

Chapter 7

Local Government in Intergovernmental Relations: The Northern Cape¹

Doreen Atkinson

Introduction

The Constitution makes provision for developmental local government operating within a new system of inter-governmental relations—a system of “co-operative governance”. In terms of this vision, the three “spheres” of government will be “distinctive, interdependent and interrelated”. They are meant to function in a mutually supportive fashion, and there is a positive obligation on the national government and provincial governments to “support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions” (Section 154 of the Constitution).

The Constitution establishes a flexible approach to decentralisation, with the intention that powers and functions are to be performed by the sphere of government with the necessary capacity and competence to most efficiently perform each function. The flexibility inherent in the constitutional provisions dealing with decentralisation introduces ambiguity into the relationship between the municipal and the provincial and national spheres of government. According to Sections 151 and 156 of the Constitution, local government is a “sphere of government” that has executive and legislative authority and a “right to govern on its own initiative”. The Constitution maintains that municipalities have a comparable status to the other spheres, and national and provincial government may not compromise any municipality’s right to exercise its powers.

On the other hand, Section 156 stipulates that municipalities have executive authority and the right to *administer* functions listed in Schedules 4 and 5. Municipalities may make by-laws for the *admini-*

stration of these matters. Furthermore, national and provincial governments must “assign” the *administration* of matters listed in Parts B of the Schedules to municipalities. The tension between the two types of provisions concerns the level of discretion, authority and initiative that municipalities should enjoy. Words such as “govern” and “initiative” denote significant autonomy, discretion and choice. Words such as “administration” denote the deconcentration of functions, without any real autonomy or choice.

In the context of this ambiguity, different national and provincial line departments have taken different approaches with regard to municipal involvement in service delivery. The overriding impression is that the constitutional provisions have not, as yet, influenced line departments to engage in meaningful decentralisation. There have been large variations amongst provinces and amongst departments in their approaches to decentralisation to transitional municipalities.

A Testing Ground for “Co-operative Governance”: The Northern Cape

The Northern Cape is one of the new provinces created by the 1993 interim Constitution. As such, it began with certain disabilities: the lack of an established provincial administration, the need to consolidate provincial governance in a newly defined area, and an untested revenue base. A further difficulty was the degree of politicisation in the local and provincial government sphere due to the fine balance of power between the African National Congress and the National Party. Furthermore, the Northern Cape is by far the largest province in terms of land area, but the smallest in terms of population. This poses another challenge for local and provincial governance in the province.

Simultaneously with the introduction of the new provincial dispensation, local authorities had to weather the storms of the local government transition.² Their performances varied from remarkably good to disastrous. In many towns, inexperienced councillors and frustrated town clerks experienced friction, sometimes leading to the resignation of key municipal personnel. In some towns, officials with no municipal experience

replaced them; in others, their positions remained vacant. In a few towns, municipal management virtually collapsed. The deterioration of the financial position of many local authorities was both a cause and an effect of the deleterious situation. There is therefore a real need for assistance from the provincial and national government, and from other agencies. Such assistance should be forthcoming within the philosophy of “co-operative governance”, which is encapsulated in the Constitution.

A Helping Hand? The Department of Local Government and Housing

The Department of Local Government and Housing (DLGH), located in Kimberley, is meant to be the central supportive agency for local authorities in the Northern Cape. Its performance, however, has not been encouraging. Part of the problem is that the department had to build up its resources from the modest base of a regional office of the erstwhile Cape Provincial Administration. Hence the officials who were inherited from the previous order lacked the authority and experience to manage a provincial department.

In 1995, the department suffered a further setback due to an inappropriate appointment at chief director level. When the appointee left the department two years later, the department’s meagre resources were in shambles, and the reputation of the department suffered incalculable damage.

A crucial problem for the department is its limited regional capacity. There are three regional offices, in De Aar, Springbok and Upington. These offices are at present primarily concerned with providing housing and infrastructure subsidies in the erstwhile “coloured reserve” areas, which are still administered under Act 9 of 1987. These regional offices have no authority to take decisions; all matters have to be referred to Kimberley.

The overall result has been a very inadequate performance on the part of the department, on various grounds. Officials were often ineffective in responding to the needs of local governments. Certain systemic forms of support were implemented, notably intergovernmental grants and the

Project Viability Programme, which was implemented on the initiative of the Department of Constitutional Development (now Department of Provincial and Local Government). However, in late 1998 the DLGH began to regain a sense of mission with regard to local government, and began putting its own house in order.

A Lack of Response

Between 1997 and 1999, local governments in the Northern Cape experienced intense frustration with the lack of response from the DLGH to their needs.³ The town of Springbok, for example, had to wait four years for the department to approve its structure plan. Long delays led to local authorities' interpreting the situation in party-political terms, which in turn worsened relations between local authorities and the department.

The Bo-Karoo District Council mentioned another source of frustration with the DLGH—its sluggish implementation of the infrastructure development plan. The department had promised R50 000 to each District Council for designing IDPs in rural areas. However, this money never came through, and the predominant impression was that the department had run out of money.⁴

Local authorities believe that there are not sufficient local government skills in the DLGH, which causes enormous frustration. Very few departmental circulars or guidelines are made available, and letters remain unanswered. For their part, DLGH officials often seem overwhelmed by the massive task they have to perform, in the context of numerous small local authorities with capacity constraints. Furthermore, DLGH, like several other Provincial Departments, is chronically underfunded and understaffed.

The problems faced by the Northern Cape DHLG have been replicated in other provinces. The failure of provincial departments to provide adequate support has a number of causes. Firstly, it has proved difficult for provincial departments to adequately monitor municipal performance. Municipalities had no statutory requirement during the transitional phase to inform provincial government of their performance. Frequently, provincial departments have discovered that a council is close

to financial collapse only when it is too late to implement effective remedial action. Secondly, even when provincial departments are aware of difficulties within municipalities, few provincial departments have experienced staff to provide the necessary assistance. Thirdly, these administrative capacity constraints are compounded by financial constraints, with most provincial departments lacking sufficient funds to mount rescue packages for ailing or non-viable municipalities. Fourthly, there remains a fundamental lack of clarity about what developmental functions local authorities are supposed to perform that makes support from provincial to local level difficult. Finally, there is often intense inter-departmental rivalry at provincial level that can prevent co-ordinated support for local government.

