Council disapproves the intervention within 180 days after the intervention began or by the end of that period has not approved the intervention. The Council must, while the intervention continues, review the intervention regularly and may make any appropriate recommendations to the provincial executive. |
| Section 118 | (1) A provincial legislature must facilitate public involvement in the legislative and other processes of the legislature and its committees, and conduct its business in an open manner, and hold its sittings, and those of its committees, in public, but reasonable measures may be taken to regulate public access, including access of the media to the legislature and its committees. |
| Section 139(3) | When the relevant provincial executive intervenes in a municipality which cannot or does not fulfil an executive obligation by dissolving the Municipal Council, the provincial executive must immediately submit a written notice of the dissolution to the Cabinet member responsible for local government affairs; and the relevant provincial legislature and the National Council of Provinces. The dissolution takes effect 14 days from the date of receipt of the notice by the Council unless set aside by that Cabinet member or the Council before the expiry of those 14 days. |

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| Section 139 (6) | When the relevant provincial executive intervenes in a municipality which cannot or does not approve a budget or any revenue-raising measures necessary to give effect to the budget; or which, as a result of a crisis in its financial affairs, is in serious or persistent material breach of its obligations to provide basic services or to meet its financial commitments, or which admits that it is unable to meet its obligations or financial commitments, the relevant provincial executive must submit a written notice of the intervention to the Cabinet member responsible for local government affairs; and, the relevant provincial legislature and the National Council of Provinces, within seven days after the intervention began. |
| Section 146 (6) | A law made in terms of an Act of Parliament or a provincial Act can prevail only if that law has been approved by the National Council of Provinces. |
| Section 154 | The national government and provincial governments, by legislative and other measures, must support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions. |
| Section 155(6) | Each provincial government must establish municipalities in its province in a manner consistent with the applicable national legislation and, by legislative or other measures, must— (a) provide for the monitoring and support of local government in the province; and (b) promote the development of local government capacity to enable municipalities to perform their functions and manage their own affairs. |
| Section 155(7) | The national government, subject to section 44, and the provincial governments have the legislative and executive authority to see to the effective performance by municipalities of their functions in respect of matters listed in Schedules 4 and 5, by regulating the exercise by municipalities of their executive authority. |

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| <p>Section 231(2), (3) & (4)</p> | <p>(2) An international agreement binds the Republic only after it has been approved by resolution in both the National Assembly and the National Council of Provinces, unless it is an agreement referred to in subsection (3).</p> <p>(3) An international agreement of a technical, administrative or executive nature, or an agreement which does not require either ratification or accession, binds the Republic without approval by the National Assembly and the National Council of Provinces, but must be tabled in the Assembly and the Council within a reasonable time.</p> <p>(4) Any international agreement becomes law in the Republic when it is enacted into law by national legislation; but a self-executing provision of an agreement that has been approved by Parliament is law in the Republic unless it is inconsistent with the Constitution or an Act of Parliament.</p> |
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Note: This is not an exhaustive list of provisions of the Constitution.

5.3. Functions of oversight

The concept of oversight contains many aspects which include political, administrative, financial, ethical, legal and strategic elements. The functions of oversight are:

- To detect and prevent abuse, arbitrary behaviour or illegal and unconstitutional conduct on the part of the government and public agencies. At the core of this function is the protection of the rights and liberties of citizens.
- To hold the government to account in respect of how the taxpayers' money is used. It detects waste within the machinery of government and public agencies. Thus it can improve the efficiency, economy and effectiveness of government operations.
- To ensure that policies announced by government and authorised by Parliament and Provincial Legislatures are actually delivered. This function includes monitoring the achievement of goals set by legislation and the government's own programmes.
- To improve the transparency of government operations and enhance public trust in the government, which is itself a condition for effective policy delivery.

5.4. Functions of accountability

The functions of accountability include the following:

- To enhance the integrity of public governance in order to safeguard government against corruption, nepotism, abuse of power and other forms of inappropriate behaviour.
- As an institutional arrangement, to effect democratic control.

- To improve performance, which will foster institutional learning and service delivery.
- In regard to transparency, responsiveness and answerability, to assure public confidence in government and bridge the gap between the governed and the government and ensure public confidence in government.
- To enable the public to judge the performance of the government by the government, giving account in public.

Notwithstanding the fact that section 55 of the Constitution enables the National Assembly to maintain oversight over all organs of state and section 92, which enables Parliament to hold the Cabinet accountable operationally, organs of state at national level and Ministers and their departments are generally held to account by Parliament. At national level, there is direct accountability to Parliament by national departments, national public entities and national bodies such as commissions.

The National Assembly does, however, have the right to call organs of state at provincial and local level to account, but does not do so operationally unless there are issues of public importance, national interest and shared competencies. Accountability to Parliament by organs of state at provincial and local level must be conducted through observance of the Intergovernmental Framework Relations Act and the principles of co-operative government.

In conducting oversight and accountability, the principles of co-operative government and intergovernmental relations must be taken into consideration, including the separation of powers and the need for all spheres of government and all organs of state to exercise their powers and perform their functions in a manner that does not encroach on the geographical, functional or institutional integrity of government in another sphere.

6. Committees, the Public Sector Oversight Model and Oversight

The appropriate mechanism for legislatures to conduct oversight of organs of state is through committees. In conducting oversight, a committee would either request a briefing from the organ of state or visit the organ of state for fact-finding, depending on the purpose of the oversight. The committees would have to consider the appropriate means for conducting oversight to cover all organs of state.

One of the most important aspects of the oversight function is the consideration by

committees of annual reports of organs of state and the Auditor-General's reports. The annual reports of organs of state that report to national departments must be considered when evaluating the annual report of the national department for Parliament to have a complete picture of the performance of the functions reported on.

If further accountability is required, committees could use the power provided in the Constitution to access information even from public bodies that are at provincial or local government level in order that the committee may have complete information and details on the public function reported on. Where a committee is reviewing the performance of an organ of state, the committee must ensure that the performance of its other entities, i.e. subsidiaries of the main organ of state, is included in the report. If this is not included in the report, Parliament or the legislature or the committee should, in terms of section 56(b), 69(b) or 115(b) of the Constitution, require the entity to report to it.

Currently oversight and accountability are exercised by committees of legislatures in an *ad hoc* manner. The result is that:

- Committees often fail to notice problem areas in budgets;
- Committees are reactive rather than proactive to documents they receive from departments;
- Committees are confounded by the presentation of budgets over years, and the shifts of money and priorities between programmes or into new programme areas;
- Committees have failed to reconcile departmental expenditure with policy priorities, or even to focus on actual policy priorities;
- Committees almost never track performance in any key programme area over a period of time; and
- Committees only rarely follow up on recommendations or performance in key areas as part of a dedicated strategy to improve performance in such areas.

The PSOM contains elements to assist committees to do a fundamental analysis of any departmental budget or report. The PSOM will make it simpler for Members to distinguish between those areas where fundamental disagreement and debate can take place, areas that should be dealt with on the floor of the plenary, and those of a more technical nature within which oversight is confined to the efficiency and effectiveness of Public Service delivery.

The PSOM is one of two innovations that the SOM makes available to committees in legislatures. The other is the Public Finance Management Act (PFMA), Act 1 of 1999. The PFMA introduces a performance budgeting/management regime in the South African Public Service. The central tenets of the PFMA are, therefore, reflected in the PSOM. Not only are the principles underpinning performance management assimilated into the

formulaic expression of the PSOM, but the PFMA, by providing for the standardisation of reported information and a cycle of reporting to legislatures, also provides the opportunity to create the pillars upon which to operationalise the PSOM. In this regard:

- (i) The BCM is founded upon definite timelines for reporting by departments;
- (ii) The BIMs are founded upon the principle of consistency of information detailed in departmental reports; and
- (iii) The toolkit is predicated upon the performance budgeting principles that underpin departmental planning and financial management systems.

7. Committees, the Budget Cycle Model and Oversight

The information and data which committees must have to undertake this oversight is considerable. This information may be grouped into the four general categories implied by the PSOM, as follows:

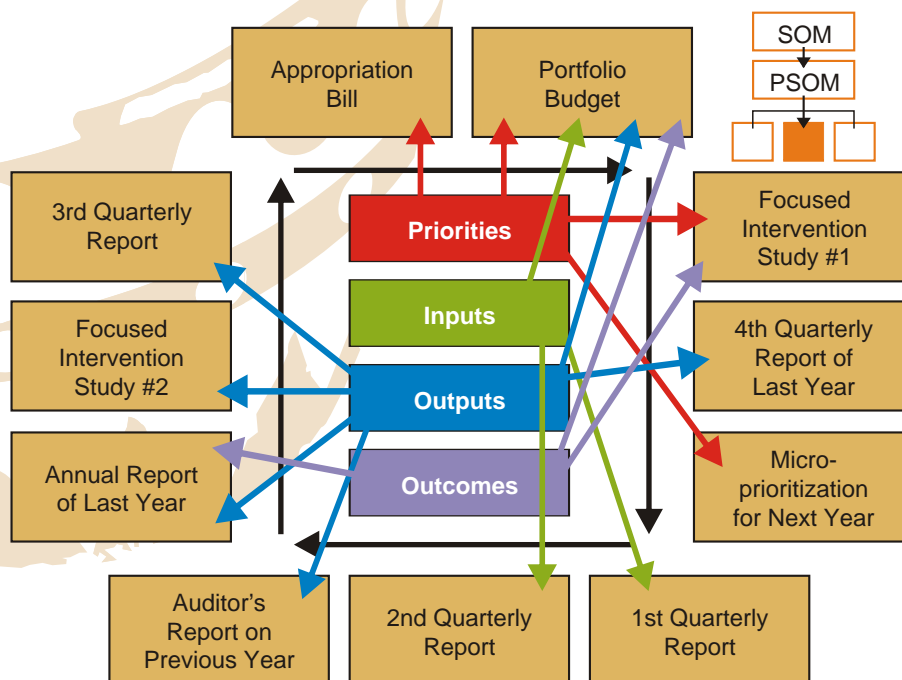
- (i) Priorities (**P**);
- (ii) Inputs (I (**K**⁵; **c**⁶);
- (iii) Outputs (**S**); and
- (iv) Outcomes(**R**).

Consistent with the PSOM, these categories of information and data are interdependent. The greatest degree of partisanship and potential for disagreement must lie within the verification of category four, that is, outcomes. The various parties represented in any committee must retain the right to express their individual party's verdict on the merits of outcomes.

⁵ Capital

⁶ Current

The PSOM and BCM



The PSOM is operationalised on three pillars. The first of these is the Budget Cycle Model, the Budget Information Matrices and the Toolkit. What follows is a detailed breakdown of the stages in the BCM, the relationship of each stage to the conceptual model, the detail of the structure of committee hearings, the work required from staff, coordinators; information officers, and researchers, and the role of public participation at each stage.

Transversal Issues

Transversal issues, which can include gender, persons with disabilities, poverty alleviation, economic development, youth and people living with HIV/AIDS can be addressed through special projects as well as mainstreaming. The latter means that each department would have to generate specific strategic objectives (the transversal issues already being 'priorities'), including resourcing (inputs), outputs that are in keeping with the magnitude of the transversal issues, desirable outcomes and programmes to drive them (including associated targets and key performance indicators).

Ideally, interaction should take place between legislature committees and the relevant bodies such as the Commission on Gender Equality, the South African Human Rights Commission and civil society structures that are engaged with transversal issues with a view

to enriching the oversight process and engagement with departments.

The above implies that the researchers would, as part of their analyses and briefing of committees, conduct budget analyses and programme evaluation specifically aimed at transversal issues. Consequently, committees would have to deliberate on transversal issues, involve members of civil society and call on departments to report to them / account. The objective, much like in the case of 'ordinary' sectoral issues, is to generate specific recommendations in the oversight reports on transversal issues which will become House resolutions and be subject to tracking in terms of the response by the Executive.

Some legislatures, such as Mpumalanga, have established dedicated committees such as the Select Committee on Improvement of Quality of Life and Status of Women, Youth, Children and People with Disabilities, which deals with transversal issues specifically - the departments in the first instance reporting to this structure in terms of transversal priorities.

Determination of Policy and Agreement on Performance Plans

All committees of legislatures must invite departments to present their Annual Performance Plans that are aligned to priorities as set out in the President's/Premiers' state of the nation and provinces addresses.

At this stage committees must confirm that plans of departments are aligned to priorities of government as set out in the addresses by the President and Premiers. Committees must also assess if departmental plans respond to previous resolutions of the House regarding performance. This process culminates in an agreement between departments and committees on how the plans are going to be measured against priorities through set indicators and targets.

Committee Hearing Structure

Within five days of presentation of the state of the nation/province address annual performance plans of departments must be submitted by Ministers or MECs to the Speaker, who in turn refers these to the relevant committees. The committee meeting begins with a briefing from the committee's support team, and equips the committee to begin its deliberations on the annual performance plans. The committee, with the guidance of its support staff, is then able to develop a list of questions based on issues that arise from the plans. The questions are forwarded to the department for response, allowing a reasonable time to respond to the committee's questions. The meeting will assess if:

- (i) A committee is satisfied with the department's responses and whether there are

only a few more issues needing clarification, in which case clarification questions will be sent to the department; or

- (ii) It would be necessary to call the department to a legislature for explanation.

At the end of this, there should be an agreement of the performance plans, associated targets and, most importantly, indicators that will be utilised to assess performance.

Support Services

The committees' support staff utilise a regular meeting schedule to prepare for the presentation of their briefing to a committee. The following division of functions should apply:

- The Information Officer⁷ will compile the raw data in relevant areas to the committee's work, which must be disseminated to committee Members and support staff. The Information Officer is also responsible for keeping the support staff and committee Members abreast of relevant published materials on subjects that arise in departmental reports. This information can provide the basis of research work for the researcher and spur Members on to define areas for further study.
- The Committee Co-ordinator will examine the performance plans and immediately begin compiling any deliberations, decisions, or previous work done by the committee on any specific issues raised therein, such as information from previous reports of committees on Annual Reports of affected departments. As the primary support staff member, the Committee Co-ordinator must have most knowledge of the issues and concerns the committee has raised in the past.
- The Committee Co-ordinator will also forward the performance plans in question to the key stakeholders in the committee's database. Stakeholders will not be provided as lengthy a response time as with the other processes, and it will remain their prerogative/responsibility to ensure they make a submission on time. The Committee Co-ordinator will also summarise, process and circulate these submissions.
- The Researcher will be responsible for analysing the data contained in the performance plans. His/her analyses will be based on applying the lens of the Sector Oversight Model (SOM and the tools of analysis.
- The Researcher's work will also encompass bringing to bear the data received from external sources (from the stakeholders' list and others). This information constitutes the 'independent verification' capacity of the committee, and will reinforce, or call into doubt, the extent to which a programme/project is structured to meet a policy priority. The Researcher will apply the independent information in the evaluation of a programme and ascertain whether the structure of the programme should or should not be revisited.

⁷ An officer assigned to a committee who is responsible for providing the committee and other committee support staff with relevant information in performing their duties.

- As a team, the support staff will also present proposed questions to assist the committee in formulating its thoughts on certain issues. The support team briefing will provide them with this opportunity, and it will serve to ensure that the logic behind the conceptual model is applied.

Public Participation

The SOM demands the constant enlistment of external information input for independent verification. The annual performance plan stage is more rushed than the budget process. However, this process still demands an effort to obtain as much external input as possible in order to assist the support staff and the committee.

A unit responsible for public participation in a legislature should play a key role in assisting with the co-ordination and liaison with civil society groups. Additionally, such a unit must:

- (i) ensure that there is sufficient involvement of the people through publicising scheduled committee meetings.
- (ii) ensure that the performance plan is available to the people and stakeholders for effective input; and
- (iii) invite stakeholders of a committee and affected communities to attend meetings where departments will be presenting performance plans.

