

A CRITICAL ASSESSMENT OF THE EASTERN CAPE
LEGISLATURE IN THE GOVERNANCE OF THE EASTERN
CAPE PROVINCE (2004-2008)

by

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of Public Administration Degree

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Declaration

I the undersigned, Noxolo Kiviet hereby declare that this dissertation is my original work and that it has not been submitted, and will not be presented to any other university for similar or any other degree award.

A handwritten signature in black ink, appearing to read 'Noxolo Kiviet', written over a horizontal dotted line.

Signature

Acknowledgements

I wish to thank the Lord for providing me with such a diligent, dedicated and committed supervisor.

I wish to thank and appreciate the role played by Dr. T. Mle, who has played a courageous role even during really tough times by ensuring that he uses my PA to ensure prompt response and communication at all times.

I wish to thank my family, mom, dad, partner and kids, Z'yanda, Anda, Yanda and grandchild Onwaba, for the patience with me and sacrificing and missing mom but ensured that when I get home after locking myself up in the office, everything is in order.

I wish to thank the MEC's for accepting delegations to some of my official functions/responsibilities.

Thanks to all my colleagues who contributed information and material.

Thanks to MR. Barry Makan for allowing me to use his office as a hide-out when so requested.

Thank you to all my respondents for giving my research their best and responding with as much information as possible.

Dedication

To the people of the Province of the Eastern Cape especially the poor as they have been instrumental in keeping me on my toes in search for solutions to their plight.

Abstract

This study focuses on the relationship between an overseer and the overrightee with respect to implementation of the oversightee's responsibilities as against the roles of the overseer. Simply put, this study focuses on whether the Legislature of the Eastern Cape is in a position to make a meaningful contribution in changing the service delivery trajectory in the Province for the better. Various reports, both official and media, have been pointing to a bleak picture in the quality and quantity of service delivery in the Province.

Key questions are, can both elected and appointed leaders in the public service fulfil the role of being agents for change, given the negative public image of the Province? Is the Legislature poised to influence change for the better, given the oversight responsibility over the Executive. Can the maximum of eleven members of the Executive Council be able to change this unwarranted state of affairs on their own? Do members of the Legislature as a collective carry the desired clout and respect to influence others (the Executive and its Administration) as overseers (supervisors) on behalf of the people?

Understanding, that a revolutionary leader is a leader with a clear vision of the future state, which may involve a change in the philosophy, beliefs and principles of society. This type of leader demands commitment, courage, and sacrifice from the followers. This is a leader who is focused on turning the status quo on its head, and in order to do so, this leader needs help of many flowers to successfully bring about the revolution. (<http://www.money-zine.com/definitions/carrers-Dictionary/Revolutionery-Leaders/>)

Does the Eastern Cape Province have revolutionary leaders?

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Chapter 1 : Research Proposal

1.1. INTRODUCTION

The democratic elections of 1994 in South Africa brought about a new dispensation that led to the adoption of a new constitution. In this constitution is entrenched fair distribution of powers, privileges and responsibilities for provinces and respective administrations, even though the country is a unitary state. **The Constitution of the Republic of South Africa** 1996, section 114(2) (b) states that,

“A provincial legislature must provide for mechanisms:

To ensure that all provincial organs of state in the province are accountable to it, and to maintain oversight of the exercise of provincial executive authority in the province, including the implementation of legislation and any provincial organ of state”.

The exercise of provincial executive authority referred to above is vested in the Premier of a province in terms of section 15 of the Constitution 1996. The Oxford Dictionary defines “oversight” as follows:

“The action or an act of overseeing something, supervision, inspection, change, care and control”.

In simplifying the mandate of the legislature in maintaining oversight as per this definition, the Legislature has a duty to supervise government's work and performance, to inspect programmes and projects, to take care of public interest in matters of government's exercise of executive authority.

The Eastern Cape Province's performance in delivery of services and administrative capacity is rated very low. This is contained in the Auditor-General's Report on the Performance of Provincial Departments for the financial year 2006/07. This report was tabled and discussed in the Legislature on 23 October 2007. The report places an obligation on the leadership of the Province to address the challenge. A need exists for evaluating what it is that the Legislature and/or Government is doing inadequately, inappropriately, incorrectly, or not doing at all, that gives rise to this unacceptable state of affairs. The study is conducted with the intention to find a solution/s to address the challenge/s in order to improve service delivery.

This study will explore ways and means to be used in changing the dull and gloomy service delivery environment of the Eastern Cape Province to a bright and vibrant one. The Legislature will, in the exercise of its oversight function or supervisory role over the Executive Council of the Eastern Cape, use the findings and recommendations of this study, to help improve performance of the Administration in the delivery of quality services to the people of the Province.

In mapping the research proposal, the following will constitute areas of focus:

- ❖ Statement of problem
- ❖ Research objectives
- ❖ Hypothesis
- ❖ Significance of study
- ❖ Literature review
- ❖ Research Methodology
- ❖ Delimitation of study
- ❖ Ethical considerations.

1.2. STATEMENT OF THE PROBLEM

According to Welman, (2005:14)“A research problem refers to some difficulty that the researcher experiences in the context of either a theoretical or practical situation and to which he or she wants to obtain a solution”. The definition is relevant to this particular study in that the problem of poor quality in the delivery of services is bedeviling the Eastern Cape Province. Fourteen years into democracy, the government is still experiencing challenges despite the constitutional guarantees of oversight, accountability, and public participation in decision-making..

The poor performance is exacerbated by non-expenditure of funds budgeted for social transformation in, for example, the Departments of Education, Housing and Health. The mandate of the ruling party is anchored on key social responsibility areas. Members of the Legislature are leaders elected by the people of the Province to provide solutions to challenges faced by the Provincial Administration, in particular, to ensure that the electoral mandate is realized. Failure in delivery of services to the people implies failure of the Legislature in performing the oversight role (supervisory responsibility), and that constitutes political suicide for the governing party, which is the African National Congress.

The key question therefore is why the current state of affairs is obtaining, and what it is that the Legislature can do in the oversight process to ensure that this anomalous situation stops henceforth. The challenge therefore is to determine how effective the oversight function of the Legislature is in ensuring that departments deliver on their mandate of a better life for all through enhanced service delivery. In so doing, both the oversight processes and procedures will be revisited, in order to identify gaps that may exist. Further to this, the researcher will also examine the processes applied in exercising authority as against legal imperatives.

1.3. RESEARCH OBJECTIVES

The following constitute the objectives of this research:

To evaluate the efficacy of the oversight role performed by the Eastern Cape Legislature in relation to the poor quality of service delivery by the respective Provincial Administration Departments.

To come up with recommendations that can be adopted by the Legislature with a view to using these as strategies to improve oversight and thereby improve government's performance and service delivery in future.