With the support of SIDA, the DLGH launched a programme of capacity building in its own ranks in November 1997. The following objectives were put forward:

- To improve the quality of public administration in municipalities;
- To build the role of the DLGH as enabler and facilitator;
- To cope with a declining budget and re-evaluate the scope and direction of services;
- To develop effective management information systems;
- To launch a local government development programme to enable local authorities to take on broader development objectives.

The Philosophy of “Forums”

The Northern Cape Provincial Government promoted the establishment of Local Development Forums (LDFs) or Community Development Forums (CDFs) as advisory bodies in the different towns. The results were mixed—some towns formed vibrant forums, while they collapsed in other towns.

The forums were established under the auspices of the RDP Office, situated in the Premier’s Office. The DLGH in the province also strongly subscribed to the “forum approach”. The impression is created that more

effort has been put into promoting forums than in promoting the functioning of municipalities. In this sense, the forum idea distracted attention from the goal of building viable municipalities.

The forum movement hampered the functioning of local authorities in other ways as well. In towns such as Keimoes, Carnar von and Springbok, the relationship between the forums and the Transitional Local Councils (TLCs) became positively hostile, at least partly because the forums were used as an alternative platform for local leaders, from which they could challenge the legitimacy of the TLCs. Strong party-political cleavages also contributed to tensions between the forums and the TLCs.

Mutual Distrust

Certain departmental officials have become aware of the problems of local government, such as its politicisation and the loss of key municipal personnel. However, key officials tend to blame much of the misfortunes of local government on conservative municipal officials. Town clerks, in particular, have come in for criticism from departmental officials. The fact that inexperienced councillors often rely on the advice of town clerks has made the latter's influence even more pernicious—at least in the eyes of some DLGH officials.

The relationship between the DLGH and the District Councils has become a particularly sore point. The deteriorating relationship between the Diamantveld District Council and the DLGH illustrates this problem.

The Diamantveld District Council, located in Kimberley, has been involved since 1994 in a dispute with the DLGH about the management of the two small towns of Campbell and Windsorton. Management in the pre-1994 dispensation was done on an agency basis, with the Cape Provincial Administration and the House of Representatives as principals.⁵ The relationship continued after 1994, despite the fact that the Provincial Government never got around to sorting out the terms of the agreement and despite numerous appeals by the District Council.

In 1995, the DLGH acknowledged its responsibilities,⁶ when it requested the District Council to continue to administer Windsorton on a contractual basis. However, the terms of the contract were never clarified,

and no indication was ever given as to how the financial needs of the Windsorton TLC were to be addressed, whether District Council officials were to be transferred to the Windsorton TLC, or who was responsible for financial management. In the meantime, the District Council provided administrative services out of its own resources.

The situation became a very frustrating one for the District Council. For example, it submitted its budgets to the DLGH in July 1995; by July 1996, there was still no reply. In the meantime, the District Council had to continue with the administration function.

Negotiations eventually ensued between the two parties in June 1998, when the DLGH made it clear that it wanted the District Council to accept full responsibility for the administration of Windsorton, to provide bridging finance on a continued basis, and to use its levy revenue to defray the operating expenses of the Windsorton TLC. The DLGH was explicit that this would exclude financial help. This was totally in contrast with the inherited agency function, whereby the District Council performed administration in Windsorton on the express understanding that the principal would foot the bill.

For its part, the District Council maintained that “it is more than willing to perform this function, provided that certain legal requirements are met”.⁷ The District Council argued that, in terms of Section 10D(1) of the Local Government Transition Act, no power or duty will be imposed on a municipality without the provision of sufficient resources to perform such a duty. If the Provincial Government were to transfer responsibility for the administration of Windsorton to the District Council, it would have to provide the funding. Furthermore, legislation, budgetary constraints and fiscal discipline restrain the District Council, which means that levy revenue could not be applied to defray the operating expenses of another municipality. In particular, it should be kept in mind that the budgets of District Councils are scrutinised very carefully by the national Department of Finance, with specific attention paid to financial sustainability, recovery of costs and the prohibition on performing functions outside the mandate of the District Council. With regard to Windsorton, the Department of

Finance expressly informed the District Council that it had no mandate to use levy revenue to cover Windsorton's administrative expenses.⁸

While the dispute dragged on, the expenses incurred by the Windsorton administration accumulated. By March 1998, the province owed R900 000 to the District Council. The problem became so pressing that both the Auditor-General and the Public Accounts Committee of the legislature expressed their concern.

This issue had broader implications. District Councils in the Northern Cape have long experience of administering rural settlements.⁹ The Diamantveld District Council intended appointing a regional town clerk; however, the uncertainty about the administration of Windsorton and Campbell prevented this post from being filled. In the meantime, the Windsorton TLC was undertaking various unauthorised expenditures, for which the District Council did not accept liability. Not surprisingly, the Auditor-General's office was becoming increasingly convinced that the situation was unacceptable.

Despite these pressures, the DLGH did not clarify the situation, and refused to enter into a formal contract regarding its responsibilities. The DLGH maintained that it could no longer provide funding as in the past, because of "constitutional provisions and the FFC directives".¹⁰ The District Council rejected this argument. It stated:

The Department has taken a very casual stance as far as their commitment to Council goes to reimburse these funds, even going as far as to state that no funds are available to be used for this purpose due to the changed method of intergovernmental assistance. This constitutes gross abuse of the Council's resources and good faith, which also raises the question of the Department's *bona fides* regarding reimbursement of these funds.¹¹

The mud slinging worsened, with the DLGH accusing the CEO of the District Council of immoral behaviour and contravening the spirit of co-operative governance.

In the process, conflict ensued within the District Council itself. Many of the ANC councillors began to oppose the stance of their own CEO, despite the legal justification for his position. The councillors began to join forces with the DLGH itself, through ANC party channels. This put the District Council officials in a very invidious position, where their councillors were disinclined to listen to their advice. The officials believed, rightly or wrongly, that this was part of an ANC plan to remove key white officials, including the CEO, from their positions in the District Council.¹² If there was some collusion between provincial government officials and district councillors, against officials of the District Council, then it bodes ill for the future of “co-operative governance” in this region.