7.1. The Appropriation Bill/Departmental Vote

It is at the Appropriation Bill/Departmental Vote stage at the outset of every financial year that every variable of the PSOM is debated. This is the only stage in any single budget year that this is the case. Each committee therefore has the opportunity to formulate its most comprehensive report in terms of each component of the PSOM for the coming year.

Of most significance, at this first stage, is the formal negotiation between a committee and a department about the desirable outcomes that might be expected from the policy priorities and resource allocations indicated in the budget under consideration. This refers to the negotiated equilibrium between a department's priorities, its projected inputs and outputs, and its projected outcomes required in terms of the logic of the PSOM. This equilibrium cannot be negotiated as intensively at any other stage in the cycle of one financial year.

Committee Hearing Structure

The first committee to deal with the Budget Statement is the Finance Committee. The Finance Committee has an overarching role in the budget, though it and the other portfolio committees are equally governed by the framework of the PSOM.

The Finance Committee is not afforded the same amount of time, and must exhibit a greater degree of preparedness than the other portfolio committees enjoy in preparing for budget hearings. Depending on the programme of each legislature, a Finance Committee may have a maximum of two weeks to work with the Appropriation Bill. During this time, the portfolio committees will be preparing for hearings.

The Finance Committee will be examining government's budget for evidence of prudent financial management standards, consistency between the budget and desirable macro-economic objectives and effective interdepartmental co-ordination. What the Finance Committee will not be examining are the intricacies of each Departmental Vote. This implies that the priorities and outcomes of a department are not subject to Finance Committee scrutiny unless the research provided to the Finance Committee highlights poor planning of an interdepartmental priority. For example, poor co-ordination between the Safety and Education Departments of a programme to target gang-related violence. Such a state of affairs would be highlighted through the application of the interdependent priorities study by support staff, as outlined in the tools of analysis.

The special case of the Finance Committee aside, the PSOM outlines the basic parameters within which all committees will operate. The first set of parameters applies to the Budget Vote meeting/hearing structure of a committee. The first engagement between a department and committee will be limited to discussing the priorities of the department.

The policy priorities of a department must reflect the actual environmental conditions to be addressed. For example, for the department of Safety to establish that more resources, in the form of personnel, time, and expenditure, need to be devoted to domestic violence over street crime, detailed information about the prevalence of domestic violence, relative to the extent and impact of street crimes, must be presented to, and considered by, the relevant committee.

Members and Chairpersons feel at a great disadvantage in relation to Members of the Executive, who are surrounded by experts, advisors and have extensive information at hand. A thorough discussion will empower committee Members, *vis-à-vis* the Executive and departmental officials, by giving them insight into the detail of the policy environment and the reasons for particular policy choices. The confidence of committee Members would be boosted by a steady supply of independent information and data on the public environment sourced from civil society institutions and supplied through the committee support staff. This stage of the discussions is meant to deal explicitly with the variable Priorities (**P**) in the PSOM.

The next step in the interaction between a committee and a department, a step that flows naturally from the interrogation of the policy environment and the department's priorities,

is the department's presentation of the social outcomes it expects to achieve by its allocation of human, capital and financial resources, and the time that it might be anticipated to take to arrive at these social outcomes. This is a discussion on the Outcomes (**R**) variable in the PSOM.

The process of negotiating outcomes indicators is the linchpin to maintaining the political aspect of this process and not reducing it to some form of all-encompassing formulaic-bureaucratic function. Negotiating outcomes allows for a department and a committee to achieve consensus on what is feasible given the conditions and resources at hand. Outcomes are therefore an indication of a subjective, rather than a more empirical level of efficiency.

It should be noted here that the implication of considering **P** and **R** simultaneously is that the chronological structure of the BCM does not follow the PSOM in a linear fashion. While the variables of the PSOM are ordered in a manner to allow for analysis, it would be erroneous for a committee to expect to pursue these variables in that order. Instead, at this first stage of the BCM, a committee will hear the priorities of a department and debate them, and will then be presented with the outcomes projected by the department.

After the committee has exhausted discussions on the priorities for the coming year and the expected outcomes over an agreed period of time, the interaction between a committee and a department can move into discussions on the details of the various programmes. This phase in the deliberations between a committee and a department is distinct in that the issues debated here are potentially far less dependent on subjective political considerations.

The matters discussed in this phase of the deliberations fall under the input **I** and output **S** variables of the PSOM. The details of **I** and **S** chart the course between priorities **P** and outcomes **R**⁸. The committee examines these programmes in order to verify whether in its opinion the course being proposed is feasible, if it could be more efficient, or more effective. In this way, a committee plays a key role in assisting a department to deliver its particular public goods and services, and to realise the outcomes it has set for itself.

It might be appropriate to distinguish more formally between a committee's consideration of variables **P** and **R** of the PSOM as programme evaluation, and the committee's consideration of variables **I** and **S** as budget analysis. Budget analysis, in this rendering, is therefore, a sub-category of programme evaluation. Budget analysis is primarily technical, lends itself to methods of analysis grounded in an empirical approach, and focuses largely on efficiency as opposed to effectiveness. Budget analysis is concerned with priorities and

⁸ Refer to attached appendix of diagrammatic representation of the model.

outcomes only in as much as they provide a context against which budget allocations are scrutinised.

Another way to understand this categorical distinction between variables **P** and **R**, and **I** and **S**, is in terms of the accountability each category requires. Paragraph 4.1 of the introduction to the PFMA states that:

This Act assumes that the political head of a department (Cabinet Minister or a Provincial MEC) is responsible for policy matters and outcomes; this includes seeking Parliamentary or Provincial Legislature approval and adoption of the department's Budget Vote. The head official (Director-General of a national department or a provincial Head of Department) is responsible for outputs and implementation, and is answerable to Parliament or Provincial Legislatures respectively for the management of the implementation of that budget.

This approach is in line with the approach of the new Public Service Regulations, which relies on a performance-driven system based on measurable outputs (PFMA 1999, vii). This distinction in the responsibilities between senior political office bearers and senior public servants is based on the appreciation of experts in performance-based accountability systems that good policy design and appropriate prioritisation may nonetheless fail to realise planned outcomes because of poor programme implementation. Good policies are not jettisoned because of implementation failures.

Once a committee has received the detailed presentations of a department's programmes and outputs, the committee may begin to develop its opinion on the extent to which the programmes and their outputs **I** and **S** reflect priorities **P**, and whether they are likely to produce outcomes **R**. These stages in the BCM are inherently political.

Regardless of the integrity and quantity of information a committee has at hand, the establishment of policy priorities would be subject to the perceptions of parties and their various platforms/manifestos. Yet, the level of empiricism made possible by a greater depth of information could serve to eventually erode the incentive for posturing by parties in committees without disregarding inevitable party interests.

The information, other than that presented by a department, that a committee should have at hand, should come from two sources: Maximum utilisation must be made of external expertise in the form of community-based organisations (CBO), interest groups, research institutes, academia and individual experts. A committee must also make maximum use of the existing expertise available within a legislature. We begin with the latter:

Throughout a committee's hearings, a Committee Co-ordinator captures, electronically, the key matters raised by the committee. At the end of each meeting in the process, the

Committee Coordinator displays these notes on an electronic projection system. This allows the committee Members to assess whether the issues raised during the hearing are satisfactorily captured. On the final day of the hearing process the committee can then assess the notes in their entirety.

These notes will form the substance of the committee's report on the hearings, which will be prepared by the Chairperson and the Committee Coordinator.

This approach is intended to overcome several key problems associated with the current development of committee reports. The first of these problems is the *ad hoc* planning that precedes actual engagement with departments. At times meetings are held prior to meetings with a department simply to decide on how to deal with the departmental vote process. This need no longer be the case. In the structured environment of the BCM, a committee does not need to strategise about the process of dealing with a report. It will only be required to meet in advance to receive its briefing from support staff to strategise about engagement with the substance of a department's budget.

The BCM's structure is also intended to overcome the *ad hoc*, reactive, approach to dealing with departmental budgets. Committee meeting schedules are often onerous, placing immense pressure on a Committee Chairperson to develop the committee's report. At times a committee's final meeting with a department is just days away from the scheduled tabling of this same report in the House. Draft reports prepared in haste by Chairpersons are then considered at emergency meetings of committees and adopted under these pressurised circumstances. This diminishes the quality of a committee's engagement with a budget. The approach of the BCM provides certainty in a committee's meeting schedule and predicts the substantive issues to be considered at each meeting. This, in turn, should allow committees and departments to plan their engagements, and the details presented at these, well in advance.

By having the Committee Coordinator capture the issues as they are raised and verifying them at the end of each meeting, the BCM hopes to infuse a sense of committee unity and collective ownership of its report. Presently, the structure of *ad hoc* meetings and improvisation in report drafting can prevent some Members of committees from feeling they have a personal stake in the report. By allowing them to see the concerns they raise debated wholeheartedly and methodically, then captured in the draft as the issue is thrashed out, is hoped will give Members an added incentive to engage with a department.

Committee Support Services

Committee support services refer exclusively to the Committee Coordinators, researchers, content advisors, and information officers, depending on the support structure of each

legislature. The work of these staff groups in the BCM is critical. It should be the task of support services to ensure the maintenance and optimal utilisation of the extensive data regimes required by the BCM. Working as a team, the support staff is the primary empowerer of a committee *vis-à-vis* a department.

The competency clusters of support staff, headed by their coordinators, should meet regularly: in off-peak/non-budget-intensive periods, perhaps once every two weeks, and once a week or more during the build-up to preparations for budget oversight work. These meetings serve to co-ordinate each staff member's work towards producing a briefing for a committee in advance of meetings with a department. While each staff member is assigned specific tasks, the final product is the result of a tightly co-ordinated process, and should be to the credit of the support staff as a team. The following division of functions should apply:

- The Information Officer is responsible for the compilation and dissemination of several key areas of basic/raw data and subject-relevant materials. These areas are: environmental/policy data, statistics, legislation, White Papers; Green Papers, and other policy documentation, academic or scholarly material, and media articles. This information is entered into the budget matrix for each committee (see Section 5 below).
- At the support staff's preparatory meetings for an upcoming budget process, the Information Officer presents the latest materials pertinent to each portfolio area and updates the Committee Coordinator and researcher on where they might find new sets of raw data or essential materials. For example, the Information Officer may be aware that government is concerned about alarming trends in domestic violence statistics, and should accordingly be alerting the Researcher for Public Safety to the latest journal articles, books and other academic materials on the subject. The Information Officer will also assist the Committee Coordinator to prepare lists of experts, institutes, community-based organisations, and non-governmental organisations, encountered during the information-gathering process that a committee may wish to consult with.
- A Committee Coordinator is responsible for several key tasks in preparation for each round of hearings on a budget vote. The first of these tasks is to compile, synthesise and circulate past submissions to the committee. Such submissions include support staff work, departmental submissions, and those from sources outside of government. This will serve to remind Members of their past concerns in relation to particular issues, will keep unresolved issues on the agenda, and prevent time from eroding the impact of the committee's work.
- The collation and circulation of past submissions must include a review of transcripts and committee reports from past hearings and the provision of concrete evidence to any line of argumentation made by a committee against a department on the history of a priority. All this has the effect of making the Committee Coordinator the single most proficient individual in the workings, past and present, of a portfolio committee.
- The Committee Coordinator is then responsible for the dissemination of the

Appropriation Bill and Departmental Vote to all key stakeholders associated with a particular committee. These stakeholders are those institutes, experts, NGOs and CBOs in the committee's database that represent the appropriate expertise upon which the committee will draw during every budget. The Committee Coordinator will indicate the timeframe according to which stakeholders must make submissions to the committee, and will co-ordinate the circulation of the submissions to the committee.

- The Researcher undertakes the basic and additional analyses found in the Toolkit section below, of the various data. These analyses are not the sum total of the work the researcher might provide a committee, but indicate the bare minimum the committee can come to expect. The most important aspect of this work is the qualitative evaluation that the Researcher draws from the database, financial, output, demographic, *etcetera*. The Researcher is the most appropriate team member to provide insight into the significance of findings. However, it is also the task of the elected representatives, the Members themselves, to decide the value of the information developed from the analyses.
- The Researcher's work in budget analysis and programme evaluation will provide him or her with extensive expertise in a department's operations, thereby assisting in the process of defining useful topics for proactive research. The Researcher will have insight into those areas of Public Service delivery to which a committee might devote extraordinary attention, and single these out for scheduling oversight visits. The Researcher's insights and analytical skills will also assist him or her to prepare the pre-oversight briefing, the issues to be considered, questions to be asked, and data to be sought for the committee.
- The Finance Committee Researcher and the Finance Committee are exceptional cases in some respects. Unlike other researchers, the Finance Committee's Researcher should not only be providing an analysis of the data and information contained in the budget, but also of the likely economic impact of the budget on the country's or the province's economy. This means examining the possible effects of the budget on key economic indicators in the country or a province's economy. The need for this type of analysis stems from the subtle and partial interdependence between government expenditure patterns and macro-economic conditions.
- A Committee Support Manager in a legislature is responsible for putting in place the structure and frameworks to guide the support staff team to deliver what is required of them by the SOM. This implies the establishment of a regular meeting schedule between all three staff groups: the preparation of meeting agendas based on the priorities of the committees in a cluster, the maintenance of cross-group awareness of the status of each team member's work in order to ensure timely and integrated delivery of this material to the committees, securing at least one day with each committee for the support staff briefing, and providing a link between the committees; their Chairpersons, and other units in the legislature.

Although seemingly rigid, these descriptions of the different functions for support staff must not be seen as committing each staff member to a particular set of functions at the expense of the gain to be had from a more fluid exchange of expertise. It will be a feature of the cluster meetings under the Committee Support Manager that staff will assist and advise one another, thus improving awareness of their respective duties. This interdependence will hopefully have the effect of imbuing the staff with a sense of common purpose.

The development of each other's respective work in unison is also necessary for continuity when a support team presents its material and findings to a committee. Such a presentation may take up to a full day. The material for a briefing must be seen as coming from the cluster, and not from any one individual. While each Member presents the work he or she was responsible for, it is the manager who is to be seen as the 'head' of the cluster.

Each team member of the Committee, Coordinator, Information Officer, Researcher and Content Advisor, is the instrument by means of which committees within a particular cluster are empowered to engage with departments over budgets. The SOM model is designed to produce the necessary support material, records, analyses and expertise to allow committees to pose incisive questions to the departments, and to make general recommendations on key programmes or projects.

Public Participation

Once the Appropriation Bill/departmental votes are tabled in the House, the Committee Coordinator immediately circulates these to all the contacts on the stakeholder lists. There are two lists. The first is for experts, institutes, academics and other professionals. The second is for community-based organisations, community-based interest groups, that is, parent-teacher associations, workers' associations, that is, police officer unions, teacher unions, and other similar bodies that are beneficiaries of a particular service.