1.4. HYPOTHESIS

There is a perception that the Eastern Cape Legislature is ineffective in performing the oversight function, hence the poor delivery of services by the Provincial Administration.

1.5. SIGNIFICANCE OF THE STUDY

In the first term of democratic governance in South Africa (1994-1999), policy formulation was the primary driving force of the work of government. This resulted in an increased number of Bills being passed by Parliament and Provincial Legislatures. In the second term (1999-2004), both Parliament and Provincial Legislatures were engaged in setting up systems and procedures for implementation. In the third term (2004-2009), the actual delivery of service should have been visible, qualitative and speedy, but this is not the case,

particularly in the Eastern Cape. This is confirmed in studies conducted by the Public Service Commission, the Auditor-General and in Legislature oversight reports over the years - particularly in 2007.

This year (2008), is the last full year of the term. Findings and recommendations of this study can be implemented by the next Legislature to ensure that the weaknesses identified do not recur during the following term (2009-2014). Further to this, the ruling party can use the results of this study in planning, for implementation of programmes aimed at enhancing the oversight function of the Legislature and thereby speed up delivery of services in the Province.

1.6. RESEARCH METHODOLOGY

Methodology is an operational framework designed to place facts, in order to clarify the meaning. According to Brynard (1997:27), “Research methodology is the how of collecting data and the processing thereof within the framework of the research process. Two basic methodologies for collecting data can be distinguished, namely, qualitative and quantitative methods.” This research will make use of both, using specific techniques to collect data, inter alia, literature reviews, interviews, and questionnaires. The literature will constitute theory as a foundation for the study, and the interviews and questions will comprise the testing component.

1.7. TARGET POPULATION AND SAMPLING TECHNIQUE

The population in this study will be the people from whom the researcher wishes to obtain information. “Sampling is a scientific foundation of this everyday practice. It is a technical accounting device to rationalize collection of information, to choose in an appropriate way the restricted set of objects, persons, events, and so forth from which the actual information will be drawn ” (Bless et al, 2000: 83). It will be a sample of various key stakeholders and role-players in the provision of public services to the people of the Province. These will include but not be limited to political office-bearers, categorized as Members of the Provincial Legislature (MPLs) from all political parties represented in the Legislature. The sample will reflect all the various positions that members hold. Managers, staff, and the recognized trade union leadership in the Legislature will also form part of the sample.

The sample will also include other institutions of constitutional democracy that operate in the Province, such as the Human Rights Commission, Public Service Commission, the Offices of the Public Protector and Auditor-General. Both commissioners and staff members will form part of the sample. Members of the Executive Council and Public Service officials - Heads of Departments, managers, junior staff members in various departments, as well as their representative trade union leaders - will also contribute their views, observations and suggested solutions. Academia, research institutions such as

the Public Service Accountability Monitor, as well as some opinion makers (political analysts) will also be included in the sample.

The sampling technique followed by the researcher is the probability sampling in which the probability is that all elements of the population will be included in the sample. The advantage of the probability technique is that it is fast and cheap (Bless et al, 2000:86). A purposive or judgmental sampling method will be used whereby the researcher uses his or her own judgment as to which respondents to choose, picking only those who best meet the purposes of the study. To this end, the following will constitute the sample:

The Hon Premier;

3 MECs (Finance, Education, and Local Government, Housing and Traditional Affairs);

Provincial Director-General;

3 HODs (Agriculture, Economic Affairs Environment and Tourism, and Health);

3 CFOs (Sport, Arts and Culture, Social Development, Transport & Roads);

MPLs (Chairpersons of Committees, Whips, Backbenchers, Presiding Officers);

Officials (Chief Parliamentary Officer, Committee Co-coordinators & Researchers);

Academia (University of Fort Hare, Walter Sisulu University, Rhodes University);

Public Service Commission;

Chapter 9 State institutions supporting constitutional democracy based in the Province (Auditor-General, Human Rights Commission, Public Protector);

In addition, some public opinion makers (political analysts) will form part of the targeted sample. In view of the availability factor of some of the members constituting the sample to fill in the questionnaire, some will undergo personal interviews - for example the hon. Premier and hon. MECs. Approximately 30 questionnaires will be distributed to respondents.

1.8. DATA ANALYSIS

The triangulation method used in the collection of data for the study, dictates that techniques used in analysis should be multi-dimensional. The following techniques will be used:

- ❖ Statistical package for Social Sciences (SPSS),
- ❖ Mind mapping,
- ❖ Data filtering, and
- ❖ Historical interpretation.

This is intended to ensure that use of unreliable data is minimized through combining various methods, and thereby ensuring empirical evidence.

1.9. DELIMITATION OF THE STUDY

The study will focus on the Eastern Cape Provincial Administration for the period 2004 - 2008

1.10. ETHICAL CONSIDERATIONS

The researcher will respect organizational protocols, confidentiality of information presented, human rights and dignity in conducting the investigation. Nobody will be coerced, bribed or forced to provide information.

Chapter 2 : Literature review

2.1. INTRODUCTION

The purpose of this chapter is to give an exposition of the literature consulted including legislation regarding the subject matter. This body of knowledge which applies within the statement of the problem will be exposed and explored and where necessary be critiqued. When one considers the state of affairs in public institutions regarding service delivery to communities, governance becomes a subject warranting scrutiny.

2.2. VISION AND MISSION OF THE EASTERN CAPE PROVINCIAL LEGISLATURE

The Eastern Cape Provincial Legislature's vision is commitment to good corporate governance whilst serving the people of the province as a dynamic people's assembly in terms of the Constitution of the Republic of South Africa, 1996 which states that government should continuously strive to improve quality of life of the people through qualitative service delivery. Its mission is to conduct vigorous oversight and facilitate public participation within the framework of co-operate governance. The Legislature is guided by specific values and principles, inter alia,

Moral Integrity – being honourable and ethical.

Accountability- answerability for one's actions.

Excellence – continuous improvement in performance and standards (E. Cape Provincial Legislature diary p3).

The functional areas of departments are set out in schedules 4 and 5 of the Constitution of the Republic of South Africa, 1996. In each of the nine (9) provinces in the country the executive authority is vested in the Premier who exercises this authority, together with the other members of the Executive Authority by, inter alia, “co-ordinating the functions of the provincial administration and its departments.” This is a task that cannot be carried out effectively during the sitting of the House hence the establishment of Portfolio Committees. The committees furthermore seek to ensure that the Legislature delivers on its mandate of acting as a “watchdog” on the work of the government and checking that public money is spent wisely, hence these committees are regarded as an extension of the House (Assembly).

