MODERNISATION PROGRAMME

BLUEPRINT

DELEGATIONS

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1. INTRODUCTION

1.1 Mandate

Review the current system of delegation of the executive authority and heads of department in terms of the Western Cape Delegation of Powers Law, 1994 and other empowering laws in order to ensure effective and swift decisions.

1.2 Scope of work

To conduct an assessment of all applicable delegations in the PGWC including financial, human resource, line function and supply chain management delegations.

1.3 Problem statement

The Premier has identified the need to modernise the public service institutions of the PGWC. Central to this is the need to ensure that service delivery is made more cost effective and efficient. The delegation of powers has a profound effect on the speed, cost and the manner in which services are delivered. Steps must be taken to ensure that the delegation process ensures and promotes effective and efficient delivery of services rather than hinder service delivery and contribute to unnecessary and costly delays.

2. METHODOLOGY

The work stream was further sub-divided into four streams, each of which adopted its own methodology in conducting the assessment of delegations applicable to that sub-stream.

2.1 Sub-Stream-Line Delegations

The sub-stream held a general meeting with all departments during which a summary was presented on the modernisation process and the task of the delegations stream in particular. A copy of the Terms of Reference was made available.

Subsequent meetings were thereafter held with each department separately. Departments were requested to record all current powers in terms of all laws it administered, the delegations in respect thereof and proposed delegations in
line with the objectives of efficiency and cost effectiveness on a standard template. A copy of the template is attached marked Annexure “A”.

Upon completion of the template the sub-stream met once again with departments on an individual basis to discuss all applicable delegations.

### 2.2 Sub-Stream - Human Resource Delegations

A provincial delegation model for human resources was approved in 2004 and the sub-stream used this document as benchmark for comparison.

The delegation model was adjusted to ensure the inclusion of all the latest amendments to the Public Service Act of 1994 as amended, Regulations of 2001 as amended, and the Collective Agreements.

The Human Resources Delegations were obtained from all departments where such delegations were available. Based on the approved delegation models received from departments, a comparative schedule was designed to assist in determining differences in the level of delegations as well as to determine whether all duties and functions to be delegated have been addressed. The comparative schedule is attached hereto as Annexure “B”.

The sub-stream then developed specific guidelines, circumstances and specific conditions that the delegated authority should adhere to when executing the specific powers and duties for each function to be delegated. The intention of providing such additional information is to assist and inform the delegatees (line managers as well as HR practitioners) in respect of the content of the section of the act, regulation or condition of service, as well as any reporting mechanisms, such as Provincial Cabinet, DPSA, Department of Labour, etc. A proposed set of delegations were compiled, which is attached hereto marked Annexure “C”.

After the finalisation of the above exercise the information was copied onto the new delegation template. The proposed delegations were developed giving due consideration to the specific and unique circumstances of departments, e.g. a corporate (head office) as well as a decentralised situation.

In order to eliminate bottlenecks and enhance service delivery, the proposed delegations were developed to allow for the delegation of powers at a lower functional level, as well as for the delegation of much more powers to line managers than in the past.
2.3 Sub-Stream- Financial Delegations

This sub-stream co-opted knowledgeable and experienced participants from large, medium and small departments to participate in the compilation of the financial delegations.

The sub-stream analysed the financial delegations received from each department and compared same. The sub-stream thereafter developed a “proposed delegations” document which captures all the applicable financial delegations as pegged at a level the sub-stream felt was most appropriate. The document is in the process of being circulated to the various Heads of Department for comment and input.

Attached is Annexure “D” which is a project summary and explains the process followed in further detail as well as the draft proposed delegations marked Annexure “E”. The former document should be studied before the delegations document is commented on to enhance better understanding of what the drafters tried to achieve.

2.4 Sub-Stream-SCM Delegations

The supply chain management sub-stream together with the financial sub-stream met over a period of three days.