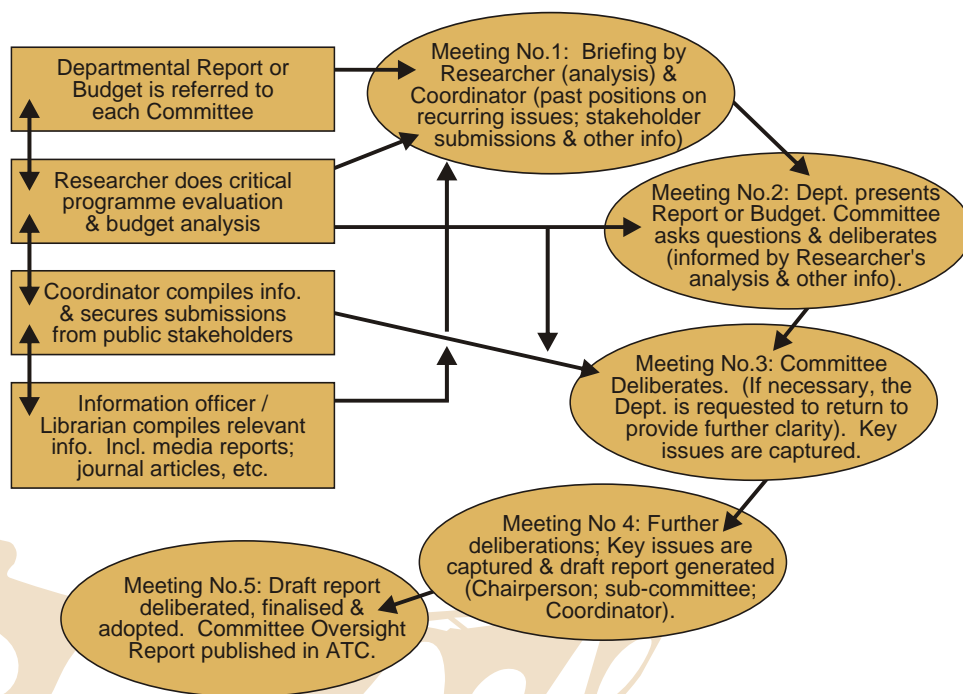
These stakeholders should know that they have approximately 1-2 weeks to make a submission to the Committee Coordinator. The Committee Coordinator processes and circulates these submissions to all Members of the committee and support staff. The committee then requests certain stakeholders to make presentations based on their submission(s).

The inputs from external sources are intended to further equip the committee for its engagement with a department. These inputs represent the committee's access to non-official data and perspectives, and where these inputs are substantial, they may even present the committee with an 'independent verification' source against which to measure the official data and information presented by a department.

A unit responsible for public participation in a legislature should play a key role in assisting with the co-ordination and liaison with civil society groups. In addition, such a unit must:

- ensure that there is sufficient involvement of the general public through the publicising of committee schedule of meetings;
- guarantee that there is a synopsis of a report that the committee will be dealing with, for example, the Citizens' Version of the Annual Report;
- One of committee meetings is held in communities to ensure and solicit community-based verification.

The Committee Coordinator's lists cannot feasibly include the general public. Therefore, the Public Participation and Petitions Office (PPO) should assist the Committee Coordinator in publicising the committee's meetings on a department's budget on a continuous basis.



7.2. Quarterly Reports

Quarterly Reports from departments provide a committee with the information needed to monitor effective programme implementation, variables *I* and *S* of the PSOM. The information contained in the Quarterly Reports must indicate present expenditure on a month-to-month basis against planned expenditure. It is also in the legislature's interests to ensure that more than just financial data are delivered in these reports. Relevant environmental data should be included with some degree of commentary/narrative by the

department. This must be achieved without overly burdening departments.

The information contained in the Quarterly Reports provides the first threshold for the analysis of departmental performance. Any variance between planned and realised expenditure should raise the alarm that a programme, sub-programme or project is not materialising as projected. A committee must then ascertain whether unforeseeable circumstances have impeded a department's work, whether there was a problem of inadequate planning by managers/implementers, or if a department's staff and those they may contract, failing to deliver for other reasons. This investigation must be done with a view to producing recommendations that will assist a department with moving ahead with successful delivery.

The description that follows each stage of the quarterly reporting cycle is for a project that begins and ends in one financial year. This is a largely hypothetical example. This illustrates the substance of each stage within the base year of a one-year project. The example used here is a simulated Quarterly Report oversight process by the Safety and Community Liaison Committee over the School-based Crime Prevention Project.

The project aims to establish safety teams in 40 schools in the Kathorus area. The training of the teams will be achieved through workshops with the 40 selected schools. All the safety teams were to be operational by 31 March 2001, the end of the financial year. These details were provided in the 2000-2001 Budget Statement.

The stated aim under which this specific project falls is to fund Community-Based Structures (CBSs) and institutions for effective community policing, to build an enabling environment for community policing.” To further illustrate the substance of each issue, it will be assumed that the department aims to train 10 teams per financial quarter until the end of the financial year.

1st Quarterly Report

The first Quarterly Report provides a committee with the preliminary indicators on the implementation of the programme. The committee will check to ensure that the use of resources allocated to the programme – financial, human, and capital – is consistent with projections made earlier in the year. The committee will strive to ensure, three months into the financial year, that 10 safety teams have been trained in the first quarter. Evidence for this will, for example, be in expenditure on training material, training venue hire and associated costs.

If it comes to the committee's attention that at the end of the first quarter the department's expenditure on the project is 20 percent less than what was projected, the committee will

focus particular attention on the implementation of the project, and thereby can choose not to dedicate greater scrutiny to projects that are on track in terms of projected outputs and expenditure.

It should be noted that the committee cannot assume that this is an indication of immediate failure. It may be that the departmental staff found a way to make the process cheaper. Nevertheless, the committee does not want to assume that lower costs have no impact on the quality of delivery, and therefore will also want to reassure itself that quality has not been compromised.

If the committee finds that the underspend is a result of failure to hold the training workshops, a host of questions arise. If two workshops were not held, what implications does this have for the full realisation of 40 teams by the end of the year? Will the department be able to make up for the two missed training workshops in the coming financial quarters? Is the department in a position to table a plan before the committee to explain how to resolve the problem? The committee will examine the chain of events as they unfolded over the past three months to ascertain the reasons for the failure to deliver. This is with a view to ensuring that the mistakes are not repeated, in order to determine whether the committee may be able to help directly, and to ultimately ensure that all 40 of the schools have a safety team in place by the end of that year.

The SOM alerts us to any failure in current expenditure (**C**), in **I** and that the likelihood of realising outputs **S** is fundamentally jeopardised. At the first Quarterly Report stage, it is still too early to establish whether the project is adequately structured to address the priorities for which it was formulated. Scrutiny of the first Quarterly Report is an exercise in the technical analysis of implementation and planning.

Although the focus rests on variables **I** and **S**, the committee must understand that if failures in **I** result in the failure to establish safety teams, the result is potentially the worsening of the priority the project was designed to address. This is because one more year, at least, will have elapsed before the government might apply itself to the situation. As the situation worsens, it is also probable that it will require more resources to produce the desired reduction of school-based violence.

2nd Quarterly Report

The second Quarterly Report remains focused on the implementation of a project or sub-programme, with the obvious exception that more of the project will have unfolded. Once again, the committee will concentrate its attention on the status of the project in relation to the projections at the start of the year. At the same time, it may be possible to begin assessing the state of affairs around the priority which the project or sub-programme is

designed to address. This means, once again, being briefed on the environmental policy information and a reappraisal of the relationship between the sub-programme and the priority/priorities it hopes to satisfy.

The importance of this stage is that 6 months have passed since the initiation of the project. It cannot, therefore, be assumed that the same conditions exist that led to its formulation. The committee will already want to determine whether the 10 existing safety teams are having an impact in the schools where they were established in the first financial quarter.

Although at the juncture of the 2nd Quarterly Report there will be a greater ability to relate the development of the programme to the other variables of the SOM model, and to understand a greater spectrum of implications, the committee will still be unable to visit, in any substantive way, the project's impact on the original priority, poor school safety, and the outcome thereof, improved school safety. It is not likely that safety conditions will have noticeably improved by the second quarter, but second quarter measures are needed to continue to determine the value of the project. This will help a committee in deciding whether or not there are no grounds for revisiting the planning/design of the safety team project.

If a pattern of continued underspending from the first quarter is found, the committee will again want to ascertain the reasons for this. If it is discovered that the project implementers have realised massive savings through efficiency, the committee will want to see how these savings will be used in the department. If it is discovered that the department is falling behind in the establishment of safety teams, it will once again investigate the root of the problem by examining the financial/resource management of the department and the specific directorates/units that are involved in the direct delivery of the project. This allows the committee to assess causal linkages between planning and implementation.

3rd Quarterly Report

At the stage of the third Quarterly Report, the committee will still be focused on the relationship between *I* and *S*. This means that the committee must continue to satisfy itself with the use of resources in the programme implementation process, and the achievement of its outputs. At this stage, 30 of the 40 safety teams should be in place.

However, by the time of the third Quarterly Report, the committee should have the opportunity to apportion significantly more time for analysis of the impact of the safety teams and the experience of the individual schools with the safety teams. The first 10 safety teams will have been in place for at least 6 months, and another 10 will have been in place for 3 months, but have benefited from possible implementation reforms based on the experience of the establishment of the first 10 safety teams. Any identified efficiencies or

inefficiencies must be discussed with the department.

It is at this juncture that the committee may begin to devote some time to the other variables in the SOM. While analysis of inputs and outputs takes precedence in the Quarterly Reports, which emphasise resource usage and recent delivery details, the committee may already begin to assess the outcomes realised from the presence of safety teams in up to 20 schools. This might be done in conjunction with a re-examination of the requirements that informed the policy environment *P* at the outset of the programme.

The committee cannot take for granted that a project is still grounded in the environmental realities that existed at the inception of the project. It will have to receive input from its support team to assist it in re-evaluating the state of school safety in the province. This will enable the committee to assess the nascent outcomes of school safety teams in contrast to the state of school safety.

4th Quarterly Report

The fourth Quarterly Report is most pertinent in that it arrives in close proximity to the next budget tabled by the Executive. As a result, the momentum generated by the work done over the last three quarters not only prepares a committee to issue a judgement on the success/value of the project, but to do so in conjunction with its consideration of the next financial year's budget. It effectively becomes a key verification mechanism for the committee in relation to the sound planning of the department.

If a project has failed to deliver, the committee can first ascertain whether the department is about to run the same project, with the same staff, in the same manner. The committee will also want to assess whether other interdependent programmes have incorporated the ramifications of the failure of this project into their planning process.

If a project was successful, and the initial outcome assessments are positive, the committee will want to see where and how the success is being capitalised on in relation to other projects and follow-ups. In effect, the committee looks for discrepancies between the upcoming budget and the fourth Quarterly Report. At this stage, the steps taken for variable *I* will have been completed, and the realisation of *S* should be evident, in terms of the example. In reality, the realisation of *S* will take place over the period of a number of years.

Committee Hearing Structure

The Quarterly Reports are referred to the relevant committee via the Office of the Speaker. A legislature will have to provide a committee with a window of approximately 10 working days before a committee should hold its first meeting on a Quarterly Report. This window

allows a committee and its support teams to begin preparations for the first meeting on the Quarterly Report.

The first meeting is significant and quite possibly will require a full day. The first meeting begins with a briefing from the committee's support team, and equips the committee to begin its deliberations on the Quarterly Report. The committee, with the guidance of its support staff, is then able to develop a list of questions based on issues that arise out of the Quarterly Report. The questions are forwarded to the department for response, allowing about a week for it to respond to the committee's questions.

The second meeting of the committee will be to consider the department's responses. It will establish whether:

- (i) It is satisfied with the department's responses and whether there are only a few more issues needing clarification, in which case clarification questions will be sent to the department; or
- (ii) It would be necessary to call the department to a legislature for explanation.

The rigour of the BCM could easily increase the extent to which Ministers/MECs and senior officials have to be at a legislature to meet with portfolio committees. Most of a committee's concerns will remain within management/implementation areas of departmental work, therefore requiring the presence of the Accounting Officer, relevant directors, and relevant managers responsible for problematic projects/sub-programmes to attend committee meetings for briefing purposes.

The issues raised during these meetings will be captured by the Committee Coordinator and presented at the end of each meeting. The committee must debate, amend, and then approve the issues captured in the Committee Coordinator's notes, as they will form the substance of the committee's report on the hearing. The committee will approve the final draft report and forward it to the House.

Support Services

The committee support staff again utilise a regular meeting schedule to prepare for the presentation of their briefing to a committee. The support staff's work will be informed by the exigencies of the specific Quarterly Report being processed and the status of numerous projects. The following division of functions should apply:

- The Information Officer will compile the raw data in areas relevant to the portfolio committee's work, which must be disseminated to committee Members and support

staff. The Information Officer is also responsible for keeping the support staff and committee Members abreast of relevant published materials on subjects that arise in departmental reports. This information can provide the basis of research work for the researcher and spur Members into defining areas for further study.

- The Committee Coordinator will examine the Quarterly Report and immediately begin compiling any deliberations, decisions, or previous work done by the committee on any specific issues raised therein.
- The Committee Coordinator will also forward the Quarterly Report in question to the key stakeholders on the committee's database. Stakeholders will not be provided as lengthy a response time as with the budget, and it will remain their prerogative/responsibility to ensure that they make a submission on time. The Committee Coordinator will also summarise, process, and circulate these submissions.
- The Researcher will be responsible for analysing the data contained in the Quarterly Report. The analyses will be based on applying the lens of the SOM and the tools of analysis.

The Researcher's work will also encompass bringing to bear the data received from external sources, from the stakeholders' list and others. This information constitutes the independent verification capacity of the committee, and will reinforce, or call into doubt, the extent to which a programme/project is structured to meet a policy priority. The Researcher will apply the independent information in the evaluation of a programme and ascertain whether the structure of the programme should or should not be revisited.

As a team, the support staff will also present proposed questions to assist the committee in formulating its thoughts on certain issues. The support team briefing will provide them with this opportunity, and it will serve to ensure that the logic behind the conceptual model is applied.

Public Participation

The SOM demands the constant enlistment of external information input for independent verification. The Quarterly Report stages, more rushed than the budget as they are, still demand a concerted effort to obtain as much external input as possible in order to assist the support staff and the committee. At the earliest and intermediate stages of a committee's consideration of progress on a certain priority, it is likely that the most useful information sources for the committee will be those that can provide clarity on the state of implementation of a department's programmes. This may mean, in the case of our example, hearings of parent-teacher groups that can verify that certain measures were taken at their school where the school safety team project is underway.

A unit responsible for public participation in a legislature should play a key role in assisting

with the co-ordination and liaison with civil society groups. In addition, such a unit must:

- (i) ensure that there is sufficient involvement of the general public through publicising scheduled committee meetings;
- (ii) ensure that there is a synopsis of a Report that the committee will be dealing with – for example the Citizens Version of the Annual Report; and
- (iii) schedule at least one of its meetings to be held in communities to solicit community-based verification.

7.3. The Annual Report

Consideration of a department's Annual Report requires the committee and its support team to take into account every aspect of the SOM. The analyses of the Annual Report should give a comprehensive indication of where a department truly finds itself in terms of the priorities it has been pursuing in the current financial year. Of significance at the Annual Report stage is the concurrence between the tabling of the Annual Report and the Auditor-General's Reports at a legislature. Since the application of the PFMA, there is greater correspondence between the timeframes under review in the audit reports and those in the Annual Reports. Previously audit reports reflected developments three years in arrears.

The SOM and BCM demand that portfolio committees only process departments' Annual Reports subsequent to the Public Accounts Committee process. The model, capitalising on the tenets of performance budgeting that inform the PFMA, has at its core the relationship between expenditure and performance. Thus, it is essential that the financial management details that arise in the PAC are thoroughly investigated and inform the considerations of departments' Annual Reports.

The budget item, Personnel Expenditure, illustrates the utility of the BCM layout. When personnel costs are not reconciled adequately, and discrepancies arise, it is often the case that a department cannot provide the exact state of its personnel expenditure.

The conceptual model allows the legislature to scrutinise the relationships between personnel and capital expenditure, in an effort to ensure a proper balance between the two. If the Public Accounts Committee (PAC), also known as the Standing Committee on Public Accounts (SCOPA) in some legislatures, affirms that the state of personnel expenditure is in doubt, then the portfolio committee for the department concerned can pursue the matter in its analysis of the department's work.

This will ensure that the committee has a better understanding of the extent of the resources being used for the realisation of departmental outputs and to better evaluate

their efficiency and effectiveness.

The consideration of an Annual Report will assist a committee to formulate its ideas for the coming budget. The committee will be able to develop an idea of the state of affairs for a given priority and to make recommendations on how best this priority should be resourced and approached during the next financial year.