The Project Viability Programme

The most far-reaching attempt in South Africa to assist local authorities is the Project Liquidity Programme (PLP). Initiated by the DPLG, it was aimed at providing early warnings about impending problems within specific local authorities. In terms of the programme, provincial teams were established, consisting of experts in municipal finance, as well as DLGH officials.

The main purpose of the programme is to identify and assist those municipalities that show signs of becoming insolvent. The main elements of the programme are:

- Monitoring of all municipalities (in particular, their cash flow and payments rates). During each quarter, each local authority had to submit particular information about its financial position. The information would lead to the identification of local authorities that were encountering difficulties.
- The creation of provincial task teams to assist municipalities in trouble.
- Conducting municipal management audits. The PLP team undertook “walk-through audits” of troubled local authorities, to assess specific reasons for their situation.

- Implementing management support programmes (including financial restructuring, rationalising of local administration, personnel audits, implementation of credit control measures, and training of councillors).

This programme has had some success in reducing municipal insolvency and placing municipalities on a stable footing. However, the PLP assumed that a provincial government had sufficient capacity to act on the warning signs. In the Northern Cape, this capacity had not yet been established in the DLGH, although the groundwork was being laid for improved performance. During 1999, the support function was contracted out to private sector management companies, under the auspices of the Municipal Support Programme. This helped several municipalities to stabilise their performance.

Much more systemic intervention is necessary to institute an inter-governmental system capable of supporting developmental local government. In the words of the MEC for Local Government in the Northern Cape:

Although various actions have been taken by government to address the current crisis situation in municipalities in the short to medium-term, long-term solutions are required to restore financial discipline, eliminate outstanding debts and generate the necessary cash flows.

Financial Assistance: Intergovernmental Grants

Until 1999, the most meaningful form of assistance which local authorities received from the DLGH, were the intergovernmental grant (IGG). IGGs have become an integral part of municipal finances in many towns; indeed, some towns rely on IGGs in order to stay financially afloat.

The DPLG intended the IGGs to be allocated according to two criteria: the poverty index and population figures.

The DLGH tried to set conditions for granting the IGGs. It requested proper financial statements from local authorities, as well as evidence that local authorities were trying to remedy their arrears situation. However,

the department lacked the capacity to check up on the information provided by municipal officials. Furthermore, it was legally obliged to pay out the IGGs to local authorities, and therefore its prescriptions did not have much force in practice. The department was also concerned about the tendency of local authorities to use IGGs to pay for salaries, especially if they had severe cash-flow problems.

The amount of money allocated to provinces by national government to DLGH was steadily reduced. Between 1995/96 and 1996/97, the amount provided for Northern Cape IGGs was reduced by 15%, from R21 million to R19 million.

The IGG system was not well understood at local level. The complaint was frequently heard that IGGs were mainly given to those local authorities who were in dire straits, and that those who performed well, got less. This led to resentment about the allocation of IGGs: some towns believed that they got less because their payment situation was not as desperate as that of other towns. This was seen as “rewarding failure and penalising success”.¹³

The system of IGGs was changed in March 1998. The system of IGGs was transformed into the system of “equitable share” payments, targeted specifically at the service charges of indigent families. This is administered directly from the Department of Provincial and Local Government (DPLG) in Pretoria, which means that provincial Departments of Local Government have lost their discretion regarding financial support for local governments’ operating expenses. Effectively, the system has been centralised at national level.

Winning Friends and Making Enemies: Local Governments and Line Departments

Local authorities in the Northern Cape have had to deal with a wide diversity of new relationships, as well as with old relationships in a new key. With some departments, a co-operative relationship has flourished; with others, there has been conflict and bitterness. Some departments have welcomed the new “sphere” of local government, whereas others have regarded it as a challenge to the authority of the Provincial Government.

This section provides a brief overview of the kaleidoscope of post-transition relationships in the Northern Cape, which add up to the complex picture of “co-operative governance”.

The Department of Water Affairs and Forestry: Champion of Local Government

The Department of Water Affairs and Forestry (DWAF) was one of the few national line departments that built significant relationships with local government in the Northern Cape. It invested a great deal of energy in building up District Development Co-ordinating Committees (DDCCs), of which there was one in each of the six District Council regions. These DDCCs helped TLCs and District Councils to come into contact with line departments and other service suppliers. The DDCCs built up a remarkable degree of momentum during 1998; however, they were taken over by the Provincial Government’s RDP Office, and subsequently dwindled.

The Northern Cape DWAF office recently completed a thorough study of water issues in the province. Significantly, it included a large section on institutional issues, with specific emphasis on local government. This was because it realised the importance of local authorities as future Water Services Authorities (to be established in terms of the Water Services Act). DWAF in the Northern Cape has also compiled Water Services Negotiation Workbooks, to assist local authorities to amalgamate their water services administrations within the newly demarcated jurisdictions.

However, despite the DWAF’s positive attitude to local governments, the latter sometimes experienced frustrations with the DWAF. According to the Water Services Act, District Councils had to become Water Services Authorities (WSAs). WSAs had to draft water services plans, for which R150 000 was made available for each District Council. The Diamantveld District Council expressed frustration about what it regarded as inadequate funding to draft a proper water services plan. The frustration went deeper—the District Council felt that DWAF should have negotiated this with the District Councils. Instead, DWAF laid down fixed conditions for

them. Hence the District Council officials felt that agency relationships were becoming positively dangerous in practice, even though in principle they were a good idea.¹⁴

Furthermore, DWAF funding (for example, the Working for Water Project) was allocated untimely. Despite the success of water projects, the Bo-Karoo District Council felt frustrated that DWAF money was provided in December, and the District Council had to spend it by March. This caused procedural problems, with much less effective control than before.¹⁵ The reason for such sudden spending spurts is because of DWAF's internal budgeting practices, which lead to the reallocation of resources just before the end of the financial year to ensure that annual budgets are spent. This practice requires local authorities to respond immediately to frantic last-minute project implementation.