The sub-stream carefully considered the legislative framework for supply chain management to ensure that all proposals would not contravene the PFMA or related principles. A clear distinction was drawn between powers and functions bestowed by law, and those ex officio so that a proper role differentiation could be tabled. The supply chain management delegations were further checked against “intended reviewed Provincial Treasury Instructions”.

Further details on the process followed are available as part of Annexure “D”. The proposed delegations are attached hereto marked Annexure “F”.

3. KEY FINDINGS

3.1 Sub-Stream-Line Delegations

None of the Departments had a complete record of all delegations applicable in that department. Delegations were by and large scattered across several documents and in most cases the original approvals could not be located. This
made it difficult for departments to complete the template as a significant amount of time and resources were spent merely trying to collate the applicable delegations.

On assessment of the templates it was also clear that departments lacked the basic legal knowledge to decipher the powers in terms of the legislation it administered and how such powers could be delegated. In many instances Departments only captured those powers that have historically been delegated and not all powers which may have been delegated.

Departments reported that they did not follow a set procedure for the proposal, approval and implementation of delegations and there was no standardised format in which delegations were captured. None of the departments had a centralised system whereby all the departments’ delegations were captured and easily accessible. Instead each directorate ‘housed’ its own delegations.

### 3.2 Human Resource Delegations

In most departments where delegations have been implemented, it is based on the approved transversal HRM delegation of the Department of the Premier.

Some departments operate without approved delegations. Three (3) departments did not provide any delegations and the assumption was made that they are using the transversal HRM delegation model.

As can be seen from the comparison made of all departments’ delegations, most of the duties and functions to be delegated have been addressed. However the level of delegation of power varies from department to department. Powers/duties are also executed on a very high level which could impact negatively on service delivery. Conditions and remarks attached to the delegations are not clearly described. Incorrect application of delegations may lead to adverse labour relations or other legal implications which may not be defendable in a court of law.

### 3.3 Financial Delegations

The finance delegations were by and large up to date and mostly standardised between all departments with few exceptions.

However, some departments tried to combine finance delegations with supply chain management delegations and after considerable discussion it was agreed by the sub-stream that it would be best if these were split.
It must be emphasised that the new amended Public Finance Management Act of 1999 (Act 1 of 1999 as amended) coupled with the expected new Treasury Regulations when proclaimed, will have an extensive influence on these delegations and will warrant a similar exercise to maintain uniformity.

3.4 Sub-Stream-SCM Delegations

The assessment of the SCM delegations revealed significant differences across departments. Over the last five years SCM has become critical within the Province and plays a major role in ensuring that financial governance standards are upheld.

Departments developed a comprehensive document called “Accounting Officer System for Procurement, Supply and Asset Management” to ensure that all SCM disciplines are fully understood and communicated to their departmental officials. This effectively meant that departments had individual implementation plans or processes which is what has lead to the current lack of uniformity.

4. DISCUSSION

4.1 Sub-Stream- Line Delegations

It has been decided, in consultation with the cluster leader and the workstream as a whole that the sub-stream should once again meet with all departments individually at a more senior level than previously to determine all legislation administered by that department.

Once a new revised list of legislation has been compiled the sub-stream together with departmental representatives will analyse the legislation closely to determine all powers contained therein. A proposal will, thereafter, be made in respect of delegations and completed in the template format discussed above.
4.2 Human Resource Delegations

In order to address the identified challenges, a generic delegation model should be developed which must be accessible to all departments.

The conditions attached to all the delegations must be inclusive, yet clear. It will assist delegatees (line managers) in making informed decisions and understand the effects of each delegation as well as being informed of the consequences if the delegations are not correctly exercised.

Departments must be afforded the opportunity to provide their comments on the proposed generic delegations where after a final generic set of delegations will then be concluded.

Departments must then utilise the generic model to develop their own delegations that will address their specific need within the framework of the generic model.

4.3 Sub-Stream-Financial Delegations

Inputs and comments are eagerly awaited to be worked into the suggested standardised format which every department can then use to refine for its own unique needs and realities.