Committee Hearing Structure

A committee's first meeting during the Annual Report stage should be to receive a briefing from its support staff. This briefing will allow it to prepare for its engagement with a department. The committee might begin by developing a series of questions for written reply for the department. The questions will vary across the spectrum of the conceptual model's variables and therefore include questions on priorities and outcomes and questions on more technical issues around planning and implementation. The department's responses must be received well in advance of the committee's actual meeting with the department. This will provide the committee with an opportunity to review the responses, to receive a briefing from support staff on the significance of the responses, and to plan the substance of discussions for the impending meeting with the department.

The tabling of the Annual Report will be a committee's first substantive consideration of a department's performance in terms of the variable **R** outcomes. During the departmental vote stage, desirable outcomes **R** were defined after establishing the priorities of the department. Problems in **R** will therefore, automatically imply problems in terms of the priorities, or the resources **I** dedicated to the achievement of these priorities. At the Annual Report stage, priorities and inputs are revisited in light of the state of the outcomes. This emphasises the cyclical, spiral-like nature of performance budgeting in the delivery of government services.

Support Services

The support staff is, as at every other stage, responsible for briefing the committee and empowering it with as much useful information as possible to engage with a department. The support staff will co-ordinate its work in its own meeting structures, and will prepare a joint briefing for the committee. The briefing will also assist in the formulation of questions to be put to the department. The following division of functions should apply:

- The Information Officer will provide the regular flow of statistics, relevant journal/academic materials, and government materials related to the pertinent topics contained in the Annual Report, and as requested by the Committee Coordinator and

Researcher during their meetings. The Information Officer's work becomes more significant at the Annual Report stage because it is likely that the desired information will either be compiled or independently verified by the Information Officer's external sources.

- The Committee Coordinator will approach this stage in the same way as all the other stages. This means compiling the details of previous meetings, reports, transcripts, and submissions to ensure continuity in the positions a committee adopts.
- The invitation of key stakeholders will be given greater emphasis at the Annual Report stage. The Committee Coordinator will bring in community-based organisations or members of communities to listen to the presentations by the department. The selection criteria applied to these guests will be to have communities present that are the primary beneficiaries or recipients of certain projects. Stakeholder attendance, as before, ensures a form of soft but immediate verification.
- The Researcher, using the data provided by the public accounts process, engages in studies to verify departmental reports for the year under review when the Annual Report arrives. For example, the Annual Report for the financial year 2000-2001 will serve to verify the budget information, departmental Vote, and Quarterly Reports for the financial year 2000-2001 and the robustness of the departmental Vote and Quarterly Reports 1 and 2 of the 2001-2002 financial year. Any discrepancies in the financial information between the department's project planning, the Auditor-General's Report, and the Annual Report, call into question the actual course being plotted between variables *I* and *S*, and implies a particular impact on *R*. Simply put, financial discrepancies highlight delivery problems, whether in actual delivery or the planning thereof, and impact on the relationship between inputs and outputs for a given financial year. This impacts on the actual balance between the inputs and outputs, on the one hand, and the outcomes on the other.

Public Participation

The emphasis at this stage is on the variable *R*, outcomes, and the measurable indicators agreed upon for the financial year in question, and rendering independent verification crucial to the efficacy of the committee's engagement with the department. Stakeholder inputs are provided for at every stage in the BCM, but at the Annual Report stage, independent sources of information are used to confirm that the department is actually meeting the priorities it set out to satisfy at the start of the financial year in question.

A unit responsible for public participation in a legislature should play a key role in assisting with the co-ordination and liaison with civil society groups. In addition, such a unit must:

- (i) ensure that there is sufficient involvement of the general public through publicising scheduled committee meetings;

- (ii) ensure that there is a synopsis of a report that the committee will be dealing with, for example, the Citizens' Version; and
- (iii) schedule at least one of its meetings to be held in communities to solicit community-based verification.

7.4. Public Accounts Committee Processes on Annual Reports

The reports of the Auditor-General arrive before the committees at the same time as the Annual Reports, but are processed by the PAC before portfolio committees deal with the Annual Reports. The Auditor-General's Reports represent the most focused of the BCM documents vis-à-vis the SOM. These reports pertain almost exclusively to the variable / inputs since they highlight any problems in financial management and planning and consequently in terms of implementation. The purpose of this information is twofold; it:

- (i) allows the PAC to assess the state of financial management in a department; and
- (ii) signals to the relevant portfolio committee the concerns it should have about affected programmes/sub-programmes/specific projects.

Committee Hearing Structure

As the PAC hearings serve a dual purpose, there are to be joint sittings. The Chairperson and a quorum of Members of the relevant portfolio committee should attend the PAC hearing for their department. The joint sitting will officially be chaired by the Chairperson of the PAC, but will integrate the right of the portfolio committee Members to question the department and to benefit from the forum to engage with the department on financial management issues.

The Committee Coordinator captures the issues raised during these hearings and, prior to adjournment, presents them for amendment and confirmation. The objective of this process, as with the other committee report development processes in the BCM's stages, is to inculcate a sense of ownership of the report among all the Members of the committee.

The PAC's hearing process begins with preparations in the form of briefings by the Researcher, followed by inputs by the Auditor-General's office. This briefing assists the PAC to formulate questions to the department, which it should respond to in writing. The written responses must be scrutinised and the committee must determine whether it will require a hearing with the department.

The Researcher will assist in the formulation of questions for those departments to be called to a hearing. Different questions should be assigned to different Members of the PAC.

Predetermined questions and the assignment of these to specific Members allows the PAC to ensure that all questions are finally answered. It is possible, in the current ad hoc hearing structure and ad hoc questioning framework, that departmental officials can avoid answering difficult questions directly.

On the day of a hearing, the Chairperson of the relevant portfolio committee, a quorum of Members, and the support staff must attend. The PAC will circulate copies of the planned questions to the departmental officials as a matter of courtesy. Although the build-up and establishment of lines of questioning may appear to borrow from an actual hearing in a court of law, this should not be the atmosphere of a hearing of the PAC.

Advance circulation of the committee's questions will go some way towards relieving any tensions that the department's representatives might feel. It does not, of course, preclude ad hoc/spontaneous questions. Additional questions must be noted and held off until after the prearranged questions have been exhausted so as not to jeopardise the goal of extracting those explanations from a department that the committee agreed collectively on.

The PAC should allow the portfolio committee Members to ask questions relevant to financial management matters. The Chairperson of the PAC must, however, be careful to disallow questions that spill over into policy matters, outputs issues and overall outcomes. These must be reserved for the relevant portfolio committee's own engagement with the department during the presentation of the Annual Report.

After the hearing, PAC Members will amend and adopt the point form notes taken by the Committee Coordinator. These notes should form the basis of the report to be tabled in the plenary. PAC reports are also forwarded immediately to the relevant portfolio committees for use during the Annual Report stage. While developing the draft reports, the Chairperson and support staff will receive the transcripts for the hearings. These transcripts can be used to confirm the veracity of the information upon which they based the committee's report.

Support Services

The following division of functions should apply to support staff:

- The Committee Coordinator will be responsible for the extensive scheduling, planning, and document circulation demands of the entire hearing process. This includes the need to project the probable duration of hearings and advising the PAC Chairperson. The Committee Coordinator should also ensure that public participation/awareness of the process is provided for.
- The Researcher will be responsible for the largest amount of work for the PAC hearing. Once the Auditor-General's Reports are tabled, the Researcher begins comparing the

issues contained in these with those contained in past reports. Recurrent issues must be identified and flagged. The Researcher should then compile a record of the position taken by the PAC on each matter, as well as the responses and undertakings given at the time by the department. This information will be compiled into matrices with a consistent format and then be built into a database for future use and easy reference. This is the material presented comprehensively, per vote, during the first briefing to the PAC at the start of the process described in the previous sub-section.

- The Researcher will be the main advisor to the PAC during the proceedings. The PAC should feel free to allow the Researcher to interject with specific/focused briefings or reminders on a matter being investigated as the need arises. This is because it is unlikely that the Members of the PAC will have internalised all the information.

Public Participation

The Committee Coordinator will ensure the attendance of priority organisations at the hearings. This includes the press, and the bodies listed on the portfolio committee's stakeholder list. The Committee Coordinators for the PAC and for the relevant portfolio committee for the department present at the hearing will liaise so that the research institutes, professors, experts, etcetera, on the portfolio committee's stakeholder list can be invited to the hearing. This will assist in empowering those organisations to understand the departmental operations.

A unit responsible for public participation in a legislature should play a key role in assisting with the co-ordination and liaison with civil society groups. In addition, such a unit must:

- (i) ensure that there is sufficient involvement of the general public through publicising scheduled committee meetings;
- (ii) ensure that there is a synopsis of a Report that the committee will be dealing with, for example, the Citizens Version of the Annual Report; and
- (i) schedule at least one of its meetings to be held in communities to solicit community-based verification.

7.5. The Focused Intervention Study/Oversight Visit Work

The Focused Intervention Study (FIS) stands alone in the BCM because it is the only stage that does not involve submission of a document by a department. Therefore, the FIS can take place whenever a committee decides to produce one. For the most part, the FIS will also provide the impetus for committees' oversight visits. The BCM prescribes at least two per financial year. The first FIS should take place just after a committee deals with a departmental Vote and before the arrival of the first Quarterly Report. The BCM demands another FIS after the Auditor General's and Annual Report processes but before the arrival

of the third Quarterly Report.

The FIS does not lend itself to analysing one variable of the SOM over another. A committee may decide to conduct an FIS that focuses on one, all, or various degrees of each variable. The basis of a committee's decision on what will be the nature of a particular FIS will have to do significantly with the positioning of the FIS stage in the BCM.

The subject of the first BCM-prescribed FIS will be informed by a department's Budget Vote. During the departmental Vote stage, a committee is likely to confront concerns that are not satisfactorily addressed. A committee may be convinced that a specific sub-programme or project is not sufficiently funded (*K* and *c*) and therefore may fail in its objectives.

Likewise, it may not be convinced that one matter should be prioritised over another *P*. A committee may even discover that the basis of an entire programme is poorly grounded and therefore should be extensively reviewed, requiring a detailed application of *P*, *I*, *S*, and *R*.

Yet, inasmuch as a committee will have just dealt with a department's budget, it may want to give priority to those programmes that are fundamental, resource-intensive in relation to other issues, and where the FIS may have a profound impact at the earliest stages in helping to ensure the departments' success. Thus, variable *I* should be given greater priority over other variables. It may seem that variable *P* would be the logical choice but a legislature must be careful in the extent to which it pursues that variable at the FIS stage of the BCM.

While it is not explicitly excluded, it should only be pursued in the FIS stage where there are substantial grounds to question the prerogative of the executive in its priorities. Instead, a committee should focus on where it can assist a department in the task of service delivery directly; where it can be assured of having a positive impact.

The subject of the second BCM-prescribed FIS will be informed by the Auditor-General's and Annual Reports. As with the first FIS, the subject is not strictly prescriptive and can range from exclusive variables to several variables, or all of the variables.

The positioning of this FIS in the BCM allows a committee to juxtapose the work of the completed financial year against the mid-point of the current financial year. This will invariably emphasise the outputs of a department. The committee will be able to assess the actual outputs and implementation processes against what was presented at the start of the current financial year and therefore assess the actual state of service delivery. Therefore, it is recommended that variable *S* receive greater priority at this stage.

Committee Hearing Structure

Once the committee's report is tabled in the plenary, either on a department's Vote or Annual Report, a portfolio committee can schedule the first step in the FIS process. This means allowing Members to take some time to reflect on the recently concluded report and its associated hearings and define the major concerns that they require to be the focus of the FIS. Prior to the first meeting at which the FIS appears on the committee's agenda, Members will have received a brief from the support staff with their recommendations on what the subject of the FIS should be.

The brief will include a consolidated list of possibilities and explanations from the support staff, headed by the work of the Researcher and a list of options from external stakeholders who were invited to provide options by the Committee Coordinator.

At the first meeting at which the FIS is discussed, all Members and the support staff will have an opportunity to make recommendations, followed by committees deliberating the subject. If there are any questions for clarification made by Members of the committee, the support staff may answer them, but may not engage in a debate with the committee on the subject. This will protect support staff from compromising their neutrality. Their brief is simply to empower the committee to make the best possible choice.

After the selection of a topic for an FIS, the committee will adjourn to allow the Committee Coordinator to lay the groundwork for the FIS. This includes involving external stakeholders and experts, planning oversight visits, developing a meeting schedule, and enlisting a detailed briefing from the Researcher on the subject. After the committee has received the Researcher's briefing and decided on the way forward with respect to the options provided by the Committee Coordinator, the committee will receive presentations from external stakeholders, and possibly the department, on the specific matter to be considered.

After the presentations, the committee will meet to formulate the issues and questions it wants to explore on oversight visits. Similar to the lines of questioning developed in the Auditor-General's stage of the BCM, the committee will identify specific matters and develop specific questions to be answered on the oversight visit. Committees should consider breaking into smaller groups to ensure that they are able to cover more sites during their oversight visits.

After the completion of its oversight visits, the committee will meet again for the various teams to report back on their findings. The department or specific departmental officials, as well as the relevant external stakeholders, should be invited to listen and to comment. The committee can then begin the preparation of a committee report. During the build-up and execution of oversight visits, the support staff, and particularly the Researcher, will

have circulated briefs and research relating to the subject matter of the FIS. The committee will, during the report preparation stage, have the opportunity to ask questions of the support staff regarding matters of interest that arise from these submissions.

The Committee Coordinator will take notes during these deliberations. Once the substance of these notes has been approved, the support staff and Chairperson will refine the material into a draft FIS report for approval and subsequent tabling in the plenary.

Support Services

Once again, the support staff will utilise their regular meetings to prepare for this stage. The Committee Coordinator will establish the general direction of the efforts of staff and will indicate to the others in the cluster when they should begin with their respective duties in the FIS process. The following division of functions should apply:

- The Information Officer will be responsible for accumulating more detailed information, statistics, reading material, government documentation, etcetera, that Members and support staff can use in developing their ideas on the subject of the FIS.
- The Committee Coordinator, in developing the brief for the subject selected by the committee, will revisit past briefings, submissions, and committee reports circulated to the committee. These documents will be used to create a record of the existing work by the committee on the subject. The Committee Coordinator should also provide guidance about the brief to the other support staff.
- Once the subject of the FIS is settled, the Committee Coordinator will develop a roll-out plan. The roll-out plan will lay out all the options for the committee in respect of completing the FIS report. This includes what stakeholders to invite, where visits may be conducted and what would be the possible schedule for the entire process.
- At the commencement of the FIS process the Researcher should list the subjects for the FIS report and be primarily responsible for developing the explanatory notes for each of the options and the logic behind the prioritisations of these options. Priorities in the FIS process should be based on the requirement to obtain insight into government/departmental performance in accordance with the SOM and the tools of analysis exercises. After the committee has selected the FIS report subject, the Researcher will conduct focused research and begin a process of developing briefs and penetrating analyses. These will serve to continually brief the committee as the process unfolds over and above the other sources available to it.
- The support staff will also advise the committee in the development of issues to be covered and questions to be answered for the oversight visits.

Public Participation

External stakeholders will be invited to assist the committee by way of submissions in the selection of a subject for the FIS.

After this step, the committee will likely request certain stakeholders to prepare detailed submissions and to make presentations on the chosen subject. These organisations and experts may also be requested to assist further with the development of questions and attendance on oversight visits as guests of the committee. These groups will also attend the debriefing by the different teams of Members who split up for the oversight visits in order to comment and provide their own opinions on the findings of the committee's task teams.