2.3. PORTFOLIO COMMITTEES

Portfolio Committees each comprising between 6 and 15 members are formed for each of the government departments and all members of the Provincial Legislature with the exception of the MEC's are appointed to serve in one or more of the Portfolio Committees. The E. Cape Provincial Legislature has 13 Portfolio Committee (Eastern Cape Provincial Legislature Strategic Plan 2005-

2009:9). The Committee system is a mechanism employed to ensure an efficient and transparent government. Portfolio Committees have the right to call on MEC's and departmental officials to explain their actions. This oversight function is further promoted by the Legislatures responsibility of approving the annual budgets of the provincial government departments. The committees have to ensure that funds allocated are spent wisely and that there is no wastage of resources, fruitless expenditure, and corruption (Photographic Directory of members of the E. Cape Provincial Legislature). The key component of the oversight function of Portfolio Committees is effective, efficient rendering of services by provincial departments. To this extent, Committees have the power not only to call for documents and books of the respective departments which they oversee but, as already alluded to, "summon" the MEC, Head of Department and officials to account before them.

In actual fact, Section 115 of the Constitution of Republic of South Africa, 1996 provides for the provincial legislatures; A provincial legislature or any of its committees may:

Summon any person to appear before it to give evidence on oath or affirmation, or to produce documents;

Require any person or provincial institution to produce a report to it;

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

Receive petitions, representations or submissions from any interested persons or institutions.

Arising out of this section the Province of the Eastern Cape passed the Evidence and Information Act (4 of 2007) before the Eastern Cape Provincial Legislature.

The objects of the Act are to provide for :

Mechanisms for the Legislature to obtain evidence, documents and reports;

The summoning of witnesses, and Mechanisms to compel to comply with summonses and requirements of the Legislature.

All the above are tools and instruments at the disposal of portfolio committees to compel departments to account. Further portfolio committees are central in ensuring good governance in the Province of the Eastern Cape hence these powers. Any breach or failure to comply with the requirements as contemplated in the Act constitutes a criminal offence which is punishable in law.

In terms of the Standing Rules of Procedure of the Eastern Cape Provincial Legislature, Portfolio Committees must, “monitor, investigate, enquire into and make recommendations relating to the legislative programme, budget,

rationalization... functioning, organization, structure, personnel...of the Provincial departments falling within the category of affairs assigned to the committee” (Standing Rules of Procedure of the Eastern Cape Provincial Legislature, p 36). Furthermore Portfolio Committee must oversee the financial policy, management, expenditure, accounting, procedures and arrangements of provincial departments whose annual reports and quarterly financial reports are referred by the House to relevant committees for consideration. The Constitution, 1996 stipulates that a provincial government is accountable to the Legislature and this accountability function of the Legislature is carried out through the Portfolio Committees. Committees hold annual meetings on the budget and focus on how resources are utilized in each provincial department (Eastern Cape Provincial Legislature Plan 2005-2009:11) but if a Committee is concerned about a particular matter, it may call an emergency hearing with a department (Information Booklet on Eastern Cape Legislature, p. 19). If then the Committees have the responsibility to oversee the provincial department, it can be argued that such responsibility should also include the creation of ongoing monitoring systems of checks and balances. Furthermore if the committees have powers from the constitution and subsequent legislation to exercise their oversight mandate over provincial departments, why is it that the Eastern Cape Provincial Administration finds itself at the centre of criticism over non-delivery of service, poor financial management, corruption and mal-

administration. The role of Portfolio Committees in the governance of the Province cannot be over emphasized.

Du Toit et al (1998:95) make the point that Members of the Executive are liable to answer both individually and collectively to the Provincial Legislature for the exercise of their powers and the way in which they have carried out their functions. This sentiment is also expressed by Roux et al (1997: 272). This obligation demands of the Executive Authority to ensure good governance in the Province. A characteristic of today's public institutions, however, is that, they do not have a strategic vision of the future. Plans in place are sometimes faulty and crisis management becomes the order of the day. This scenario places the Executive Authority, who are charged with oversight functions to ensure good governance, in an unenviable position (Van der Waldt and Du Toit (1998: 282). Boyne et al (2006: 135) hold the view that organizations with high levels of support from elected officials will have higher levels of organizational performance. These authors thus equate high political support with good governance and high performance. One may seemingly challenge this contention because there are institutions that enjoy political support but do not perform any better.

2.4. RELATIONSHIP BETWEEN PORTFOLIO COMMITTEES AND GOVERNMENT OFFICIALS – AND “US” AN “THEM” SYNDROME

When Portfolio Committees subpoena government officials to appear before them and account, they fulfill their mandate but this exercise goes with tensions and challenges. For some reason or other, government officials fear appearing before their relevant Committees. The perception that officials have of committees is that Committees summon officials to grill them and not to assist them to overcome challenges that they encounter in their departments. Officials thus adopt a negative attitude towards committees and as such, the “us” and “them” syndrome builds up. Relationship between the two parties thus suffers negatively and it becomes non-conducive to effective administration. Interaction between officials and committees is only when officials are summoned to appear before a committee. At this time what goes in the minds of the officials is that they have done something wrong. As they appear in-front of the committee they are already in a defensive mode. Unfortunately Members of the Legislature at this point also are in an attacking mode. In other words negativity prevails. Put differently, officials do not regard Committees as bodies that seek to assist them but as bodies that are out to expose their own weaknesses within their departments.

Officials also hold the view that the Committee members being politicians are not well versed with public administration issues and are thus not competent or

knowledgeable enough to be able to critique, so to speak, their performance or how they do things in their departments.

This however reflects the poor state of relations between the performers and their overseers which results in the “them” and “us” syndrome. This state of affairs has negative effect on good governance in the Province and calls for improved relationship and interaction between political office- bearers and chief officials.

2.5. LEGISLATIVE FRAMEWORK AND SCHOLARLY VIEWS ON GOVERNANCE

Research proposal is a document that outlines one’s thinking about the research problem... In a nutshell- the research proposal is a project planning document that embodies one’s thinking about the study as one envisages at the beginning of the project (Mouton, 2001:45). Further to the above, Mouton clarifies that for any study to be scientific; it must have empirical evidence and logic. Components of empirical evidence include.

In literature review, one finds the following: definitions, theories, models, existing data, and empirical findings of previous research, and measuring instruments. This study will incorporate the cited attributes. The researcher, in conducting the study, will examine theories underpinning the study. The researcher will look for connections in the influence of members of the

Legislature during oversight, the influence of the respective Members of the Executive Council and response of Government officials. The Researcher will also examine speculation about the quality of service delivery.

Underpinning the study will be the Modern Theory of Organisation. In examining the above statement, clarity will also be sought on whether the statement by Cloete (1984:41), cited in the December 2006 Journal of Public Administration by Thornhill, which reads, "...efficiency and effectiveness in the public sector are determined by the conduct and attitude of the functionaries performing their respective roles" is still relevant. Further to the above, Askvik et al (2005:41) write "... the need is created for empirical investigation into factors that either promote or constrain the ability of the legislature to act as an effective mechanism of legislative oversight." This study will therefore contribute to available literature for further reviews.