4.4 Sub-Stream-SCM Delegations

Cognisance must be taken that the Accounting Officers System is being developed by another work stream and thus might impact on the proposed delegation. Provincial and national legislation is also in the process of revision and thus might impact on the delegation, although all efforts were made to pre-empt any impact.

Once a new revised list of legislation has been compiled the sub-stream together with departmental representatives will analyse the legislation closely to determine all powers contained therein. Thereafter, a proposal will be made in respect of delegations and completed in the template fora.
5. CONCLUSION

5.1 Sub-Stream-Line Delegations

The line delegations are at present an incomplete representation of all delegations in the Province. The sub-stream is in the process of re-assessing the line delegations in light of the shortcomings described above.

A more in depth process will be followed whereby all applicable legislation administered by departments or which creates legal obligations on a department will be considered in order to decipher all powers and functions and whether these may be delegated and the most appropriate level of delegation in respect thereof.

It is absolutely critical that the line delegations are adequately captured and followed by departments as the failure to do so will result in possible legal and financial risks for the Provincial Government. Line delegations furthermore have impact significantly on service delivery and as such it is crucial that they are properly administered.

5.2 Sub-Stream-Human Resource Delegations

The end product will have to be a generic delegation model that is centrally managed and maintained by a specific designated component that will ensure that the most recent information is reflected at all times. This component should therefore ensure that new delegations are added, or current delegations replaced as required. This component should further be responsible for communicating all new policy and legislative changes, and to adjust delegations accordingly. The central delegation model will be managed from a central webpage with a read only facility to departments. The departments can then use this as basis to amend their own delegations.

The ultimate monitoring an evaluation of the central delegation model will rest with the specific designated component.

5.3 Sub-Stream- Financial Delegations

The departments should have a workable document that will be made available to the public where powers and responsibilities will be known.
5.4 Sub-Stream-SCM Delegations

The SCM delegations are at present a representation of the most appropriate level of delegation in the Province, bearing in mind the future impact from the SCM work stream, as well as pending legislation amendments.

5.5 General observations

The current state of delegations in the Province is inadequate. In instances where delegations are pegged at inappropriate levels, the result is unnecessary delays in service delivery and adverse cost implications. Line delegations in particular are not adequately captured and this may have far reaching legal consequences in so far as decisions taken by persons not properly delegated to act in terms thereof may be unlawful and expose the Provincial Government to a myriad of unnecessary and costly risks.

6. RECOMMENDATIONS

6.1 Opinion on validity of the Western Cape Delegation of Powers Law, 1994

Counsel should be requested to provide an opinion on the applicability of the above-mentioned Act and its relevance in the post-constitutional era.

The request for an opinion should be directed to the Chief Directorate: Legal Services by no later than 15 November 2009.

6.2 Establishment of a Delegations Committee

A permanent multi-disciplinary, multi-departmental delegations committee should ideally be formed. The purpose and function of the committee will be inter alia to maintain a register of all applicable delegations, update parent delegations in terms of new legislation, store all original delegations and be responsible for updating the delegations register on an appropriate electronic interface. The chosen electronic interface should be accessible to the public in order to facilitate service delivery.

6.3 Support from Cabinet for the revising and updating of delegations

Cabinet should support the proposal that all financial, supply chain management and human resource delegations be revised and updated in line
with the proposed delegation models prepared by the work stream. In the case of line delegations, the Cabinet should support the proposal that Departments complete a thorough exercise of assessing all powers and functions in terms of any legislation it administers and carefully consider and record the possible delegations that flow from there.

**6.4 REVIEW OF DELEGATIONS: SHARED SERVICES MODEL**

In the event that a shared-services model is implemented in the Province, the workstream must reconvene and assess and review its recommendations in light thereof.

**7. HUMAN RESOURCE IMPLICATION**

There are no human resource implications. Members of the delegations committee must be sourced from within the provincial departments.

**8. FINANCIAL IMPLICATION**

The cost of obtaining an opinion from counsel could be met from the budget of the Chief Directorate: Legal Services.

**ANNEXURE A-F in Lever Arch File Attached**