The National Department of Finance

The Department of Finance has to approve the budgets of local authorities. In the Northern Cape, this led to recurrent and worsening conflicts, notably between the Department of Finance and the District Councils. One prescription by the Department of Finance, which reduces the autonomy and discretion of District Councils, concerns payments to the Local Authorities Loans Fund. The Department of Finance prohibits the provision of infrastructure funding to local authorities that are in arrears with their contributions to the Fund. In the Diamantveld area, three local authorities (Delportshoop, Jan Kempdorp and Warrenton) were negatively affected by this prescription.¹⁶

A matter of much greater magnitude, however, was the growing restrictions on the budgetary allocations to District Councils. This issue needs to be placed in historical context.

The District Councils were established on the basis of the erstwhile Regional Services Councils, which, in turn, derived from the Divisional Councils in the old "Cape Province". The Divisional Councils were important service delivery agents in the rural areas; they built rural roads, managed rural clinics, and administered rural settlements. This was funded by District Council rates, which were levied on rural inhabitants.

When the Regional Services Councils were established, these functions were continued on an agency basis for provincial departments, such as roads and health departments. Due to the legacy of the Divisional Councils, the Northern Cape District Councils also had a strong tradition of either administering rural settlements directly (now on behalf of the DLGH), and of assisting TLCs with regard to administration and financial management. This is very different from District Councils in the other parts of the country, where the emphasis was solely on providing funding for infrastructure.

These additional roles played by the Northern Cape District Councils came under increasing pressure from the Department of Finance, which adopted a very conservative policy with regard to District Council budgets. The Diamantveld District Council, for example, had significant items in its 1998/99 budget turned down,¹⁷ notably:

- R1 996 138 budgeted for administration of rural councils, regional administration and treasury services;
- R291 569 budgeted for an emergency control centre;
- R350 000 for a public bursary scheme.

In each case, the Department of Finance insisted that the money be spent on “capital projects where the greatest need exists”.

The Diamantveld District Council was deeply dissatisfied with these prescriptions,¹⁸ and valiantly stated its objections. The issue of regional administration caused the greatest concern. The District Council noted the following factors, which need to be taken into consideration:

- **Historical background.** The District Council performed the financial administration of towns in the district on an agency basis for the provincial government for many years. The District Council required at least two full-time and two part-time officials. With the amalgamation of towns into TLCs in 1994, the demands on these officials increased markedly, as towns called upon the District Council for assistance.

- **Establishment.** The initiation of a regional administration component was approved in the 1995/96 budget as an allocation to participating bodies. Annual allocations were subsequently made in the same way, all of which were approved. The Diamantveld District Council could not reasonably terminate the treasury services unit, which evolved from this original concept. At the time, five municipalities were served in terms of their debtors, budgets, financial statements and routine internal control functions.
- **Precedent.** The concept of regional administration or treasury services was an established function of other District Councils, such as the Bloemarea District Council in the Free State.
- **Economies of scale.** The District Council could provide adequate services to several local authorities at a cost far lower than the combined cost if each municipality attempted to undertake these functions independently.¹⁹
- **Contractual obligations.** The District Council entered into contracts with three municipalities, in addition to the two towns traditionally managed by the District Council. These contracts provided for payment of services at a reasonable and affordable rate.
- **Infrastructure investment.** The District Council allocated R150 million in projects since 1991. Management of these facilities by recipient local authorities was generally inadequate, and the District Council was concerned that this would lead to deterioration of infrastructure. Provision of management support and administrative services was an important investment in the well being of these communities.

The District Council also took issue with the rejection by the Department of Finance of the emergency centre. It argued that the allocation was based on the withdrawal of the SANDF from this function, the transfer of the function to District Councils in the Eastern Cape (which created a precedent), the establishment of the facility in the District Council building before the previous election, and the needs of over 900 users of the 107 emergency system in the district. Ambulance, fire-fighting and other

disaster management functions depended on this unit for effective communication.

The District Council did not let the matter rest, and proceeded to organise a meeting with the DPLG and the Department of Finance. It repeatedly stated its need to meet with the Department of Finance prior to finalising the budget.²⁰

In the face of the intransigence of the Department of Finance, the District Council began the painful process of cutting its budget, including freezing posts in the Department of Environmental Health, reducing equipment for civil defence, and reducing regional tourism projects.²¹ The post of internal auditor was frozen, which, as the District Council commented, ironically contradicted the emphasis of the Department of Finance on effective internal control. Numerous other functions had to be cut back, including publicity, conference attendance, computer facilities and equipment maintenance.

A meeting with the Department of Finance was eventually held on 18 November 1998, which led to some of the items being reinstated. Significantly, this included an additional R1 million being allocated to regional administration. However, the experience was a bitter one.²²

A further unhappy consequence of these interventions by the Department of Finance was the effect on District Council infrastructure programmes. The Minister of Finance reduced the Bo-Karoo District Council's budget for 1997/98; subsequently, a revised budget had to be drawn up. Until it was approved, no capital expenditure could be made.

Relationships between Local Government and Provincial Departments

A general difficulty experienced by District Councils is the lack of coordination between them and provincial line departments on agency relations. District Councils already provide agency services to the Department of Health, the Department of Transport, and the Department of Water Affairs and Forestry. District Councils feel strongly that there should be a uniform contract between local governments and different line departments. Such an exercise was attempted before 1994—a contract was

drafted after several years but was never signed. This process was then interrupted by the political transition after 1994. At present, departments seem to accept the old draft contract as a guide, but there is not enough uniformity.

Two or three times each year the CEOs and departmental heads of District Councils meet to discuss common problems. They have discussed the lack of a uniform contract, but believe that it will be difficult to draw up such a contract, because they perceive the provincial government as being negative towards District Councils.²³ This has meant that District Councils, in particular, have been involved in protracted negotiations with Provincial Departments on a one-to-one basis. This has meant that there has been no coherent provincial policy on the role of District Councils, giving rise to frequent disagreements on several policy questions.

The experience of the health sector illustrates this problem. Before 1994, Regional Services Councils performed health functions for the erstwhile Cape Provincial Administration on an agency basis. These focused on primary health care and ambulance services. After 1994, District Councils continued with these functions, while being remunerated for their services by the new Northern Cape Provincial Government. The Provincial Government paid a 100% subsidy, which covered not only staff, but also vehicle and equipment operating costs.²⁴ The local authorities operated as autonomous agencies.