A unit responsible for public participation in a legislature should play a key role in assisting with the co-ordination and liaison with civil society groups. In addition, such a unit must:

- (i) ensure that there is sufficient involvement of the general public through publicising scheduled committee meetings;
- (ii) ensure that there is a synopsis of a report that the committee will be dealing with, for example the Citizens Version of the Annual Report; and
- (iii) schedule at least one of its meetings to be held in communities to solicit community-based verification.

7.6. Strategic Budget Review for Outer Years

The Medium-Term Budget Policy Statement (MTBPS) allows a department to anticipate its budgetary allocations for the coming three years. A department can, therefore, begin to reassess its plans and priorities. It should prepare to present its plans and priorities in light of the MTBPS to the committee. The presentation will not contain the detail of a Budget Vote or Annual Report, but should address itself to priorities **P** and outcomes **R**. Nevertheless, the department's presentation to the committee may also speak to inputs and outputs in specific cases.

The significance of the MTBPS stage for the committee cannot be underestimated. It is during the discussions around the MTBPS that a committee has the greatest opportunity to influence a committee's upcoming budget(s). The SOM framework and the PSOM analyses of a department's budget and performance-related submissions highlight broad trends and patterns in the department's operational environment. They also highlight problems or imbalances between priorities, inputs, outputs and outcomes. If the department is to take into account the verdicts issued by a committee in terms of its SOM analysis, and if the department is to re-examine problem areas with a view to making changes to these, then this can best be done during the MTBPS stage.

Committee Hearing Structure

The MTBPS is a concrete document that provides insight into the MTEF. For this reason, the committee should approach MTBPS deliberations with a view to optimising its impact. The committee will first meet with its support staff to receive briefings, which will allow it to refocus its work over previous documents and apply it to the MTBPS. Therefore, the briefing received by the committee from support staff must be done over a period of one to two days, allowing for a thorough question and answer period.

The staff briefing includes a survey of the submissions from external expert and community-based sources by the Committee Coordinator. The committee will decide who should be invited to make an oral addition to their original submission. The committee has more time at its disposal at the MTBPS stage of the BCM because the MTBPS does not mean that a department will table a formal budget, but simply use the MTBPS as a basis to plan upcoming budget(s) priorities. Therefore, the committee can allow time for external stakeholders to make formal presentations and to empower it before it ever meets with the department.

After the support staff briefing and presentations from the public, the committee will meet with the department. The first engagement should focus on the overall medium-term priorities of the department and the outcomes it desires. This discussion will confine itself largely to variables **P** and **R** of the SOM. The committee will want to thoroughly examine these variables in order to determine whether the department could not be overlooking key matters in its planning framework.

The next stage of the deliberations with the department will analyse the trajectories of major programmes and sub-programmes inasmuch as these have a bearing on the overall priorities and outcomes established by the department. Any problems queried by the committee at this stage should be done with a view to seeking clarification.

The department will show that either the committee's perception of the problem is incorrect or that the department has factored the problem into its planning and is attempting to cope with the problem as best it can. These discussions will focus on inputs **I** and outputs **S** with a view to interrogating the status of a department's plans and priorities for the MTEF. If major problems between inputs and outputs can be demonstrated, the department will have to address these in the coming budget or assure the committee that any inefficiencies or disequilibria here are temporary and circumstantial.

Throughout the deliberations, the committee will be able to call upon its support staff to assist with the processing of responses by the department. At the end of the process, the committee will review the notes taken by the Committee Coordinator on the issues raised

for inclusion in the committee's final report. The Members should have the opportunity to question staff about outstanding issues and to approve the Committee Coordinator's notes. These notes will form the substance of the committee's report.

As with the other stages of the BCM, when the committee deals with priorities **P** and outcomes **R**, it must allow for political prerogatives to guide members. Thus, disagreement along partisan lines, although not desirable, should not be seen as a collapse in the committee's work but as part of the political dynamics inherent in the provincial political system. These dynamics are not contrary to the apparent empiricism of the SOM framework.

However, when the committee assesses inputs **I** and outputs **S**, it must strive for a unified position on these variables, noting that they are subject to less political subjectivity, greater empirical analysis, and focus attention on administrative/implementation-orientated problems rather than political/policy development problems.

Support Services

At the MTBPS stage, support staff will once again increase the frequency of their cluster meetings in order to prepare adequately for the briefings required of them by the committee. The meetings will be used to consolidate previous briefing documentation and bring it to bear on the MTBPS's projections for their department(s). The Committee Coordinator will once again provide guidance to the Researcher and Information Officer on the greatest areas of importance in order to ensure the most relevant information reaches the committee. The following division of functions will apply:

- The Information Officer will bring to bear the latest important data tables and statistical information that defines the policy environment and the departments' priorities. At this juncture in the BCM, the Information Officer has the opportunity to truly interrogate the information used for planning purposes by the department against the information generated by external stakeholders in order for the committee to assess the robustness of the data used by the department to undertake its planning.
- The Committee Coordinator will once again ensure that stakeholders from the public receive copies of the MTBPS and are able to make submissions within a certain timeframe for adequate synthesis by the committee. The Committee Coordinator can then invite those stakeholders for a more detailed presentation if it is requested by the committee.
- The Committee Coordinator's main function will be to guide the work of the other support staff in the cluster and to put forth their component of the briefing to the committee. This is the production of a briefing on the committee's attitudes, recommendations and decisions over the years regarding issues that are on the agenda and those issues that are still priorities for the committee even if they have been dropped

by the department.

- The Researcher will use the materials developed from past briefings to demonstrate to the committee the significance of the projections laid out in the MTBPS for the future of the department's plans and priorities. Thus, information on priorities is re-interrogated but the information on inputs and outputs is focused on in order to ascertain whether there are priorities not adequately addressed, given the information in variables *I* and *S* accumulated over the year(s).
- The Researcher will present all of this information against the MTBPS. Simple reiteration of information at this stage that was presented in previous stages of the BCM should be avoided. Outside of the context of those specific stages, the re-presentation of those facts and figures can be misinterpreted. As was stated earlier, the MTBPS does not contain detailed programmes and sub-programmes of departments. Therefore, the re-tabling of old information without tailoring it to the MTBPS may lead to unnecessary misinterpretations.

Public Participation

Public participation takes on added importance during the MTBPS stage, since it is at this, more than at any other stage in the BCM, that an impact can be made on the department's budget. All stakeholders should be requested to make submissions, and must be provided more time and opportunities during this stage to make presentations, from community members to community-based organisations and experts.

In addition, as many stakeholder representatives and groups as possible should be encouraged to attend presentations by the department and the committee's interaction with the department. This is to provide some form of immediate external verification to evidence by the department on its delivery performance over the years.

8. Broad Implications for Information Services, Committees, Research and Public Participation Support Functions

Several references have been made above to regular meeting schedules, the circulation of materials, and the sharing of ideas between members and staff through constant contact. These matters will be dealt with in this section in greater detail.

It is essential for all committees to be allocated dedicated support staff in this category of support. It is also critical to ensure that this category of support is provided with adequate business tools to carry out their function. These must include: a communication business

tool that will enable this category of support to be in constant contact with the Chairperson of the committee, Members of the committee, and committee support team members.

Noting the requirement for this category of support to record committee deliberations and produce committee reports in consultation with Chairpersons, at times outside normal business hours, it is necessary for this category of support to be allocated appropriate business tools to enable constant contact and access to legislature systems to produce committee reports. Considering the requirement for this category of support to facilitate public involvement during committee processes and to facilitate stakeholder participation, it is necessary for legislatures to ensure availability of transport when required.

For the support staff to deliver what is expected of them, the conditions need to be created that facilitate success. The first of these is to imbue a committee support team, i.e. Information Officer, Committee Coordinator, Researcher, and Public Participation Practitioners with a sense of cohesion, and a team identity. This means that each staff member is aware of, and appreciates the role of his or her colleagues, and that each is willing to ensure at all times that the team functions effectively.

The second necessary condition to be met is the entrenchment of a regular meeting schedule among the team members, possibly including the Committee Support Unit Managers. These meetings may have to take place at least once every week when the committee is not dealing with a departmental report, and as often as necessary when they are required to provide support to a committee in processing or preparing a report.

The Committee Coordinator needs to ensure that these meetings take place. They are important and should therefore have a formal agenda, also drafted by the Committee Coordinator, and such meetings must be minuted. The records of these meetings should be formally stored in the legislature's electronic and physical archives to ensure that they can be referred back to. Committee Coordinators might want to add items to the Agenda that pertain to the overall direction of the committee in order to keep support staff abreast of these issues.

Over time, the next condition should be met, which is to have each committee support staff member familiar enough with the work of the others, in order to proactively recognise ways to assist them by sharing information. For example, if the Researcher identifies new data that are not yet captured in the Information Officer's database, these must, immediately, be forwarded to the Information Officer or tabled at the next team meeting.

Within their respective units, support staff will be expected to brief one another in unit meetings on transversal matters. This obligation applies most directly to the Researcher for Finance, Economic Affairs and Public Accounts. This Researcher will almost always be

dealing with issues that apply to the other committees.

9. Implications for Other Support Functions

Although the focus of this model has been on the work of those units that operate most directly with committees, the fact remains that the Oversight Model framework has significant implications for almost every aspect of a legislature's operations. The chain of requirements from one unit to the next is substantial. What follows is an attempt to anticipate the broad implications of SOM for other units. These implications will need to be revisited as the SOM framework is implemented.

Communications

The fundamental purpose of the BCM is to improve the ability of committees to process departmental reports and to produce effective and insightful oversight reports. Comprehensive committee oversight reports should stimulate the interest of the media in the workings of the legislature. This should particularly be the case where committees criticise underperformance by departments or make innovative suggestions for service delivery improvement.

The Committee Coordinator should have primary responsibility to communicate upcoming or newsworthy committee hearings and deliberations to the Communications function. The PR function, in turn, will be required to prepare media releases that contain the highlights of committee reports or the important details of upcoming hearings and deliberations.

In order to carry out this task effectively, PR function staff should have a basic awareness of the SOM, and of the critical issues that pertain to key service delivery areas at any one time. Whilst the PR function does not consist of spokespeople for committees, it must produce media alerts that focus on the crucial and most newsworthy aspects of committee work, and generate sufficient interest to encourage journalists to request actual submissions and reports, or to attend hearings.

Hansard and Language Services

The SOM framework demands a reduction in the production time of hearing transcripts. This is especially the case during onerous stages of the BCM, for example the hearings into the Auditor-General's Reports in the 3rd/4th quarter of a calendar year. During those hearings the Researcher for the PAC is under pressure to continually update his or her matrices with

new material and to feed indicators, observations and trend analyses to the PAC. As a result, during the hearings the committee support team requires transcripts of each hearing within days of its having taken place.

The efficient delivery of transcripts to the committee support team allows for the PAC to develop solid reports, grounded in what the department has presented in its testimony during a hearing, and integrated with existing data contained in the Researcher's matrices, rather than basing these reports on the notes quickly jotted during a hearing by the Researcher and Committee Coordinator.

All committees will benefit from having transcripts at hand as early as possible. The transcripts are the primary source material upon which committee verdicts are based and should thus be available before a committee completes its hearing report.

Documents Registry

The SOM framework relies on the institutional memory of legislatures. This memory is embodied in the many submissions, reports, hearings, briefings, and transcripts, etcetera, that committees produce every year. A fundamental commitment must be made to archive both in hard and electronic copy, and to make available as conveniently as possible, this entire record. Such a commitment requires the appropriate archiving space and tools, and diligence by all staff present in the production and storage of this material. All legislatures must pay particular attention to all other knowledge management practices in relation to information and knowledge generated by committees every year.

House Proceedings

The Proceedings Unit will engage with a far more structured oversight process, producing greater amounts of reports to be tabled by departments and then by committees. This will require extensive planning to ensure that each committee report receives adequate time in the plenary for discussion and debate.

The BCM also demands that the House Proceedings function play a fundamental role in capitalising on a legislature's institutional memory. This role involves maximising the usefulness of committee reports for debates in the plenary. When the House Proceedings function develops the Announcements, Tablings and Committee Reports (ATC) there will be a list of motions and interpellations. The House Proceedings function must also track plenary decisions that emanate from motions, motions without notice, ministerial statements, etcetera, that have a bearing on oversight, and ensure that such are tracked for implementation.



10. The Budget Information Matrices

The second pillar upon which to operationalise the conceptual model is the Budget Information Matrices (BIMs). A Budget Information Matrix must be created per committee. These matrices, while varying in substance from one committee to the next, have fundamental categories of information that are utilised when engaging in programme evaluation and budget analysis.

A BIM effectively captures all the relevant data on a department's operations within a legislature's means. A BIM will exist in both hard and electronic versions and will serve as an induction manual for new Members and staff joining a committee. These matrices must be accessible to the public, in order to allow **Civil Society Organisations** and the general public to develop an intimate awareness of the work of a committee and department, allowing them to improve their ability to make an input.

An Excel spreadsheet file will be created per financial year. Each file will contain a number of spreadsheets, each dedicated to a specific source of information. The information in each spreadsheet is disaggregated into individual cells on the spreadsheet. By capturing the information in separate cells within a spreadsheet per financial year, a support staff member will be able to copy and paste individual cells on a specific issue into a new document in order to develop a historical analysis of the origins and direction of a given matter.

10.1. President's State of the Nation Address

The State of the Nation Address must be read with a view to extracting all information relevant to the specific committee about their department's work. For example, any statement by the President regarding housing must be read by the Housing Committee support staff member and then pasted into a spreadsheet cell specifically created for the State of the Nation Address.

The staff members must use their knowledge of the SOM when disaggregating information into individual cells. Often, the information will/can be separated from one paragraph to the next. Nevertheless, where an issue is discussed at length, the support staff member will use the lens of the SOM to separate policy-specific information from input, output or project outcome information.

The information must be captured as direct quotes. Paraphrasing is not allowed simply because it may skew meanings over time and it diminishes the authority of the research when confronting a department on any given matter.

10.2. Finance Minister's Speech

The Finance Minister's Budget Speech provides committees with explicit information on the government's intended inputs into a department's work for the coming financial year at national level. This is not to construe the Finance Minister's speech as the best source of this information, but any such information presented in this speech is so presented because it is of the highest significance to the government as a whole. Therefore, this information must also be captured into a spreadsheet exclusively for the Finance Minister's Budget Speech.

10.3. Premier's Opening Address

Similar to the President's State of the Nation Address, with regard to Provincial Legislatures, the Premier's Opening Address must also be read with a view to extracting all information relevant to the specific committee about their department's work. Pursuant to the previous example, any statement by the Premier regarding housing must be read by the Housing Committee support staff member in a province and then pasted into a spreadsheet cell specifically created for the Premier's Opening Address.

10.4. Finance MEC's Speech

For Provincial Legislatures, a Budget Speech by an MEC responsible for Finance provides a committee with explicit information on the government's intended inputs into a department's work for the coming financial year in a given province. Similar to the Finance Minister's Budget Speech, this is not to construe the Finance MEC's speech as the best source of this information, but any such information presented in this speech is so presented because it is of the highest significance to a provincial government. Therefore, this information must also be captured into a spreadsheet exclusively for the Finance MEC's Budget Speech.

10.5. Departmental Minister/MEC's Speech

The speech of the department's Minister/MEC will contain detail on all variables of the conceptual model, and it is likely that he or she will discuss in detail major programmes that the Finance Minister/MEC had only mentioned in passing. This spreadsheet offers a committee the greatest amount of detail on a department's intentions for the coming year directly from the most politically accountable authority.

Indeed, very little of a departmental Minister's speech is left out of the spreadsheet dedicated to them. Once again, the support staff member will have to disaggregate information carefully from one cell to another, using the conceptual model as the logic for

such separation.

10.6. Department's Budget Presentation

Every year departments are required to present their budgets to the relevant committee. This presentation is usually accompanied by a formal submission to which the department speaks during its presentation. Support staff will process this submission and capture it in a spreadsheet.