Lusthaus (2002:23) writes as follows, "Organisations do not exist in a vacuum. Each organization is set in a particular environment that provides multiple contexts that affect the organization and its performance." That author characterizes the organisation's enabling environment as follows:

- ❖ Legal framework
- ❖ Intellectual property rights
- ❖ Mandate

❖ Labour rights

Similarly, the Legislature does not exist in a vacuum. It is also set in a particular environment and in this case an environment where it has to perform the oversight function in an environment charged with negative energy (“them” and “us” environment). Further the environment in so far as it affects the Provincial Administration’s ability to provide services to the people is also negative. This therefore places a huge burden on the shoulders of the legislators to ensure that they respond to these challenges in a manner that will benefit the people of the province as their representatives. It is against this background that the environment in which it operates similarly affects the Legislature as an organization.

To this end Lusthaus (2002:2) writes, “ As organizations evolve and try to succeed, they adapt to their environment and to technical developments. This often leads to increased specialization of functions, people, and infrastructure. As organizations specialize in their functions and infrastructure required for maintaining and carrying out those functions, they require greater interdependence with various work groups. In other words, specialization increases complexity.” In confirming the statement above, in the legislative/ oversight environment, the previous Finance Exchequer Act (1975) was replaced by the Public Finance management Act (PFMA) in 1999, so as to change the environment where administration of public funds was relegated to a

mere paper-pushing exercise, to create an environment where accountability and transparency in management of such funds are guaranteed. Efficient and effective management of public funds will improve service delivery and thereby change people's lives for the better.

In the foreword to the booklet containing the PFMA as printed by Government Printers, the former Minister of Finance, Mr. Trevor Manuel qualified the objectives in summary as follows:

Modernise the system of financial management.

Enable public sector managers to manage, but at the same time, be more accountable.

Ensure timely provision of quality information.

Eliminate waste and corruption in the use of public assets.

It is therefore clear that the PFMA lays the basis for a more effective corporate governance framework for the public sector to operate within. It was for this reason that all political parties and provinces supported that the enactment of the PFMA by Parliament. For legislators, both nationally and provincially, it represents an effective tool for ensuring that Accounting Officers are accountable. Minister Trevor Manuel viewed the PFMA as a major challenge to government and expected support from all role players to ensure the effective

implementation of the Act. The key question is whether all role players are in fact providing the expected support.

In short, the scenario presented above reflects that the legal framework for a changing environment is available to both the legislators as overseers, and executing authorities together with their accounting officers/departmental heads, as implementers. The playing fields are level and the stage has been set for improved delivery of services to the people. The environment is thus conducive for optimal delivery of service to take place. The key question, however, remains: Is service delivery to the people improving in the Eastern Cape. The study must help to answer this question.

Lusthaus (2002:20) writes, "The way an organisation transforms its resources into results through work processes is what people call 'systems'. Those systems are subject to all sorts of influence from within and outside the organization. Today's organizations are 'open systems' that is, they are constantly influenced by and trying to influence external forces." To this end, since 1994 the legislature has only undergone assessment once, in 1999, through a private company, which produced a report known as Barring 21. That assessment only targeted administrative support systems, such as human resource management. It is however not surprising that the outcomes of that study could not yield the desired outcomes when implemented. The study was conducted by a private company based on the business approach; hence its

recommendations included reduction of personnel through rationalization. This did not work well for the Legislature since it is a public institution and as such, depends on adequate staffing to be able to perform its mandate.

This therefore means that the internal systems employed by the legislature in the process of carrying out its political mandate, vulnerable as they are to “all sorts of influence”, have not been evaluated in order to be transformed, and respond to the changing environment. No scientific study has been commissioned by the leadership of the institution to determine the extent to which the management systems are commensurate with the legal requirements of implementing the political/ constitutional mandate. This study will ensure that the Legislature forward planning is based on empirical evidence gathered, particularly in strategizing for the following term (2009-2014). The study will therefore ensure improved effective oversight systems and thereby improve the performance of government departments.

2.6. CONCLUSION

It can be deduced that the legislature through its Portfolio Committees is responsible for ensuring good governance in the Province. It can also be stated that one of the challenges faced by the Portfolio Committees is the attitude of the appointed officials towards these bodies. It is also true to state that the Eastern Cape Provincial Legislature is committed to good governance as

asserted in its vision and mission. It can as well be deduced that a need exists for a sound relationship between elected officials (politicians) and those that are appointed (administrators) for the notion of good governance to become a reality. Public Administration takes place within a changing environment and it is imperative that public institutions, including the Legislature as an overseer over the activities of these institutions, should adapt to the environmental changes within which it operates. This adaptation may be seen as an instrument of ensuring the affectivity of the Legislature in its quest to enhance service delivery. Chapter 3 will deal with the research methodology.

Chapter 3 : Research Methodology

3.1. INTRODUCTION

Methodology is an operational framework designed to place facts, in order to clarify their meaning. According to Brynard (1997:27), “Research methodology is the how of collecting data and the processing thereof within the framework of the research process. Two basic methodologies for collecting data can be distinguished, namely, qualitative and quantitative methods.” This research will make use of both, using specific techniques to collect data, inter alia, literature reviews, interviews, and questionnaires. The literature will constitute theory as a foundation for the study, and the interviews and questions will comprise the testing component. There are three most common and useful purposes of social research namely, exploration, description and explanation (Babbie 198:80). This chapter will conduct empirical investigation or assessment of the E. Cape Provincial Legislature in the governance of the Province. The research design will now be explained.

3.2. RESEARCH DESIGN

It has already been alluded to that both qualitative and quantitative research methods will be used. Qualitative approaches use interviews and focus group interviews to gather data from respondents. The qualitative research allows for that which lies behind phenomena to be uncovered and provides more intricate

detail that is not always possible by using quantitative method. It also enables the researcher to get the qualitative understanding of the individual's emotional state about the subject being researched. Again the researcher gains deeper insight into the phenomena being studied. This then leads to better interpretation of the individual's emotions about the topic. All this is not possible through the use of only quantitative method (Mouton & Marias 1991:121). All the above is in line with the manner in which Mouton, (1996:211) views qualitative research approach, that it allows for a greater understanding of the relationship between the phenomena and that the researcher becomes more involved with the phenomena than with quantitative research approach. The qualitative methods of collecting data include semi or unstructured interviews, focus group discussions or observations that were all adopted by the researcher (Neuman, 2000:145). According to Signal (2003:349) there exists an overwhelming reliance on the quantitative methods in assessing issues. The quantitative approach is useful in describing, monitoring and evaluating performance. It assists in describing human behaviours that are known as risk factors. Quantitative research approach also helps in monitoring changes in these behaviours, understanding what caused these behavioural changes and evaluate the effects of interventions (Signal 2003:350). Quantitative research focuses on measuring individual level behavioural changes or individual versus groups.