However, the provincial health department became increasingly dissatisfied with the health system. It set about restructuring the health system in accordance with the National Department of Health's new District Health System (DHS) philosophy, in order to overcome fragmentation of existing services, and to promote efficient, effective and affordable service delivery.²⁵ In the delivery of ambulance services, for example, the provincial department became frustrated with labour problems between staff and local authorities. Also, certain responsibilities, such as staff training and vehicle maintenance, were unclear.²⁶

In addition, the Health, Developmental Social Welfare and Environmental Affairs departments were facing considerable financial shortfalls as reflected in the medium-term expenditure framework for the next three

years. The Department of Health maintained that the fragmented system of health services was financially unsustainable.

Consequently, the provincial health department gave local authorities a year's notice of the termination on 1 January 1999 of the agency relationship. The department would then take over the provision of health services. The temporary solution, the department believed, was to freeze municipal health posts, while seconding departmental staff to local authorities, as and where necessary. With this goal in mind, the department drastically cut financial provisions made to local authorities for health services. In the Diamantveld area, the reduction of financial support in May 1998 led to the closure of five clinics, and the reduction of ambulance services by 50%.²⁷

A task team was set up, on which local authorities and municipal trade unions were represented. The task team had to investigate options regarding the implementation of the DHS. However, the MEC made it clear that the task team should consider no other options than provincialisation.²⁸

There were practical difficulties in this approach. The first was that local authorities believed that they were responsible for municipal health (in terms of Schedule 5 of the Constitution). The second was that local authorities believed that Section 10D(1)(b)(i) of the Second Amendment Act of the Local Government Transitional Act (LGTA) obliged provincial government to provide resources to fulfil this function. The third difficulty was that the scales of remuneration of local authorities were in general more favourable than those of the department, with the result that local authority officials were reluctant to become departmental employees. There were other staff-related problems. There was no provision at the time for transfers into the public service, in terms of the Public Service Act, which meant that all staff would have to be newly appointed. There was a real possibility of staff opting for severance, which would in particular aggravate the shortage of trained ambulance men in the province. Furthermore, there was the prospect that clinic staff may receive packages and then re-apply for posts.

Not surprisingly, this matter aroused fierce opposition from District Councils, as well as the municipal trade unions. IMATU lodged an appeal to the Supreme Court, to set aside the department's decisions. The Hantam District Council backed this appeal. Their concerns were based on the unconstitutionality of the department's decision, as well as the fact that it was contradictory to the White Paper on the Transformation of the Health System.²⁹

In addition, NOCLOGA appointed a health committee to investigate the matter, a decision that was boosted by the lack of response of the department to NOCLOGA's queries about the issue.³⁰

Specific problems listed by District Councils included the following:

- The secondment of personnel, accompanied by financial cutbacks, would mean that local authorities themselves would have to pay the operating costs of vehicle maintenance, office accommodation, administration and insurance;
- Conflicting lines of authority in staff administration were created, leading to disciplinary problems.

The response of the department to the local authorities was frosty. Numerous requests for meetings to resolve the problem were ignored. On 2 July 1998, a meeting eventually took place, where the department agreed to reinstate its allocations for health services for the current financial year.³¹

The department did not, however, abandon its plans to provincialise health services. As far as ambulance services were concerned, the local authorities gave up the fight, especially because Schedule 4 of the Constitution lists ambulance services as a provincial function. Since 31 December 1998, ambulance services again became a provincial function. However, this only happened after two years of declining financial allocations from the department to local authorities—leaving a residue of bitterness. The Department is also proceeding with its programme of provincialisation of clinics.

The Provincial Department of Transport

The maintenance of rural roads by District Councils came under increasing strain. The fuel levy, which was a means to build commuter transport, streets and stormwater infrastructure, has been removed.

District Councils maintained certain roads as agents for the Department of Transport. They did the re-gravelling, scraping and normal maintenance of proclaimed roads.

According to Article 10D of the LGTA, no function could be devolved to local government without the resources being made available. At the time, there was no written agency agreement with a province, with the result that the budgetary allocations to District Councils were constantly revised. Provincial funding was totally insufficient for the maintenance of roads. The budget of the Provincial Department of Transport was cut repeatedly, due to the emphasis on social services in the Northern Cape.

Different District Councils had different experiences with the Department of Transport. Relations between the Diamantveld District Council and the Department of Transport were very good. Cabinet wanted to take the roads function back to the province, but the department fought to keep the District Councils as agents.³²

The Bo-Karoo District Council, in contrast, regarded the department as very autocratic, and felt that there was not sufficient consultation with District Councils. This would be a disaster for the Bo-Karoo District Council, as 52% of its activities were transport related.³³ In addition to the decreases, there was a tendency to allocate additional funding just before the end of the financial year, which made planning difficult.

The Bo-Karoo District Council and the Department of Transport also had disagreements on road maintenance priorities. In July 1997, for example, the District Council sent a deputation to discuss the budgeting of roads with the MEC for Transport. For the District Council, ongoing repairs and maintenance to rural roads were more important than resealing roads. The MEC of Transport agreed to this; a few days later, however, a letter arrived from the MEC that contradicted the understanding reached at the meeting. This led to another deputation from the District Council (based in De Aar) to the department (based in Kimberley, 200 km away).

In the meantime, the financial situation of the Bo-Karoo District Council's Department of Technical Services was so bad that the re-gravelling team could not function. This occasioned another letter to the MEC. After another meeting, the MEC approved the re-allocation of funds. The department provided R800 000 from the re-sealing funds for the maintenance of roads.

Clearly, the relationship between the Department and the District Council has been undermined by the worsening budgetary situation of the Department. It would be difficult to create a positive relationship under such circumstances. In practice, it has contributed to the District Councils' sense of powerlessness and frustration.