This requires the highest awareness of the conceptual model's lens and its application. Much like the departmental Minister/MEC's speech, most of this submission is relevant and needs to be disaggregated carefully, making the spreadsheet as user-friendly as possible for future analysis. This document is also captured in verbatim format.

10.7. Projected Outputs

A department's budget presentation document is the only submission used twice, captured in two separate spreadsheets. In this spreadsheet, as opposed to the Budget Presentation spreadsheet, the support staff will sift through the document and extract the statements that constitute outputs *S*. This requires the most rigorous application of the conceptual model's logic and therefore should be done exclusively by the Researcher.

These projected outputs are ideally captured in chart format and can be extracted as cells and copied into new spreadsheets for application in analysis. For example, projected outputs can be isolated, and the committee, if interested, can isolate the relevant cells from the Budget Presentation spreadsheet to develop the verbatim statements of the department relevant to the projected output.

10.8. Annual Reports

The Annual Reports will also be captured in a separate spreadsheet in the same fashion as the Budget Presentation.

10.9. The Public Accounts Committee Matrix

A Researcher for the PAC will be developing matrices particular to the needs of the PAC. Nevertheless, the information contained therein will serve as a valuable source of information for other committees. The matrix developed for each AG Report per financial year should be placed in the BIM, as it will provide extensive information on input planning and implementation/utilisation.

10.10. Whitebook Format Appropriation and Adjustment Bill Figures

The present Budget Statement submissions by departments, while containing extensive financial data, do not preclude the utility of having the raw financial figures at hand. Therefore, it is essential that the department responsible for finance continues to supply the figures in the Whitebook format. This will not only ease the workload of staff having to transcribe the numbers into spreadsheets, but also facilitate the manipulation of the figures for the various studies and applications demanded by some of the analytical tools.

10.11. Charts on Spending Patterns

The Whitebook figures readily apply to the development of charts in Excel. The figures are captured on Excel spreadsheets by the department responsible for Finance and are the first to be used in the generation of charts to track patterns in spending. These charts are:

- (i) Simple expenditure (Department, programme, and sub-programme);
- (ii) Percentage share of budget (Department, programme, and sub-programme);
- (iii) Estimated to actual expenditure;
- (iv) Budget change in constant terms; and
- (v) Capital versus current expenditure.

10.12. Legislation and Policy Papers

The BIM will also contain a page that reflects existing legislative and policy frameworks going into a financial year, and any new legislation or policy papers introduced over the course of the financial year. This will assist a committee in keeping a focus on the policy environment in which they and the department find themselves.

10.13. Department Statistics

In defining the policy environment, a department must make use of statistical and other sources of information. The committee will require this information to be submitted along with the report it is tabling. This allows the committee to track the information used by a department and the source of that information. This will foster an understanding of how the department sees the policy context and to verify the quality of the information being used.

10.14. External Statistics

The conceptual model demands the independent verification of information. The external

stakeholders on the Committee Co-ordinator's list will assist the committee to achieve this through the submission of information on the policy environment they generate for various stages of the BCM. For example, in developing policy on domestic violence, the department must use certain figures in prioritising the crime vis-à-vis the litany of other crimes it deals with, and also uses the data in developing a plan to reduce the levels of domestic violence. The Centre for Studies in Violence and Reconciliation may be able to provide alternative sources of data, which the Safety Committee can use to interrogate the robustness of the department's figures/statistics.

The experts, institutes and other organisations used by the committee must be placed into the matrix with their contact details. Community-based organisations, civic groups and others should also be added to the list as the year progresses in order to maintain awareness of relevant stakeholders for independent verification purposes.

10.15. Policy Literature

The BIM will also contain a listing of all the relevant journal pieces, books, chapters in books, and government publications on issues tackled by a committee. The Information Officer is required to generate this information in the briefing to the other support staff and the committee. This information should be placed into the BIM as it is compiled.

11. The Analytical Approach and Exercises

The third component of the SOM is the analytical exercises that offer detailed insight into the department's operations. Once the BCM is in place, and functional BIMs exist, support staff can commence with the analyses.

11.1. The Types of Analysis

The exercises can be separated into two headings. First is the SOM Analysis, and second, the Tools of analysis. The SOM Analysis is an exercise applied to as many issues of concern in a department's budget as deemed necessary. The Tools of analysis is a mixed bag of various analytical applications that offer various degrees of insight into a department's work in relation to the conceptual model.

11.2. Applying the Conceptual Model in the Sector Oversight Model Analysis Exercise

During the initial steps of processing a department's report submitted to the committee, the support staff will begin with an intensive scrutiny that applies the conceptual model.

For example, when a department of Education submits its departmental Vote, the Researcher will read it closely, examining every section through the lens of the conceptual model. This means constantly reviewing a matter in relation to the conceptual model.

The Researcher, in reviewing the details of a specific project, will first try and identify the presence and description of all the variables and capture them in relation to one another as demanded by the conceptual model. Any problems or inconsistencies are then highlighted and examined in greater detail at a later stage. For example, if the budget places teacher training as a key priority of the department but this priority only comprises a fraction of the budget and seems set to decline into the medium term, the researcher can highlight the matter for the committee.

If the researcher determines that the broad issue of teacher-training is one that has been recurrent and significant to the department's operations, the BIMs would be used to compile all the relevant data on the issue in order to develop a brief on the subject for the committee. This exercise should lead to the formulation of what is called the SOM Analysis.

Only after the BCM has been entrenched, the BIMs established, and an overarching degree of evaluation conducted through SOM analysis should Researchers move into the process of applying the tools of analysis.

11.3. The Tools of Analysis

The tools in the Tools of Analysis are exercises that provide greater detail about or insights into specific variables of the conceptual model and further empower an oversight body in understanding where potential problems lie in a budget. The Tools of Analysis, as with the SOM Analysis, are designed to assist in highlighting problematic areas of a department's budget, and help a committee define what questions to pose and what it must review during the budget process.

11.3.1. Fixed and Variable Cost Studies (K , c , $K+c$)

The fixed and variable cost studies would focus on those outputs of government that are relatively constant year-to-year, such as pension pay-outs. A pension pay-out is a variable cost, which means that the cost decreases in relation to the number produced. What is significant for a legislature is that the Department of Social Services will always be issuing pension pay-outs, and it would be helpful to get an idea of the cost year-to-year in order to gauge any improvements in efficiency.

A committee may also want to get an idea of how much Information Technology (IT) hardware is required for certain outputs. What is unique about IT hardware is that it is likely

to be 'step-variable'⁹. This means that one computer can process one to ten thousand housing loans, but to surpass ten thousand by even one hundred will require another computer. The outputs being costed are basic and there is a relatively simple chain in the output process (such as a computer performing a specific function).

This tool can be distinguished from the 'costing function' outlined below through its focus on constant outputs, it being designed for more simplistic analyses of departmental operations. This tool will assist a committee in grasping the general environmental realities of departmental operations in the process of delivery.

The tool, for each committee, can take the form of a database of key outputs for key deliverables and their costs, which will be measured constantly over time to monitor increases and decreases in efficiency. For the Social Services committee, they would maintain a database of the amount of pensions paid out, the staffing contingent that executes the task and the IT systems they use. Once the personnel and computer systems costs are divided by the number of pension pay-outs and added together, the cost per pension pay-out would be determined and can be tracked year-to-year.

11.3.2. Costing Output (K, c, K+c, K+c/S, S, P)

The costing function is developed along the lines of an Activity-Based Costing (ABC) framework. It is geared to cost those outputs that involve a substantial number of identifiable activities. This allows a committee to appreciate costs at every level of activity while, at the same time, appraising the broader picture of delivery including all the management processes and delivery steps. It can then assess the overall efficiency of the entire delivery process. This tool is demanding and should be used selectively by committees, especially in the earliest stages of its implementation.

11.3.3. Time-cycle Study (K, c, K+c, K+c/S, S, P)

The time-cycle study examines the duration between the initial budgeting and realisation of an output. Capital projects, such as the construction of schools, hospitals, and police stations should all be subjected to time-cycle studies. The figures developed in this regard should become baselines along which comparisons can be made.

Departments will always budget along an MTEF for the construction of major facilities, but their timeliness must still be questioned. If the committee discovers that most schools in the past were built over two years, and the Education Committee receives a budget for the

⁹ Texas State Auditor's Office (1995): Guide to Cost-Based Decision Making, Report #95-139; www.sao.state.tx.us/Resources/Manuals/Cost.htm, P. 7.

construction of a school over three years, it demands an inquiry into why this is an exception to the norm.

This tool can also be used on service-oriented outputs, but more attention must be paid to the outputs selected. For example, transfer of land tenure to occupants is a major sub-programme output of the Human Settlements Department and the number of transfers can be monitored in relation to sub-programme expenditure. It can also be used for monitoring more basic elements of service delivery such as the processing time for a pensioner's payout.

Effectively, one can isolate a specific activity and examine the time required for that activity to produce what is expected of it. The Time Cycle Study tool complements the 'costing function': whereas the latter examines an output in relation to cost, the former examines an output in relation to the time spent to produce it. It should highlight efficiency and effectiveness by allowing committees to look at delivery processes in a detailed format.

A questionnaire submitted by the committee to the department should request a detailed activity breakdown. The distinction between this breakdown and the activity breakdowns required by the costing function is that of the level of detail reflected in each breakdown. For example, in the costing function, an activity may be the processing of pension files. The costing function will require the personnel and capital costs involved. The Time-Cycle Study requires the minute details of time required for processing pension files.

This will allow a committee to explore, in depth, specific details of departmental operations and comment on them. Once again, this tool should also be selected carefully, it being reserved for those types of constant outputs as identified for the fixed and variable cost functions. A database can then be developed that measures the efficiency of a department in key deliverables.

11.3.4. Potential Productivity Study (*S, P*)

This tool tracks general expenditure (total and main division budgets) to overall outputs of departments. Expected levels of output can then be drawn up in order to track extraordinarily low/high outputs versus departmental spending. Expectations, where they are not explicitly laid-out by the department, can then be developed between budgets and outputs. Over time, this can be used to develop minimum standards of performance from departments. Idiosyncrasies would then be flagged for explanations.

While departments do develop unique and diverse programmes, many of them are there to deliver fundamental services. While the approaches and programmes may change, the outputs may stay the same (for example in schooling, health, or safety). Therefore, these

base deliverables can be quantified over time against budgets and in relation to variables such as the inflation rate as a means of gaining insight into the general performance of a department.

If housing is taken as an example, one may seek to determine in the final instance how many stands, top structures and hostels were dealt with, and how many disputes were resolved. These are consistent, essential deliverables for the Department of Human Settlements that can be tracked over time against the budget and reflected graphically and analysed by a researcher.

11.3.5. Aggregate Demand Studies (*P, K, c, S*)

This tool seeks to provide insight into the relationship between Priorities (*P*), Outputs (*S*), and the intervening inputs (capital (*K*), current (*c*)). The tool seeks to highlight the aggregate demand for government services, thereby informing prioritisation and the conceptualisation of the policy environment.

Certain deliverables can have their respective demands gauged relatively accurately. The Department of Education has a basis for estimating the demand for the number of students entering public primary schools. The Department of Human Settlements has an idea of the influx of migrants and others requiring homes. The Department of Safety has an idea about the crime profile of a province. These sources of information are effectively a barometer of the aggregate demand for a service.

The delivery of any output is guided by the extent to which a department prioritises it. The aggregate demand study will facilitate the analysis of a department's commitment to the tackling of priorities as set out in their budgets and other policy statements.

It also complements any discussion on the policy environment in relation to the overall budget. Prioritisations are founded on information and the conceptualisation of the policy environment. The attached BCM requires a discussion on the policy environment as the two parties, the department and the committee see it. The discussion should highlight the importance of key priorities and the extent to which the necessary outputs will meet those priorities.

The aggregate demand study will explicitly track the connections between priorities and outputs, for example, the number of citizens requiring housing subsidies and the number of housing subsidies the department is scheduled to provide.

11.3.6. Interdependent Priorities Study (*P*)

This study examines key programmes across departments to establish whether there is

interdependence between them and whether they are being implemented in a way that capitalises on their coterminality.

This tool analyses the delivery of services such as a new housing development, with appropriate roads construction; social sector services such as schools, hospitals, and safety and liaison (Community Policing Forum (CPF) establishment. It measures whether they are being delivered in a co-ordinated manner that maximises the potential for the creation of a lasting community structure.

The interdependent priorities emphasise the relationships between departments, but obviously come from a specific focus. In the example provided above, Development Planning, or Human Settlements may be the initial source. Each department may have a number of major initiatives that rely on other programmes from other departments. Researchers should establish what these deliverables are in order to develop a standardised/automatic approach to verifying that interdependent priorities are being co-ordinated coherently.

11.3.7. Project Sustainability (*K, c, K+c, S*)

This study examines the financial planning behind programmes and sub-programmes to ensure that medium/long-term programmes do not collapse due to unforeseen or unaccounted-for variables. These variables may be financial, political, or contextual. For example, a specific programme may have an expected take-up rate that, for any number of reasons, may not be realistic. Likewise, a programme may not be provided for in future financial years. If any of these is discovered, the committee can intervene to hopefully eradicate the threat to the successful implementation and the sustainability of the programme.

11.3.8. Needs Budget versus Availability Budget Analysis

When the adverse effects of poor implementation and crisis management manifest themselves, a department can resort to a scramble for resources for programmes that are in dire straights but with not much thought being given to the ramifications of “slapdash” budgeting. This is a broader study, and if there are enough problems identified by the other tools, then, for example, the Finance Department Researcher could label a budget a “needs” or “availability” budget. “Needs” suggests a budget that is struggling to throw money at looming problems whereas “availability” suggests a budget planned along sound information lines.

11.3.9. Cost-Benefit Analyses/Retrospective Cost-Benefit Analyses

In scrutinising a budget, a committee will want to explore the trade-off between the prioritisation of key outputs. In some cases, such matters can be quantified. For example, the Department of Human Settlements made the Greenfields housing development a major priority, and has planned to devote substantial amounts of resources towards this deliverable.

Another key priority is informal settlement upgrading. These programmes cost money and are easily measurable with respect to their output. What is also measurable is the impact of the trade-off. How many informal settlements can be upgraded versus new housing development along Greenfields? There is also a time variable here, which is easily captured as an opportunity cost.

The committee should attempt to understand what the impact of certain departmental pursuits is in relation to other deliverables. This will help inform a committee in its recommendations to a department.

When the appropriate amount of time has elapsed, a cost-benefit analysis should be followed up with a retrospective cost-benefit analysis. The retrospective cost-benefit analysis should examine the trade-off with the added benefit of having historical data on hand to measure the actual cost-benefit of one deliverable against another.

11.3.10. Aggregate Fiscal Discipline

The PFMA prescribes an extraordinarily detailed and rigorous reporting regime for government structures. The PFMA's requirements in this regard cannot be met without intensive planning. Much of the planning requirements are reflected in the area of financial reporting. Therefore, the state of financial management quality will, in general, be used as a barometer of a department's performance in the area of planning. This, broadly, is referred to as Aggregate Fiscal Discipline. Thus far, there are only two tools under this category of analysis (see sub-section below).

11.3.11. Programmatic Continuity ($K, c, K+c, S$)

Programmes and sub-programmes come and go, sometimes quite drastically, with financial and output implications. Programmatic continuity measures the lifespan of programmes and sub-programmes tabled in a budget. This provides a measure of consistency in a department's budget.

Consistency, in and of itself, is neither negative nor positive. What this study highlights is whether there are concerns that should be raised by a specific pattern. For example, if a department's sub-programmes reflect a pattern of short life-spans and constant shuffling and reprioritising over a period of years, a committee may want to ascertain whether the department is merely reacting to one crisis after another and not allowing a project to actually come to fruition.

It is well understood that the outcomes of many projects will not be felt for years. This demands a degree of patience, and when a committee sees a department where projects are being carried out without any commensurate change in the priorities they were trying to meet, the committee will want to unpack the quality of planning in that department.