Social change indicators could play a major role in assisting the researcher to measure the degree of performance in terms of intensity and quality.

On qualitative research methods Leedy and Ormrod (2005:134) state that such methods involve an in-depth understanding of human behaviour and the reasons that govern human behaviour. Furthermore qualitative methods are interpretative in that they afford the researcher an opportunity to gain new insights about a particular phenomenon through qualitative methods. It is also through the qualitative approach that one is able to develop new concepts or theoretical perspectives about a particular phenomenon. Qualitative methods are also evaluative and thus provide avenues through which a researcher may judge the effectiveness of a particular policy or innovation.

The quantitative approach on the other hand serves to classify features, count them and construct statistical models to explain through data interpretation, what is observed. Through this approach phenomena are explained and described according to the relationship between variables. Also through this approach a survey design provides a quantitative or numeric description of trends, attitudes or opinions of a population by studying a sample of a particular population. Lastly, the quantitative approach brings in an element of objectivity in that the researcher knows what he/she wants before commencing to gather data. In a nutshell the researcher will collect data through interviews and

questionnaires. The sample size, target group and sampling technique will now be explained.

3.3. SAMPLE SIZE TARGET GROUPS AND SAMPLING TECHNIQUE

A qualitative approach is one in which the inquirer often makes knowledge claims based primarily on constructivist perspectives, that is, the multiple meanings of individual experiences, meanings socially and historically constructed, with an intent of developing a theory or pattern or advocacy/participatory perspectives, that is, political issue-oriented, collaborative or change oriented or both (Leedy and Ormrod 2005:134) The population in this study will be the people from whom the researcher wishes to obtain information. “Sampling is a scientific foundation of this everyday practice. It is a technical accounting device to rationalize collection of information, to choose in an appropriate way the restricted set of objects, persons, events, and so forth from which the actual information will be drawn ” (Bless et al, 2000: 83). It will be a sample of various key stakeholders and role-players in the provision of public services to the people of the Province. These will include but not limited to political office-bearers, categorized as Members of the Provincial Legislature (MPLs) from all political parties represented in the Legislature. The sample will reflect all the various positions that members hold. Managers, staff, and the

recognized trade union leadership in the Legislature will also form part of the sample.

The sample will also include other institutions of constitutional democracy that operate in the Province, such as the Human Rights Commission, Public Service Commission, the Offices of the Public Protector and Auditor-General. Both commissioners and staff members will form part of the sample. Members of the Executive Council and Public Service officials - Heads of Departments, managers, junior staff members in various departments, as well as their representative trade union leaders - will also contribute their views, observations and suggested solutions. Academia, research institutions as well as some opinion makers (political analysts) will also be included in the sample.

The sampling technique followed by the researcher is the probability sampling in which the probability is that all elements of the population will be included in the sample. The advantage of the probability technique is that it is fast and cheap (Bless et al, 2000:86). A purposive or judgmental sampling method will be used whereby the researcher uses his or her own judgment as to which respondents to choose, picking only those who best meet the purposes of the study. The researcher informed by Denzin et al (2000:3) when they write "...qualitative researchers study things in their natural settings attempting to make sense of or interpret phenomenon in terms of the meanings people bring

to them” uses the purposive sampling method. To this end, the following will constitute the sample:

3 MECs (Finance; Education; and Local Government; Housing and Traditional Affairs);

Provincial Director-General;

3 HODs (Agriculture; Economic Affairs Environment and Tourism; and Health);

3 CFOs (Sport, Arts and Culture; Social Development; Transport & Roads);

MPLs (Chairpersons of Committees; Whips; Backbenchers; Presiding Officers);

Officials (Chief Parliamentary Officer; Committee Co-coordinators & Researchers);

Academia (University of Fort Hare; Walter Sisulu University; Rhodes University);

Public Service Commission;

Chapter 9 State institutions supporting constitutional democracy based in the Province (Auditor-General, Human Rights Commission, Public Protector);

In addition, some public opinion makers (political analysts) will form part of the targeted sample. In view of the availability factor of some of the members

constituting the sample to fill in the questionnaire, some will undergo personal interviews - for example the hon. MECs. Approximately 30 questionnaires will be distributed to respondents. The respondents have been targeted because of their in-depth knowledge on the subject being researched upon.

3.4. DATA COLLECTION METHODS

According to Creswell(1998:110), data collection can be seen as a series of interrelated activities aimed at gathering information as a response to questions. Consent letters to conduct the research were obtained from the University of Fort Hare and forwarded to the relevant Institutions.

3.5. QUESTIONNAIRES

It has already been alluded to that approximately 30 questionnaires will be distributed to respondents. The services of trained core staff will be utilized to distribute the questionnaires. The core staff will clarify any areas that the respondents may not fully comprehend. One format has been utilized which accommodates all respondents with respect to content. The attached is a sample of the questionnaire distributed.

(Ref : annexure 2)

3.6. INTERVIEWS

Structured and non-structured interviews will be used. Although interviews may be time consuming their advantage according to Thomas (2003:63) is that the research is provided with flexibility, freedom and may establish a relationship with the respondent and thus elicit more information. According to Leedy and Ormrod (2005:146) another advantage of interviews is that the researcher obtains an in-depth understanding of what the respondents say, this is also made possible by follow up questions. In this case some of the respondents such as the MEC's have been targeted for interviews by the researcher.

3.7. LITERATURE

All relevant literature including legislative framework on the subject matter will be consulted. Policy documents, statutes, annual reports, Portfolio Committee Reports, Auditor-General reports, Public Service Commission reports etc will be scrutinized. It has already been alluded to that literature will provide the theoretical base which will then be tested by the interviews and questionnaires.

3.8. DATA ANALYSIS & INTERPRETATION

The triangulation method used in the collection of data of the study, dictates that techniques used in analysis should be multi-dimensional. The following techniques will be used:

- ❖ Statistical package for Social Sciences (SPSS).
- ❖ Mind mapping,
- ❖ Data filtering, and
- ❖ Historic interpretation.

This is intended to ensure that use of unreliable data is minimized through combining various methods, and thereby ensuring empirical evidence.

3.9. CONCLUSION

In this Chapter an exposition of the research methodology has been made. It can be deduced that both qualitative and quantitative methods of research will be made use of, comprising both interviews and questionnaires. It can also be stated that the sample size, target group and sampling techniques have been explained. It is also true to state that the target group comprises elected politicians in the form of the Members of the Executive Council, Members of the Provincial Legislature. Public officials/ administrators (Director- General, HOD's, and CFO's) also constitute the target group as well as representatives

from institutions supporting constitutional democracy such as Office of Human Rights Commission, Office of the Public Protector, Office of the Public Service Commission and Auditor General's Office. It has also been explained that the sampling techniques employed give rise to the probability as well as the purpose or judgemental sampling methods. This chapter also high-lighted the data analysis and interpretation methods to be used namely; Statistical package for Social Sciences, mind mapping, data filtering and historical interpretation. Chapter 4 will deal with data presentation, analysis and interpretation.