The Role of the Northern Cape Legislature

The Portfolio Committee on Public Accounts of the Northern Cape Legislature regularly holds hearings, before which certain local authorities are required to appear. This committee is ideally situated to uncover management difficulties in local authorities, and to put pressure on officials and councillors to set matters right. For example, it investigated the problems of the Windsorton administration and the town's financial crisis. It analysed the administrative collapse in Port Nolloth, and summoned the suspended treasurer and the former town clerk to give evidence to the committee.³⁴ It also made recommendations regarding financial management in Groblershoop, and the accounting system in Keimoes.

The committee floated several suggestions for improving the support systems for local government:

- That the DLGH appoints employees to compile financial statements for smaller local authorities;
- That District Councils and larger local authorities assist smaller local authorities in the drawing up of financial statements;
- That accounting work be contracted out to private auditing firms;
- That smaller local authorities combine their resources to appoint joint treasurers.

The Local Government and Housing Committee of the Northern Cape Legislature has also begun to flex its muscles. For example, in June 1998, the committee discussed the protracted financial crisis in Warrenton; the ongoing conflict between the Diamantveld District Council and the DLGH about the administration of Windsorton; the problem of unauthorised loans in Noupoort; and the collapse of the Port Nolloth municipal administration.

The committee tried to make its activities more accessible to the public, and it therefore held six regional sessions throughout the province.

It is not yet clear what the impact of these legislative committees really was. It appears that relationships between the committees, the DLGH, NOCLOGA and the office of the Auditor-General were being consolidated. This was partially due to the assistance of SIDA, and the growing concern in the legislature about the extent of municipal mismanagement.

The Role of the Auditor-General's Office

The Office of the Northern Cape Auditor-General has been very active in monitoring local government performance. The Office submitted reports on specific local authorities to the Public Accounts Committee of the legislature.

The record of the local authorities was a cause for concern. In 1994/95, 90% of local authorities did not submit their annual financial statements to the Auditor-General by the due date.³⁵ Some of the local authorities applied for extensions, on various grounds, such as vacant treasurers' posts, elections at local government level, intensive workloads, and inadequate skills. The amalgamation between white and black municipalities, and the chaotic financial affairs of the latter, also contributed to this situation. In its 1996 report to the committee, the Auditor-General noted that the financial statements of 25 Northern Cape local authorities for the 1993/94 financial year were incomplete, their accounting systems were deficient, and their records were incomplete.

The Auditor-General can also notify local authorities of shortcomings in their financial systems. It then sends similar notifications to the DPLG,

which can take action in relation to troubled local authorities. The Auditor-General's Office in Kimberley has also tried to improve municipal performance by compiling a guide with criteria for effective management. These criteria fall into the following seven categories: strategic management, organisation, staff issues, operational planning, financial planning, control and management information.

The Northern Cape Local Government Association: A difficult birth

The Northern Cape Local Government Association (NOCLOGA) took several years to get established. During 1994, there was no Northern Cape Province, and therefore no inherited local government association akin to the Free State Local Government Association (FRELOGA).

NOCLOGA's revenue depends on contributions paid by local authorities. This revenue is slow in coming, partly because NOCLOGA had inadequate administrative capacity, and partly because local authorities often cannot yet see a record of action. Due to the three years of its relative inaction, NOCLOGA now faces a problem of credibility. Many CEOs and town clerks do not see any reason to support NOCLOGA, as they have not experienced any benefits from their membership.

NOCLOGA recently appointed its first CEO, a secretary and an administrative officer. The effectiveness of this leadership still remains to be seen.

One of the practical problems that NOCLOGA has to address, is its communication with its member local authorities. In such a vast province, effective telecommunication was crucial. NOCLOGA wants to encourage local authorities to install computers and electronic mail stations. However, not much has yet been achieved in this regard yet, due to the chronic shortage of funds.

NOCLOGA's immediate prospects improved significantly after establishing a co-operative relationship with the Swedish Association of Local Authorities (SALA). The main aims of the SALA programme are:

- To support NOCLOGA to identify the needs of its members, develop feasible strategies and mobilise resources;
- To assist NOCLOGA in dealing with other provincial local government associations, as well as the South African Local Government Association (SALGA);
- To assist NOCLOGA in drafting a three-year action plan;
- To build an organisational financial base for local funding, and to establish NOCLOGA as a legitimate training institution for local authorities in the Northern Cape.

During 1998, NOCLOGA established six working committees:³⁶

- **Constitutional Matters and Legal Affairs**, to assist with the implementation of legislation, strengthen local authorities with regard to legal matters, and ensure that NOCLOGA is recognised as the effective local government association of the Northern Cape;
- **Health, Welfare and Community Services**, to devolve health functions to a district health system, and act as a channel through which the health concerns of local government will be brought to the attention of SALGA and the provincial and national health departments;
- **Human Resource Development**, to build the skills of councillors and municipal officials as regards financial management, local economic development, public relations and legislation, through the provision of training based on the modules devised for the Project Viability Training Programme;
- **Development and Facilitation**, to focus primarily on housing issues;
- **Electricity**, to promote the debate about the restructuring of the electricity distribution industry in the Northern Cape, and plan for an efficient, affordable and sustainable industry in that province;
- **Finance and Tourism**, to assist local authorities so as to make them financially sustainable and promote tourism in the Northern Cape.

In early February 1999, a training session was held for all local authorities. This was offered with the help of SIDA, to enable all local authorities to do a needs assessment, and to determine what they expect from NOCLOGA. At the time, NOCLOGA had no policies in place, as it had no resources.

NOCLOGA is still finding its feet in the community of local government associations. It is affiliated to SALGA, although this is a problematic relationship. NOCLOGA is for instance frustrated by the fact that it does not have a clear role vis-à-vis SALGA. For example, NOCLOGA often gets information from SALGA at very short notice. Notice of MINMEC meetings, usually held in Cape Town, is often so short that NOCLOGA cannot attend, and therefore has no opportunity to feed into the policy process.

NOCLOGA still owes SALGA its affiliation fee. In turn, SALGA still retains NOCLOGA's portion of the "equitable share" destined for local authority associations. This creates an invidious stand-off. SALGA will only transfer NOCLOGA's portion of the "equitable share" once NOCLOGA pays its affiliation fee. NOCLOGA, however, has no resources, and therefore finds it very difficult to raise the affiliation fee from its own members. A further frustration is that NOCLOGA believes that SALGA provides little service to provincial associations.