This means trying to establish whether a department is not merely responding to various crises by creating sub-programmes listed in the budget that, in name, appear to address the priority, only to drop it in the coming financial year for another priority. The department, consequently, never actually commits to one endeavour and, potentially, never actually succeeds in addressing any of the intended priorities for those sub-programmes.

On the other hand, a committee may find a department where the sub-programmes and programmes have not changed at all in years and yet is still struggling to succeed in meeting its priorities. It is possible that a department may have become so set in its ways that it cannot introduce innovation. The consequence is that money is applied to priorities in departments that are not producing positive results and cannot be changed because of the risk in deviating from an established pattern. The committee will want to investigate this once enough evidence has been compiled to show that a department is lacking innovation as demonstrated by its budget.

11.3.12 Budget Variance Study (K , c , $K+c$, S)

This study examines the variance between estimates, budgets, adjustments, and actual expenditure, with a view to ascertaining the quality of a department's planning in respect of a programme and sub-programme. Over time, acceptable variance levels can be developed. In instances where a department has stepped outside of its normal variance boundaries, it will alert the committee to a potential problem that needs to be investigated.

11.3.13. Cost of Poor Quality

This study would examine/quantify the repercussions of 'bad' work or work that required subsequent extraordinary costs to deliver. A causal chain of expenditure can be drawn from that to express the exact nature of a job poorly done.

11.3.14. Information Level Test

| This test would gauge the quality and level of information delivered by a department against that of other departments. This is done as a survey of Members' opinions on the quality of a department's report, which is compiled into a matrix along the lines of the one displayed below: Accountability System Component | Meets Expectations | Needs Some Modifications | Needs Major Modifications |
|---|--------------------|--------------------------|---------------------------|
| Programme Purpose and Goals | X | | |
| Performance Measures | | X | |
| Data Reliability | X | | |
| Reporting Information and Use by Management | | X | |

The purpose of the exercise above, based on previous studies, is to determine whether a department is as transparent, open and accessible in its budget documentation as other departments. This, over time, will hopefully act as a lever to apply pressure on a department to continually innovate and improve its budget documentation. Since this would be tabled in a committee's final report, it would allow departments to see who performed worst, spurring on those departments to improve in coming years.

12. The Significance and Application of the Tools of Analysis



The tools of analysis represent a series of exercises that provide a level of understanding about the status of a department in relation to the conceptual model as a whole or one or more of its variables. Thus, in as much as Members and staff must internalise the conceptual model, they must also appreciate the significance of what the tools represent. For support staff, this is essential as it is their role to apply the various tools when analysing a department's budget or one of its reports.

Beyond simply comprehending and being able to apply the tools, the support staff must grasp the significance of the tools as exercises providing information that improves awareness of a department's performance *vis-à-vis* the conceptual model. When this level of understanding is achieved, it will allow them to customise tools for their specific committees which may have nuances not catered for by a standard tool.

The tools of analysis are not an exhaustive list of exercises. Therefore, support staff, over time, should be able to develop their own tools that further empower a committee in understanding a department's performance within the conceptual model's parameters.

13. Roles and Responsibilities

13.1. The Speaker

It is a key requirement for legislatures to engage with the Executive and departments, and to reach agreement on the reporting formats and timeframes for quarterly and Annual Reports. The main motivations for such agreements are as follows:

- The efficacy of committee oversight on quarterly and Annual Reports is directly facilitated or constrained by the information that departments provide on their performance. It is a reasonable expectation for reporting to be in keeping with the budget analysis and programme performance variables (priorities, inputs, outputs and outcomes) and associated performance measures set out in strategic plans and the budget.
- In order for structured and facilitated (as opposed to ad-hoc) oversight to take place, as set out in this guide, legislatures require a commitment from departments in terms of timeframes. Submission of Quarterly Reports and Annual Reports as well as the budget, based on agreed timeframes, is necessary for the Researchers to have sufficient time for analysis and to secure proper inputs from civil society members/groupings.

13.2. Chairperson of Committees

From a monitoring and co-ordination perspective, it would be desirable for

the Chairpersons of Committees of a legislature to aggregate the resolutions being tracked by each committee. This would ensure that an exhaustive list of all resolutions exists, and that the process is monitored and directed.

The Office Bearers, in turn, could monitor the degree to which committees are able to secure the desirable responses from departments on resolutions.

13.3. Members of a Legislature

It is quite reasonable to assume that the implementation of this framework will render oversight work far more tangible than ever experienced before. This demands a level of awareness and preparedness among Members. Two areas of preparation apply:

- The first involves the work ethic of Members in general. The system being established will demand extensive preparations and reading prior to meetings in order for the information it generates to be optimally utilised.
- The second involves developing a sense of institutional identity where the legislature's oversight and scrutiny takes precedence over other considerations. Whilst partisanship is a natural force in a legislature, it needs to be set aside in certain oversight-related matters, and Members will need to see themselves as a unit of a legislature and work co-operatively.

13.4. Individual Members

It is imperative that Members attend committee meetings. It is equally important for Members to attend committee meetings having done the preparatory reading. The BCM is structured to capitalise on the potential for inputs from external sources, that is, community-based and academic and internal sources, and the institutional memory of a legislature applied by staff. Currently, a Member is expected to come to a hearing on a department's budget having read the specific Vote in the Budget Statement. This will no longer be the case. It is impossible at this stage to list the extent of reading demanded by the BCM, but in comparison to what exists at the moment, an increase can be safely assumed.

It is important to remember that the reading materials are submissions whose aim is to empower Members in their engagement with departments. If Members do not prepare themselves, they will, in effect, surrender the oversight work to staff and allow it to become an autonomic function void of the essential legislature ingredient, that is, representativity. The BCM is structurally biased to provide a framework in which Members may observe their efforts being visible in the committee's final product at each stage. The requirement that

the Committee Co-ordinator develop the basis of a report during deliberations by recording the key issues raised during committee deliberations allows Members to see their concerns reflected directly in the committee's report.

13.5. Role and Functions of House Committees

A committee conducts its business on behalf of the House, and must therefore report back to the House on matters referred to it for consideration and report. A committee may also report on any other matter within the scope of its mandate that it considers necessary. When a committee reports its recommendations to the House for formal consideration and the House adopts the committee report, it gives the recommendations the force of a formal House resolution pursuant to its constitutional function of conducting oversight.

14. Legislature Capacity and Implementation of the Sector Oversight Model

The implementation of the SOM has serious implications for various areas of the legislature's capacity as an institution. These issues need to be investigated in order to establish the gaps that need to be filled.

14.1. The Budget Cycle Model and Meeting Schedules

The BCM establishes an intensive meeting and work structure that requires proper time management. Legislatures should establish meeting schedules that meet the minimum demands of the BCM for the stages where departmental reports are tabled and processed. This has serious implications for timing, committee membership and overlapping demands.

14.2. The Development of a Legislature Programme and Implications for Committees

The manner in which legislatures design programmes must allow for proper co-ordination between standing committees such as the PAC and other committees such as those dealing with matters of a transversal nature. For instance, the SOM proposes that during consideration of Annual Reports of departments, outcomes of the PAC deliberations must inform affected committee processes when dealing with Annual Reports.



Several committees will be profoundly impacted upon by this system. It is important at this stage to examine, on a broader level, the SOM framework's impact and implications for some of the standing committees.

14.2.1. The Public Accounts Committee

Aside from the detailed implications for the PAC, already discussed, there are broader implications that the PAC will have to provide for in relation to other committees.

As it investigates a department's financial statements, the PAC must begin to assume the responsibility of proactively identifying if one or more committees must be kept abreast of a matter. If an issue is likely to have a causal effect on other departments, the PAC will have to provide memorandums on this and circulate the material it is developing.

This is not to turn the PAC into an omnipresent committee that can demand another committee's attention. The reality is that the PAC will be the best source of verification on the status of certain variables in the conceptual model, and committees will depend on the PAC to deliver this information as it arises.

For example, the PAC's reports on a department's audited financial statements must be circulated to relevant committees and appear on their agenda to confirm that Members and support staff process the information from the report.

The PAC will also have to be highly considerate of other committees' commitments at any point in time and plan accordingly.

14.2.2. The Rules Committee

The Rules Committee will have to deal immediately with the matters arising in section 7, but more than that, it will constantly have to review areas of further potential change in order to better facilitate the needs of the SOM work going on in their legislatures.

15. Summary of Recommendations

15.1. Oversight Legislation

Everyone in the SA Legislative Sector should work towards comprehensive legislation to provide for the Codification of Oversight with mechanisms contained in the sector

oversight model and aligned with the Public Finance Management Act and legislation related to the financial administration and management of legislatures where such exist. This will benefit the sector in that oversight and non-compliance with the requirements thereof will be a legal compliance matter. This will ensure that compliance requirements and expectations for the executive are well understood in advance and are accorded the status that they deserve.

It is envisaged that legislation will be the final stage of regulating oversight. The sector is expected to start by implementing a standard model; individual legislatures should follow by adjusting their standing Rules to support prescripts of the model and as soon as the sector has developed Sector Oversight Legislation for South Africa, individual legislatures can modify such legislation to suit their circumstances.

It is recommended that SALSA task the Committee Staff, Legal Advisors and any other relevant forum to develop the Sector Oversight Legislation.

15.2. Amendment of Money Bills

Amendment of money Bills and related procedures and establishment of associated mechanisms: Legislatures own financial administration and management will be enhanced as soon as this legislative environment is established. The sector's ability to amend money Bills should be incorporated as part of the sector's oversight work. In instances where the executive has not made appropriate allocations in line with agreed government priorities, legislatures should utilise this authority to correct allocations. This will give the sector more clout and ensure that resolutions regarding allocations are accorded attention by the executive.

It is recommended that amendment of money Bills be included particularly under the second stage of the BCM where the sector considers Appropriations.

15.3. Scrutiny of Subordinate Legislation

Scrutiny of subordinate legislation is an area that has remained a challenge for most legislatures in the sector, yet it is very strategic to the oversight function. In instances where the executive make subordinate legislation, invariably they empower themselves to be able to deliver on legislation. It is imperative that the sector conducts oversight on how this power is exercised.

It is recommended that the Legislative Sector introduce mechanisms to scrutinise subordinate/delegated legislation.

It is further recommended that legislatures enact legislation that will regulate how legislatures



are to conduct oversight over making of subordinate legislation.

15.4. Parliamentary Institute

The establishment of a Parliamentary Institute for the Sector to strengthen parliamentary practice in South Africa is necessary. A parliamentary institute would contribute to the professionalisation of the South African Legislative Sector. This will be done by conducting scientific analysis, manage and sharing knowledge in support of legislative developments and parliamentary practice.

The envisaged role of such an institute would be to support the sector when interacting with institutions of higher learning. The institute would also serve to provide training and ensure a supply of appropriately trained parliamentary professionals for the sector. It would be expected of such an institute to serve the sector as a think- tank that generates knowledge for the sector's continued advancement.

It is recommended that the Speakers' Forum consider the establishment of such an institute and commission a viability study in this regard.

15.5. Committee Inquiries

Everyone in the SA Legislative Sector should work towards establishing a Committee Inquiries System to strengthen the variables and mechanisms in the Budget Cycle Model by probing obstacles to service delivery. This is a very effective oversight mechanism that has been observed working in other legislatures in the world. This mechanism would enable the sector to investigate and gain a deeper understanding of government work, especially when faced with more intricate areas of government work that would require inquiry.

It is recommended that legislatures consider enacting legislation that will empower them to conduct committee inquiries and that this mechanism be considered as one of the mechanisms of oversight as prescribed by this model.

15.6. Knowledge Management

The sector should carry out a detailed investigation into various oversight practices, tools, approaches, and methods in legislatures with a view to building institutional memory and knowledge sharing by documenting these.

The SA Legislative Sector Knowledge Management Strategy should respond to sector requirements for building capacity for oversight through sustained and continuous building and retention of knowledge for oversight.

16. ⁱReferences

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ⁱⁱQuestionnaire and other Supporting Documents in data collection and analysis

ⁱⁱⁱOther legislation

ⁱ This Sector Oversight Model was developed based on all of the above key documents. Additionally, questionnaires were developed and submitted as feedback from various role-players in the South African legislative sector. Analyses hereto formed part of the core Situational Analysis work submitted to the Project Team, and thus formed part of the Final Sector Oversight Model redeveloped by the Project Team.

ⁱⁱ A questionnaire was prepared and circulated to Parliament and the Provincial Legislatures. Attached is the questionnaire. In getting a sense and understanding on how Parliament and the Provincial Legislatures conduct oversight, the following documents were requested: The current Standing Rules of Parliament and the 9 Provincial Legislatures; the Birchwood Resolutions on Public Participation and Petition; Documented systems, procedures and processes; the organisational structures of the 11 institutions; other previous research documents, reports, and any exercise undertaken in the area of lawmaking, oversight and public participation; Financial Management and Administration of the Eastern Cape, the Scrutiny of Subordinate Legislation Act from Gauteng.

ⁱⁱⁱ Some Legislatures, such the Mpumalanga, Gauteng, and Western Cape Provincial Legislatures, have gone to the extent of enacting legislation on petitions.

CHAPTER 3: INSTITUTIONAL CHARACTERISTICS OF OVERSIGHT AND ACCOUNTABILITY AND EXISTING MECHANISMS UTILISED BY LEGISLATURES

3.1 Introduction

The SA Legislative Sector is constituted of Parliament and Provincial Legislatures. Parliament consists of the National Assembly and the National Council of Provinces.

Section 42(3) of the Constitution gives the National Assembly the power to scrutinise and oversee executive action. Members of the National Assembly are nominated by parties elected through national elections.

Section 42 (4) of the Constitution states that the National Council of Provinces represents the provinces, and ensures that provincial interests are taken into account in the national sphere of government. It does this mainly by participating in the national legislative process and by providing a national forum for public consideration of issues affecting provinces. Members of the NCOP are nominated by the provincial leadership, and elected through provincial elections.

Section 114(2) of the Constitution empowers a Provincial Legislature to provide mechanisms to ensure that all provincial organs of state in the province are accountable to it; and to maintain oversight of (i) the exercise of provincial executive authority in the province, including the implementation of legislation; and (ii), any provincial organ of state.

There are several forms in which legislatures conduct oversight. Some of these forms are: members' statements, questions to the Executive, statements by the Executive, Budget Vote debates, debates on matters of public interest, members' constituency work, and committees of the respective Houses of Parliament and Provincial Legislatures.

3.2 Scope of oversight

Section 55(2) (b) (ii) of the Constitution empowers the National Assembly to conduct oversight over all organs of state. An organ of state is defined by Section 239 of the Constitution as:

- (a) “any department of state or administration in the national, provincial or local sphere of government; or
- (b) any other functionary or institution –
 - (i) exercising a power or performing a function in terms of the Constitution or a provincial constitution; or
 - (ii) exercising a public power or performing a public function in terms of any legislation, but does not include a court or a judicial officer.”

Section 239 divides organs of state essentially into two categories. The first category defines organs of state as any department of state or administration in the national, provincial or local sphere of government. The notion of ministerial responsibility is enshrined in section 92(2) of the Constitution, 1996. Finally, the inclusion of the local sphere in Section 239 must include municipalities, as these constitute administrative bodies operating in the local sphere of government.

The second category in Section 239 is subdivided, and focuses on the constitutional responsibility or the exercising of a public power or responsibility as determining factors. If the institution or functionary is exercising a power or performing a function in terms of the Constitution or a provincial constitution, then it is an organ of state. Furthermore, if an institution is fulfilling a public responsibility, such as a state-owned entity, it should be classified as an organ of state.

The National Assembly has the responsibility to ensure that all executive organs of state in the national sphere of government are accountable to it; and maintain oversight of the exercise of national authority and of any organ of state, yet Section 114(2) of the Constitution gives the provincial legislatures the power to hold provincial organs of state accountable to it.