Chapter 4 : Presentation and Analysis of Data

4.1. INTRODUCTION

The purpose of this chapter is to present and analyse data that has been collected during the research process from targeted respondents. Such data is in the form of responses to questionnaires, interviews and available literature. Such literature includes legislation, books, journals and reports. Questionnaires (see Annexure 1) have been used to collect data, as well as interviews. While existing literature in the form of written books may be minimal, reports from institutions such as the Auditor-General, the Public Service Commission have also been used.

The democratic elections of 1994 brought about the new democratic dispensation which led to the adoption of a new Constitution in which is entrenched fair distribution of powers, privileges, and responsibilities for provinces and their respective governments - even though the country is a unitary state.

The Constitution of the Republic of South Africa 1996, section 114(2)(b) demands that:-

“A provincial legislature must provide for mechanisms:

To ensure that all provincial organs of state in the province are accountable to it, and

To maintain oversight of the exercise of provincial executive authority in the province, including the implementation of legislation and any provincial organ of state”.

The exercise of provincial executive authority referred to above is vested in the Premier of a province in terms of section 125 of the Constitution. The Shorter Oxford Dictionary defines “oversight” as follows:

“The action or an act of overseeing something, supervision, inspection, charge, care and control”.

In simplifying the mandate of the Legislature in maintaining oversight as per this definition, it means that the legislature has a duty to supervise government’s work and performance, to inspect programmes and projects, to take care of public interest in government and to ensure control over such performance of government in exercising the executive authority.

The purpose of this study is to use the above evidence to prove or disprove the perception as presented in the hypothesis that, the Eastern Cape Legislature is ineffective in performing the oversight responsibility over the executive. As cited in chapter 1 paragraph 6, this study will be based on empirical evidence gathered as reflected here-under.

4.2. METHODOLOGY USED

In arriving at the sample as indicated above, the researcher used probability sampling in order to comply with the principles of the logic of probability sampling as cited by Babbie et al (2005:169), to provide useful descriptions of the total population. A sample of individuals from a population must contain essentially the same variations that exist in the population. The purposive or judgmental elements in sampling have also been applied because, according to Babbie, “Sometimes it’s appropriate for you to select your sample on the basis of your own knowledge of the population, its elements and the nature of your research aims; in short, based on your judgment and the purpose of the study”, hence the sample of role players and stakeholders.

4.3. DISTRIBUTION OF QUESTIONNAIRES

Firstly the distribution of questionnaires has been performed as planned in the preceding chapter as follows:

Political Office Beares	Director/ Managers
Leaders of Government Business	Shop stewards
MEC’s	Lower- rank staff members
Speaker	Researchers

Deputy Speaker	Public Opinion Makers
Chair of Chairs	Public Service Commission in Eastern
Whips	Cape
Chairperson of Committee	Public Service Officials
Members	Director General
Legislature Staff	Heads of Departments
Secretary	
Chief Parliamentary Officer	

A total of thirty five questionnaires were distributed to the targeted respondents. Thirty three were completed and returned which constitutes 94% of the total dispatched. This qualifies to be regarded as an excellent response. This high response rate has enabled the researcher's findings to be substantive such that conclusions and recommendation will be based on factual information extracted from the responses.

The researcher will do a quantitative analysis of the data collected based on the four sections of the questionnaire namely:

- ❖ Vision, Mission & Mandate of Legislature

- ❖ Performance of the Legislature
- ❖ Institutional Framework of Oversight
- ❖ Resources

The questions were answered using “yes, no and some how”, yes and no is self explanatory and the phrase “some how” was used by the researcher to accommodate those respondents who could not give a definite “yes” or “no”, as well as those who are aware but are uncertain.

When capturing the data the researcher observed that there were questions that were not answered by the respondents, and therefore a new category for answers had to be accommodated for the “not answered” questions. The researcher also allowed space for comments to cover for quality inputs which respondents may have but which are not covered in the question. This approach is designed to cover qualitative information as part of the qualitative approach. Therefore, the researcher will use qualitative analysis through mind-mapping.

4.4. DATA ANALYSED

According to Lusthaus (2002:42) the area to examine when considering evaluation of performance of an institution/organization is that of organizational capacity. In so doing, the researcher will consider the following:-

Assessing strengths and weaknesses of strategic leadership in the organization;

Organizational structure;

Strengths and weaknesses of the organizational infrastructure;

Programme, planning and service management

Moving from a premise that the exercise of provincial authority by the Executive Authority referred to earlier, which authority is vested in the Premier of the Province in terms of section 125 of the Constitution, the researcher focused on such questions that will bring out the responsibility of an oversight body such as the Legislature. Informed by the definition of the “oversight” the questionnaires focused on the core business and mandate of the Legislature as well as its institutional framework with specific focus on whether the Eastern Cape Provincial Legislature is positioned to deliver on its mandate (theory of organization).

Simplifying the mandate of the Legislature in maintaining oversight as per this definition, means that the legislature has a duty to supervise government’s work and performance, to inspect programmes and projects, to take care of public interest in government and to ensure control over such performance of government in exercising executive authority.

The questions in the questionnaire have been designed to focus on the core mandate as well as the management structure of the Legislature. The purpose of this is to ascertain whether the structure is designed in a manner that enables the

Legislature to function effectively in performing its functions to meet its mandate.

4.5. THE QUANTITATIVE ANALYSIS OF DATA COLLECTED

4.5.1. VISION, MISSION & MANDATE OF THE LEGISLATURE

The general insight to the questions posed to respondents in this section of the questionnaire is shown in the graph below:

Vision, Mission & Mandate of Legislature

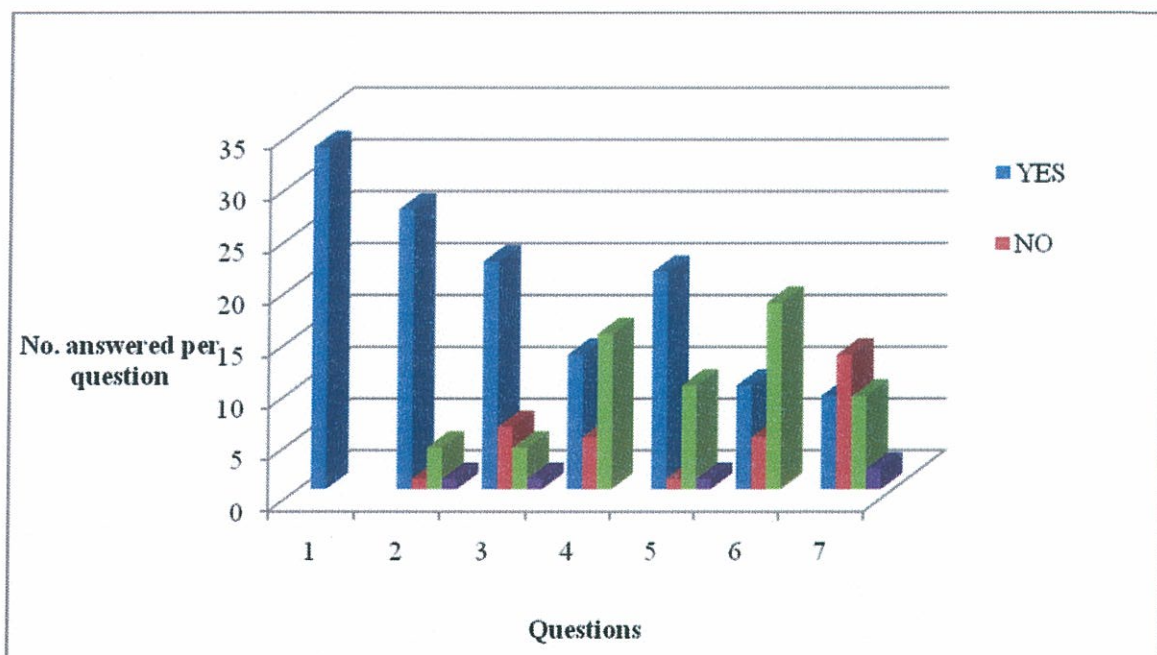


Diagram 4.1

Question 1 – do you understand what oversight is?

It can be noted that all, 100% of the respondents understand what oversight is, as all thirty three answered “yes” to this question.

Question 2 – Do you know the vision, mission and mandate of the Legislature?

The twenty seven respondents, which is 82% of the respondents, answered “yes” to this question affirming their knowledge of the vision, mission and mandate of the Legislature. Only 6% indicated that they did not know the vision, mission and mandate of Legislature

Question 3 – Does the Eastern Cape legislature’s vision and mission contribute to service delivery in the province?

There is acceptance that the vision and mission do contribute to service delivery hence twenty two(22) respondents, which is 67%, affirmed that the vision and mission contributes to service delivery in the province, and only 21%, seven (7) respondents said the vision and mission did not contribute to service delivery in the province.

Question 4 – Does the legislature (in your opinion) perform its functions effectively?

There is doubt as to the effective functioning of the legislature hence fifteen (15) respondents,45%, are not sure (somehow), and only 40%, thirteen (13)are sure and five (5), which is 15% are definitely not sure and answered “no” to the question.

Question 5- Is there a general understanding of what oversight is?

Twenty one (21), 64% of the respondents affirmed that there is general understanding of oversight, and 6% answered “no” to this question and 30%, ten (10), were unsure and answered “some how” to the question.

Question 6 – Do Eastern Cape Legislature oversight processes meet your expectations?

There is uncertainty on whether the legislature does meet the expectations of people hence eighteen (18), 55% of the respondents answered “some how” to this question and only 30%, which is ten (10) respondents confirmed that the Eastern Cape Legislature oversight processes meet their expectations.

Question 7- Are petitions handled appropriately?

There is a general view that petitions are not properly handled as only nine(9) respondents, which is 27% indicated that petitions are handled appropriately, and thirteen (13), that is 45% indicated that petitions are not handled appropriately.

It can be deduced that quantitatively there is general understanding from the respondents of the mandate of the Legislature. This is influenced by the fact that respondents are role-players in the oversight processes but the questions assisted in bringing out its effectiveness or not in meeting its mandate.

4.5.2. PERFORMANCE OF THE LEGISLATURE

The general insight to the questions posed to respondents in this section of the questionnaire is shown in the graph below:

Performance of the Legislature

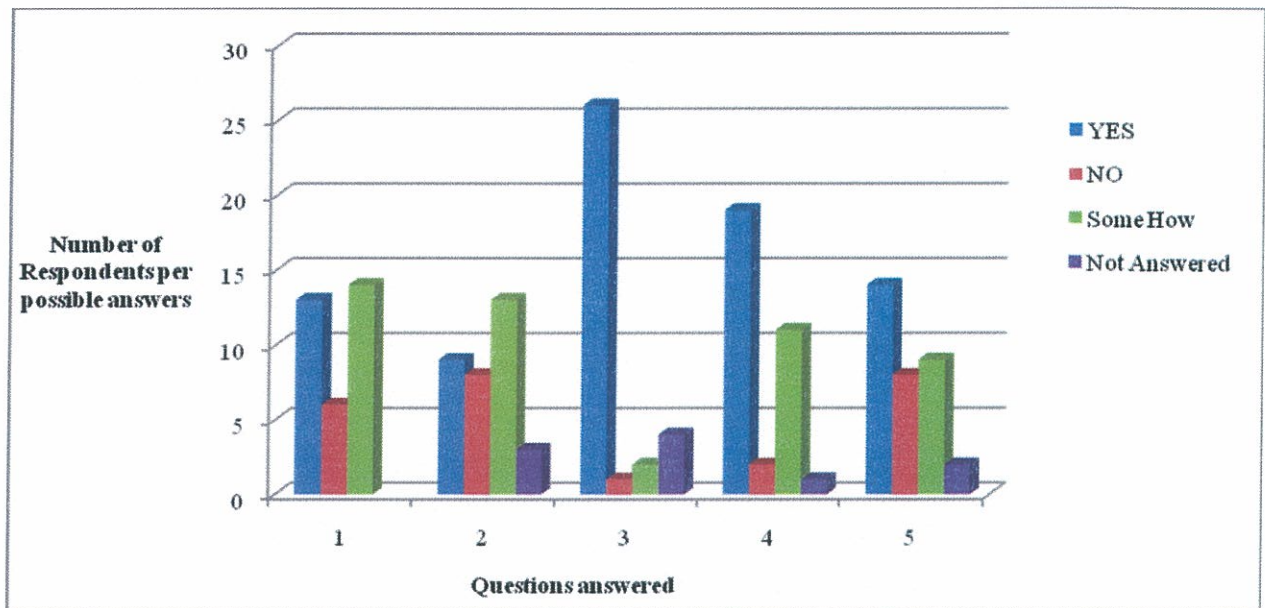


Diagram 4.2

Question 1- Does the legislature function as you would expect it to?

It is clear that the legislature is not functioning as expected because only thirteen (13), 39%, out of the thirty three (33), 100%, of the respondents have answered “yes” to this question. This means that less than half claim the legislature functions as expected, and fourteen (14), which is 43%, answered “some how” to the question which indicates that the Legislature can improve on the way it functions.