The relationship between NOCLOGA, the legislature and the National Council of Provinces (NCOP) is also unclear. NOCLOGA feels disgruntled with the fact that the NCOP has links with the legislature, but none with NOCLOGA. This is a very weak link in NOCLOGA's situation.

NOCLOGA has slowly begun providing support to local authorities, and it intends to focus on the following urgent problems:

- Most local authorities face labour problems. Smaller local authorities typically do not have a labour department, and have to depend on local lawyers who know little about municipal law. Trade unions, in contrast, have sophisticated lawyers, so that local authorities tend to lose their cases against trade unions. SALGA is supporting NOCLOGA to finance labour offices in each province. SALGA will advertise two posts in the Northern Cape, and will pay their salaries.

- NOCLOGA wants to overcome the tension between councillors and officials.
- NOCLOGA wants to assist groups of local authorities to co-operate so as to use their scarce resources effectively.
- NOCLOGA wants to have a meeting with the MEC to discuss the principles underlying financial allocations to local governments.
- In October 1998, NOCLOGA held a workshop about post evaluations and categorisation of municipalities (in association with the Northern Cape section of the Bargaining Council) in Kimberley.

NOCLOGA's credibility is slowly improving. During the protracted conflict with the Department of Health over the provincialisation of health services, the Bo-Karoo District Council decided to turn to NOCLOGA to approach the MINMEC for guidance.³⁷

NOCLOGA is now poised for growth in influence and effectiveness. NOCLOGA's significance in the intergovernmental system is being increasingly recognised by the DLGH and SIDA, and by NOCLOGA's own membership. NOCLOGA's key weakness remains its poor financial base and its insufficient administrative corps.

District Councils to the Rescue?

Local authorities currently find themselves in a vacuum, with little effective support emanating from provincial government, national departments, NOCLOGA or SALGA. In this vacuum, the District Councils have stepped in to provide practical assistance to local authorities in distress. The Hantam District Council, for example, took over the administration of Nieuwoudtville after all the local officials resigned in that municipality. In Ritchie, after the erstwhile treasurer defrauded the local authority, the municipality then turned to the Auditor-General and the Diamantveld District Council for assistance.

These emergency interventions by District Councils have led them to conclude that more systemic district-based support systems can be provided. District Councils believe that there is a great deal of duplication

of equipment and staff at TLC level. Local authorities need to learn how to share, and District Councils can help in this regard, because they function at a level that promotes economies of scale. District municipalities can have one engineer and one financial service.³⁸

District Councils believe that administrative expenses cannot be recouped from TLCs, as they are financially too stressed. Rather, funding should be made available by province, as a subsidy to District Councils to deliver these district services.³⁹

At present, the assistance of District Councils to local authorities takes various forms:

- Support to certain TLCs with the compilation of their annual financial statements;
- Computer support;
- Town clerk services in some cases.

In Delportshoop, for example, the Diamantveld District Council performed town treasurer services on a contractual basis. The District Council built up the Delportshoop municipal administrative capacity, including financial administration, record-keeping and the drawing up of financial statements. The District Council's computer system managed 2 500 monthly accounts in Delportshoop.⁴⁰

However, the "Sir Galahad" role of District Councils, that is, their coming to the rescue of ailing local authorities, was severely circumscribed by the rigid prescriptions of the national Department of Finance, as outlined in an earlier section. The Department of Finance only measured District Council budgets against the criterion of infrastructure. This was counter to the philosophy of District Councils in the Northern Cape. In the Bo-Karoo District Council area (centred in De Aar), for example, the District Council only received about R4m in levies, compared to Diamantveld District Council's R30m. In the Bo-Karoo, only about R2m was available for capital projects, once overheads had been catered for. The District Council wanted an assessment of needs that transcended the exclusive focus on infrastructure. The skills base of the area needed to be built up, so that they could manage their capital projects.⁴¹

The role of District Councils remains ambiguous. This causes intense confusion and frustration. In the town of Loxton, for example, the Bo-Karoo District Council provided administrative services. When the Loxton TLC wanted to appoint their own town clerk, the initiative was stopped by the MEC. However, the MEC failed to give guidance about who should do financial and administrative services in Loxton. The MEC promised to discuss this with the District Council, although the meeting never materialised; hence the situation was never clarified. In the meantime, the District Council continued to supply administrative services in Loxton.⁴²

The ambiguity in the role of the District Councils is worsened by the stand of the Department of Finance, which limits local authorities to a 6% per annum increase in their budgets, with the result that District Councils cannot develop new administrative departments. This means that District Councils are the only port of call for local authorities in distress, even though this takes place without the approval of national government and without much practical or financial support from the Provincial Government.

As a result, some District Councils have had to cease their efforts to assist local authorities. Until recently, the Bo-Karoo District Council provided administrative services in Petrusville, even though the Petrusville TLC could not afford to pay for these services. The Petrusville TLC owed the District Council R105 690 for administrative and financial services, for environmental health services, and for District Council levies. In desperation, the District Council decided that all services to Petrusville would be terminated.⁴³

The role of the District Councils in supporting TLCs, and in providing administration on an agency basis to TLCs, is a crucial one. There are clearly strong forces pulling the District Councils simultaneously towards a strengthening of this role as well as towards a more conservative orientation.

The provincial DLGH still had to make up its mind on what it considered to be most important—to clip the wings of District Councils (a position which sometimes appears to have party-political considerations), or to utilise the District Councils to supply regional administrative services

on a cost-effective basis. In this unstable climate, it would be foolhardy to predict the outcome.

Conclusion

Three generalisations can be made about the role of local government in the emerging system of intergovernmental relations:

- Some departments are seriously considering devolution of functions to local government level—and in particular, to district councils. Department of Water Affairs and Forestry is a notable case.
- This tendency is counter-balanced by the persistent failure of many municipalities to resolve their financial and administrative problems, despite four years of democratic local government and Masakhane campaigns. These constraints have made the transfer of responsibility to municipalities a relatively high-risk strategy, with the possibility that municipalities will be unable to sustain service provision. Some provincial departments have not done much to empower local authorities, and some have taken a lot of effort to reduce local government competencies.
- Those municipalities that have been confronted with viability problems during the transitional phase have not received adequate support and assistance from provincial Departments of Local Government and Housing. This has been a weakness in inter-governmental relations, where provincial government is required by the Constitution to provide assistance to the municipal sphere.