It is therefore recommended that the oversight body those organs of state report to be clarified. If it is clear that some organs of state are not reporting to any oversight body then Parliament can, in terms of sections 56(b) and 69(b) of the Constitution, require of the entity to report to it so that Parliament has the complete picture of the executive function reported on. In this regard, the mandate of the National Assembly by virtue of section 55(2) (b) (ii) entitles it to exercise oversight over all organs of state.

3.3 Plenary Oversight processes available to the Legislative Sector

3.3.1 Budget Votes

Budget Votes occur when the Minister of Finance or the MEC of Finance announces the budget projections for the next financial year, as well as the Budget Votes of each Minister (department). In the Budget the Minister of Finance or the MEC of Finance sets out how much money the government will spend in the following year. Parliament is empowered to amend money Bills. The Budget Votes are debated in plenary or Extended Public Committees once committees have concluded their consideration of the Budget Vote(s) referred to them. Members from the respective political parties debate the programme of the executive for the funds to be voted.

3.3.2 Questions

The procedure of putting questions to the Executive is one of the ways in which Legislatures hold the Executive accountable. Question time affords members of Legislatures the opportunity to question members of the Executive on service delivery, policy and other executive action on behalf of both their political parties and the electorate. Questions can be put for oral or written reply to the President, the Deputy President, Ministers and Provincial Executives on matters under their charge.

3.3.3 Statements by Members and Members of the Executive

This is the process whereby Members of Legislatures are afforded the opportunity to make statements on any matter in their House. The President, Deputy President, Ministers and Provincial Executive may make factual or policy statements in relation to government policy, executive action and other similar matters of which the legislature should be informed. This is in line with Legislatures providing a platform for discussing matters of public interest.

3.3.4 Motions

Motions are proposals from individual members requesting that their House makes resolutions or holds a debate on a particular matter.

3.3.5 Plenary debates

Plenary debates provide a platform to members to discuss and debate matters of public interest or highlight a particular programme of government.

3.4 Committee mechanisms for oversight and accountability

Legislatures have established mechanisms to fulfil their oversight responsibility in terms of Sections 42(3) and 114(2) of the Constitution. Committees provide a platform whereby members can conduct a detailed enquiry into a particular matter. Each House conducts the bulk of its oversight work through committees, established by the respective Houses. It is important to remember the mandate of each House, as this should inform how they are meant to conduct their oversight. Rules are established in all legislatures in order to govern the proceedings of how the legislatures hold the executive accountable. The example below is meant to provide details of types of rules established governing the functioning of committees of legislatures.

3.4.1 Committees

Parliament's committees charged with conducting specific oversight over a portfolio of the Executive are called portfolio committees. In terms of NA Rule 201(6th Edition), a portfolio committee:

- (a) must deal with Bills and other matters falling within its portfolio as are referred to it in terms of the Constitution, legislation, these Rules, the Joint Rules or by resolution of the Assembly;
- (b) must maintain oversight of
 - (i) the exercise within its portfolio of national executive authority, including the implementation of legislation;
 - (ii) any executive organ of State falling within its portfolio;
 - (i) any constitutional entity falling within its portfolio; and
 - (iv) any other body or institution in respect of which oversight was assigned to it;
- (c) May monitor, investigate, enquire into and make recommendations concerning any such executive organ of state, constitutional institution or other body or institution, including the legislative programme, budget, rationalisation, restructuring, functioning, organisation, structure, staff and policies of such organ of state, institution or other body or institution;
- (d) may consult and liaise with any executive organ of state or constitutional institution; and
- (e) must perform any other functions, tasks or duties assigned to it in terms of the Constitution, legislation, these Rules, the Joint Rules or resolutions of the Assembly, including functions, tasks and duties concerning parliamentary oversight or supervision of such executive organs of state, constitutional institutions or other bodies or institutions.

A committee conducts its business on behalf of the House that has established it, and must therefore report back to that House on matters referred to it for consideration and report. A committee may also report on any other matter within the scope of its mandate that it considers necessary in terms of the powers and functions conferred upon it. In addition, the work of committees include study visits that entail physical inspections, conversing with people, assessing the impact of delivery and developing reports for adoption by committees which contain recommendations for their Houses to consider.

In exercising oversight, committees often obtain first-hand knowledge from people engaged in the direct implementation of specific programmes and/or the recipients of delivered services by the Executive. In order to evaluate the work of government from a broader perspective, committees may invite experts from outside government to provide background knowledge and analysis on relevant issues.

Some Committees have an oversight responsibility that is transversal in nature. However, some of the committees established have their oversight responsibility understated, i.e. they are expected to conduct oversight over a particular executive portfolio, but in actual fact conduct oversight over particular chapters of the Constitution. Examples of such committees include the following committees of Parliament: the Portfolio Committee on Co-operative Governance and Traditional Affairs, Portfolio Committee on Police and the Portfolio Committee on Public Service and Administration. These committees hold a transversal oversight responsibility in terms of their respective portfolios, and may not receive sufficient time or resources to execute their responsibility. The challenge of classifying oversight responsibility of committees highlights the need to investigate which committees of all legislatures require additional resourcing, capacity and development based on the broadness of their mandates.

When a committee reports its recommendations to their House for formal consideration and the House adopts the Committee report, it gives the recommendations the force of a formal House resolution pursuant to the particular legislature's constitutional function of conducting oversight. The House then also monitors executive compliance with these recommendations.

Committees can present reports to their respective House on the following types of matters:

1. Legislation;
2. Study tours;
3. Oversight activities of committees, including responses to annual reports and financial statements of departments;
4. International agreements;
5. Private members' legislative proposals;
6. Budget Votes;
7. Petitions;
8. Statutory provisions (for example, the filling of vacancies in a statutory body);
9. Annual reports of committee activities and performance against their strategic plans;
10. Budgetary review; and
11. Any matter referred to committees for consideration and report by resolution of their respective House or legislature.

Once a report has been adopted by the House, the Speaker communicates the recommendations of the House to the relevant Minister and copies the relevant House Chairperson, committee chairperson and head of department.

Provincial Legislatures have developed their own models and practices to hold the Provincial Legislatures accountable. The Programme Evaluation and Budget Analysis Model developed by the Gauteng Provincial Legislature is an example of how the Provincial Legislature has taken up its Constitutional responsibility of developing mechanisms to hold the provincial organs of state accountable to the Provincial Legislature.

3.5 Use of activities and reports from state institutions supporting constitutional democracy to enhance the Legislative Sector's oversight functions

These institutions have particular mandates as provided for in the Constitution and by way of additional Acts of Parliament that prescribe their functions and powers. The institutions are independent and subject only to the Constitution and the law, and they must be impartial and must exercise their powers and perform their functions without fear, favour or prejudice. In terms of section 181(3) of the Constitution, other organs of state, through legislative measures, have to assist and protect the aforementioned institutions to ensure their independence, impartiality, dignity and effectiveness.

In terms of section 181(5) of the Constitution, these institutions are accountable to the National Assembly and must report on their activities and the performance of their functions to the Assembly at least once a year.

The institutions are:

- The Auditor-General (AG);
- The Commission for Gender Equality (CGE);
- The Public Protector (PP);
- The Electoral Commission (EC);
- The South African Human Rights Commission (SAHRC);
- The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities (CRL Rights Commission); and
- The Public Service Commission (PSC)

The Public Service Commission and the Financial and Fiscal Commission are established in terms of Chapters 10 and 13 of the Constitution, and are mandated by section 196(6) and 220(1), respectively, to report to Parliament and Provincial Legislatures. The PSC has a broad constitutional responsibility of monitoring, evaluating and making recommendations on Section 195(1) of the Constitution. The FFC, on the other hand, monitors, evaluates and makes recommendations in terms of Section 214 (2) of the Constitution.

3.6 Summary of Tools to assist oversight and accountability

Several tools are at the disposal of the Legislative Sector which equip members and legislature structures to hold the executive accountable. These mechanisms include:

3.6.1 Statutes

- Constitution of the Republic of South Africa
- National and Provincial Legislation

3.6.2 Policies and programmes of Government

- Policies derived from legislation
- Government Programme of Action [5-year plan]
- State-of-the-Nation Address
- State-of-the-Province Address
- Ministerial statements
- Departmental strategic plans
- Departmental current and past annual performance plans
- Annual reports (including annual financial statements, statements on programme performance and human resource information)
- Performance contracts of Heads of Departments
- Annual reports (including annual financial statements, statements on programme performance and human resource information)
- Performance contracts of Heads of Departments
- Estimates of National Expenditure (ENE)
- Budget Review
- Ministers' Budget Vote speeches
- Departmental Budget Votes
- Treasury Regulations relating to strategic planning
- Treasury reports (monthly and quarterly reports)
- Medium-Term Budget Policy Statement (MTBPS)
- Financial statements (monthly financial reports and quarterly performance reports)
- Statistics South Africa reports

3.6.3 Legislature tools at members' disposal

- Minutes and Hansard records of Debates in the Legislatures
- Committee reports
- Departmental compliance with Legislature recommendations and resolutions

3.6.4 Tools provided by institutions supporting Democracy

- Reports on investigated matters of relevance by institutions supporting constitutional democracy (ISDs) and other statutory institutions supporting democracy for

consideration by Parliament

- Reports of the Auditor-General (including performance reports)
- Adjusted Estimates of National Expenditure
- Intergovernmental Fiscal Relations report
- Public Service Commission Reports

The media also plays a role in providing Members of Parliament with information to consider for their oversight responsibility.

3.7 Challenges with current mechanisms

Some of the challenges encountered with the current mechanisms are:

- Not all organs of state are currently accountable to Legislatures
- There are currently some committees established as holding transversal oversight responsibility, and are afforded resources and time to meet according to their workload. However, there are other committees that hold a transversal oversight responsibility, but are not recognized as such. Examples include the Portfolio Committee on Co-operative Governance and Traditional Affairs, the Portfolio Committee on Police and the Portfolio Committee on Public Service and Administration in National Parliament. The same challenge could exist in other legislatures.
- Committees are not always specific in their recommendations. Some recommendations made in committee reports lack clarity as to whom they are directed at. On some occasions it is not clear what should be done and whether progress on the relevant resolutions must be reported back to the National Assembly.
- Separation of Powers is not always observed.
- Reports are not communicated between the Houses, which leads to the committees of the respective legislatures repeating oversight, instead of complementing each other's oversight responsibility.
- Committee meetings that take place at the same time as Cabinet meetings do not necessarily enjoy the same level of accountability by Ministers as committees that meet at a different time to Cabinet.
- Proportional representation is stifled when many committees meet simultaneously: Members of the smaller opposition parties are unable to serve several committees that sit simultaneously, which obstructs their ability to participate in committee meetings.
- Members are not always clear in understanding the portfolio over which they are conducting oversight or the oversight mechanisms at their disposal. One sometimes finds that some committees conduct oversight in the same fashion as committees from the other House, yet each House is meant to represent specific views, and were elected as such.
- There is currently no structure that exercises oversight over the administration of Parliament and Provincial Legislatures which are organs of state, as defined by the

Constitution.

3.8 Recommendations

- An audit should be done to evaluate how many organs of state report to which Legislatures in order to evaluate how many organs of state currently report to oversight bodies. It should be ensured that Legislatures are able to scrutinize and oversee National, Provincial and Municipal executive action.
- Legislatures should consider resourcing, training and developing specialised committees that hold cross-cutting oversight responsibility over a wide range of government departments and Ministries in all spheres of government.
- Accountability of the Executive of the three spheres of government to Legislature Committees should be strengthened.
- Mechanisms should also be put in place to monitor and ensure responses by the Executive of the three spheres of Government to resolutions adopted by Legislatures. A system for tracking responses to Legislature resolutions should be established, with records being kept of when matters were responded to by the relevant executive authority. Quarterly reports of recommendations and responses by the Executive should be made available to the respective Legislatures. These reports could be used to feed information into the tracking and monitoring mechanism recommended above. This will also allow the Speaker to make informed decisions to invoke his power to summons the members of the Executive to Parliament, if so required.
- There is a need to strengthen, clarify and co-ordinate the oversight of Committees, in general, especially to avoid select, portfolio and provincial committees repeating the same type of oversight in the same areas.
- A platform should be created in order to encourage participation by the smaller opposition parties. This platform could be an arena to debate the findings and recommendations of a cluster of committee reports before they are considered formally by the relevant Legislature.

CHAPTER 4: NEW MECHANISMS FOR OVERSIGHT AND ACCOUNTABILITY

It is important to state that all organs of state that conduct oversight are independent, and interdependent in their exercise of their oversight responsibility. The two Houses of Parliament, Provincial Legislatures and SALGA have established their own mechanisms of oversight. In order to put forward mechanisms that would foster complementary roles and responsibilities, consultation should be sought with all entities involved on a model that would be proposed for the organs of state in South Africa that conduct oversight over executive action.

The proposals listed below are based on challenges experienced in Parliament, and are

highlighted in chapter three above.

4.1 Creation of Plenary mechanism to discuss Committee Reports

Reports of Committees are not discussed sufficiently by the members of Legislature, outside the particular Committee, in order to get a sense of the report. In order to allow all members to support the recommendations put forward by a particular committee of the Legislature, a platform should be created whereby parties can voice their views on the findings, conclusions and recommendations made in committee reports. This proposed forum could be modeled on extended public committee forums currently in existence whereby members can debate committee reports without taking a decision. If the debates are concluded, the reports could be referred back to the relevant committee if the House resolves that it requires further consideration. Alternatively, if the legislature has discussed and debated several reports and supports the findings and recommendations, the reports could be adopted in bulk and communicated to the Executive and the National Council of Provinces.

4.2 Establishment of a platform for the National Assembly, the National Council of Provinces, Provincial Legislatures and SALGA to co-ordinate oversight, and share information

One of the challenges faced currently is that the oversight responsibility of committees across the legislative sector is not explicitly differentiated. Reports are also not communicated between the legislators, which causes repetition of reports, findings and recommendations. One will find that an NA committee conducts oversight in a particular province, and repeats what the Provincial Legislature or the NCOP has raised previously, or vice versa. Furthermore, SALGA is not usually consulted by committees, yet there is a tacit understanding that all three spheres work together to effect executive action.

A mechanism could be set up which could allow for communication of committee report findings between the respective Houses, Provincial Legislatures and SALGA. Perhaps a central database could be set up in order to upload reports to be available to all bodies that conduct oversight over the executive, if communication between the respective Houses proves difficult due to programming challenges.

The National Assembly is constituted to provide a government for the people, by the people, and conduct oversight over the national sphere of Government. However, the national sphere of government is not solely responsible for the provision of government to the citizens of South Africa; the provincial and local sphere of government play a role in the provision too. The National Council of Provinces, Provincial Legislatures and the South African Local Government Association play an oversight role in the provision of government services in the provincial and local sphere of government. The establishment of a platform for the respective organs of state



that play an oversight role over all three spheres of government should be considered.

The intergovernmental nature of executive action is meant to be overseen by these various bodies, and ultimately the political accountability of members of Legislatures to citizenry requires/necessitates co-operation and collaboration of the above-mentioned organs of state for oversight.

Rules of the respective legislatures allow for the above-proposed structures to be considered. It is important, however, to respect the authority and independence of all entities to be involved. Oversight styles may differ across the different organs of state responsible for oversight, but it is important to ensure that the positive results of current processes established are upheld, streamlined and complemented in order to naturalise the notion of oversight and accountability throughout South Africa.



Published by:

Legislative Sector Support

Tel: 021-403 8853/54/56

Fax: 021-403 3652

E-mail: salegislativesector@parliament.gov.za

Postal address: P O Box 15, Cape Town, 8000, RSA

Physical address: Room E416, New Assembly Building, RSA Parliament,
120 Plein Street, Cape Town

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