The local government sphere in the Northern Cape has survived a difficult time. New and inexperienced local authorities had to deal with their problems virtually on their own, with almost no support from the provincial government. In fact, some District Councils feel quite besieged by a perceived wall of hostility from the Department of Local Government and Housing. Strong party-political rivalries between the African National Congress and the National Party, and between the new officials in the provincial government and the “old guard” officials at local level, have

worsened the situation.

The vacuum has come to be filled by District Councils, as well as occasional interventions by the Department of Water Affairs and Forestry, SIDA, the provincial legislature, the Auditor-General's Office and recently, NOCLOGA. These institutions are all growing stronger in their supportive role vis-à-vis local government. Recently, fairly positive signs have emerged from the Department of Local Government and Housing, which has turned to SIDA for assistance. Whether the department will be able to build up an effective system of local government support is still uncertain. This is the greatest challenge facing intergovernmental relations in the Northern Cape.

Notes

- ¹ This chapter was completed in March 1999, and as such does not take into consideration developments after that date. (Editor's note.)
- ² There were six District Councils, 64 Transitional Local Councils and 42 Transitional Representative Councils in the Northern Cape prior to the demarcation of new municipalities by the Municipal Demarcation Board.
- ³ Doreen Atkinson, "Institutional Aspects of Development at Local Level: Problems and Prospects", report for Department of Economic Affairs, Northern Cape Government, 15 April 1997; Doreen Atkinson & Mark Ingle, research conducted for White Paper process, Northern Cape, June 1997.
- ⁴ Interview, Bo-Karoo District Council CEO, 3 February 1999. The Bo-Karoo District Council is responsible for the Local Development Objectives (LD Os) of Brandboom, Masizakhe and similar settlements.
- ⁵ Report to Council, District Council Director of Finance, 15 July 1998.
- ⁶ Letter to Diamantveld District Council, dated 24 March 1995.
- ⁷ Letter from Diamantveld District Council to DLGH, 28 December 1998.
- ⁸ Meeting in Pretoria, 18 November 1998. Drawn from District Council letter to the DLGH, 28 December 1998. (The letter was copied to a Mr S. Louw, Department of Constitutional Development.)
- ⁹ This issue is dealt with more fully below. District Councils and the national Department of Finance are in an ongoing dispute about the appropriateness of rural administration as a function of District Councils.
- ¹⁰ Letter, DLGH to Diamantveld District Council, 9 June 1998.

- ¹¹ Letter, Diamantveld District Council to DLGH , 28 December 1998.
- ¹² The CEO also came under pressure from his councillors on other issues, notably the insistence by the District Council 1 to spend R150 000 on an official car for the chairman.
- ¹³ Doreen Atkinson, *Institutional Aspects of Development at Local Level: Problems and Prospects*, for Department of Economic Affairs, Northern Cape, April 1997, p. 22.
- ¹⁴ Interview, Diamantveld District Council CEO, 1 February 1999.
- ¹⁵ Interview, Bo-Karoo District Council CEO, 3 February 1999.
- ¹⁶ Diamantveld District Council, Department of Finance , report to Council, 19 November 1997.
- ¹⁷ Department of Finance, letter to Diamantveld District Council, 10 September 1998.
- ¹⁸ Letter to Department of Finance , 2 October 1998.
- ¹⁹ It appears, therefore, that the Department of Finance 's prescriptions ran counter to the evolving policy of the DPLG, which called for the rationalisation of municipal services.
- ²⁰ Letter from Diamantveld District Council to Department of Finance , 8 October 1998.
- ²¹ Once again, there was a tension between the philosophy of the Department of Finance and that of the DPLG. The latter believed (in terms of the White Paper) that local authorities (including District Councils) had to play a prominent role in economic development.
- ²² In the Northern Cape, the Diamantveld District Council's experience was similar to that of other District Councils, including the Bo-Karoo District Council. The relationship between District Councils elsewhere, and the Department of Finance, should be investigated. Do District Councils in other provinces have similar problems with the Department of Finance?
- ²³ Interview, Bo-Karoo District Council CEO, 3 February 1999.
- ²⁴ Dr V. Mafungo, "Provincialisation of ambulance and emergency services", Department of Environmental Affairs, Developmental Social Welfare and Health, Northern Cape, 20 August 1998.
- ²⁵ Preamble, Agreement of Secondment of Personnel, Department of Environmental Affairs, Developmental Social Welfare and Health, Northern Cape.
- ²⁶ Dr V. Mafungo, *Ibid.*, p. 2.

- ²⁷ Diamantveld District Council, Department of Health report to Council, 8 May 1998.
- ²⁸ Dr V. Mafungo, *Ibid.*, p. 3.
- ²⁹ Letter from IMATU to Diamantveld District Council, 8 December 1998.
- ³⁰ NOCLOGA letter to District Councils, 11 August 1998.
- ³¹ Diamantveld District Council, report by Department of Health to Council, 29 July 1998.
- ³² Interview, Diamantveld CEO, 1 February 1999.
- ³³ Interview, Bo-Karoo District Council CEO, 3 February 1999.
- ³⁴ Minutes, Public Accounts Committee, 16 July 1998.
- ³⁵ Doreen Atkinson, *Institutional Aspects*, *Ibid.*, p. 24.
- ³⁶ Based on NOCLOGA documentation.
- ³⁷ Bo-Karoo District Council Executive Committee minutes, 23 October 1998.
- ³⁸ These arguments were made before the nature of the new demarcation process became evident.
- ³⁹ Interview, Diamantveld District Council CEO, 1 February 1999.
- ⁴⁰ District Council, Department of Finance, report to Council, 27 January 1999.
- ⁴¹ Interview, Bo-Karoo District Council CEO, 2 February 1999.
- ⁴² Bo-Karoo District Council Executive Committee minutes, 7 September 1998.
- ⁴³ Bo-Karoo District Council Executive Committee minutes, 7 September 1998.