Question 2- Does the Legislature have a clear Performance Management (for oversight) system in place?

It is clear there is no clear performance system as only nine (9), 27%, of the respondents indicated that there is a clear Performance Management system in place, and 33% indicated that there is no Performance Management System in place and 40% indicated that they were unsure of the Performance Management System.

Question 3- Do you think the Legislature can improve in its Performance if yes (in what areas)? If no, why and what can be done to rectify that?

Twenty six (26) of the respondents, 79%, have responded “yes” to this question, from which a deduction can be made that performance at the Legislature can improve. Details and comments will be dealt with in the qualitative section of the analysis.

Question 4- Do you think the Legislature Performance contributes to service delivery in Departments and in the Province?

58%, nineteen (19) respondents responded in answering “yes” to this question, indicating that the Legislature’s Performance contributes to the overall service delivery of departments in the Province.

Question 5- Do you think Provincial Departments appreciate and acknowledge the oversight responsibility of the Legislature

Even though fourteen (14) respondents, which is 42%, less than half, have answered “yes”, eight (8), 30% answered “no”, it is noted that a number of comments have been raised. These comments will be dealt with in the qualitative section.

It can be deduced that the Legislature is performing at 49% of its possible 100% capacity overall, which indicates that the Eastern Cape Legislature can improve in its overall performance to ensure effective service delivery in the Province.

4.5.3. INSTITUTIONAL FRAMEWORK OF OVERSIGHT

The general insight to the questions posed to respondents in this section of the questionnaire is shown in the graph below:

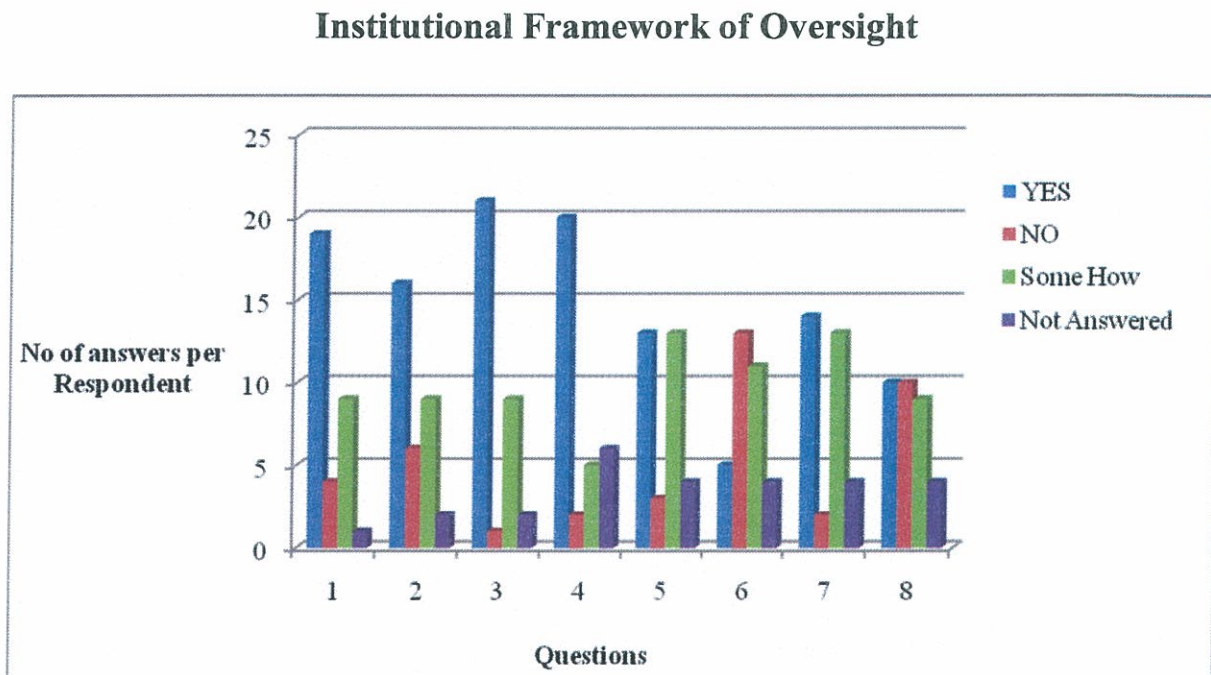


Diagram 4.3

Question 1- Is the Legislature properly organized/ structured to perform its function?

From the answers received for this question it can be deduced that 58% of the respondents agree that the Legislature is properly organized/structured to perform its functions. 15% of the respondents have indicated that the Legislature is not organized to perform its functions successfully. 27% of the

respondents are not convinced that the Legislature is organized/structured to perform its functions successfully.

Question 2- Are procedures and processes of reporting clearly understood by all involved in the oversight function?

This question was answered by 31 of the respondents and 16, approximately 50% of the respondents indicated that the procedures and processes of reporting are clearly understood by all who are involved in the oversight function. It is interesting to note that 25% of the respondents said “no” to the question and a further 25% were unsure of how to answer the question.

Question 3- Is the current committee structure functioning effectively?

From the respondents it could be deduced that the current committee structures are functioning effectively, as the positive answers are a total of 64%, less than 10% of the respondents indicated that the committee structure is not functioning well, and 26% is unsure of the current committee’s functions effectiveness.

Question 4- Are there clear protocols of what is expected from Provincial Departments by committees?

From the responses received from the respondents it is clear that 61% of the respondents perceive the protocols to be clear, 24% indicated that the protocols

are not clear and 15% are not sure if the protocols are clear to the provincial departments.

Question 5- Is information provided by departments (use Y/N):

Question 5a - Understandable

When looking at the answers given to this question it can be deduced that information received from departments is not understandable, as only 39%, of the respondents indicated that the information is understandable, 21% indicated that information is not understandable and 40% was not sure of which answer to give, making it a total of 61%, of the respondents who did not give a positive answer.

Question 5b – Reliable

It is disturbing to note that only 15% of the respondents indicated that the information provided by departments is reliable, 52% answered that the information is not reliable and 33% indicated that they were not sure if the information was reliable or not.

Question 5c – Relevant

It is noted that here 42% of the respondents indicated that the information received from departments is relevant, 18% indicated that the information is not relevant, and 40% was not sure if the information was relevant or not.

Question 5d – Comparable

It was found that 30% of the respondents indicated that the information provided by departments was comparable, 43% indicated that the information was not comparable, and 27% was not sure if the information was comparable or not.

It can be deduced that the overall understanding of the functions and processes of the Legislature's Institution Framework of Oversight, is understood by the majority of the respondents and the processes are effective.

4.5.4. AVAILABILITY OF RESOURCES

The general insight to the questions posed to respondents in this section of the questionnaire is shown in the graph below:

Availability of Resources

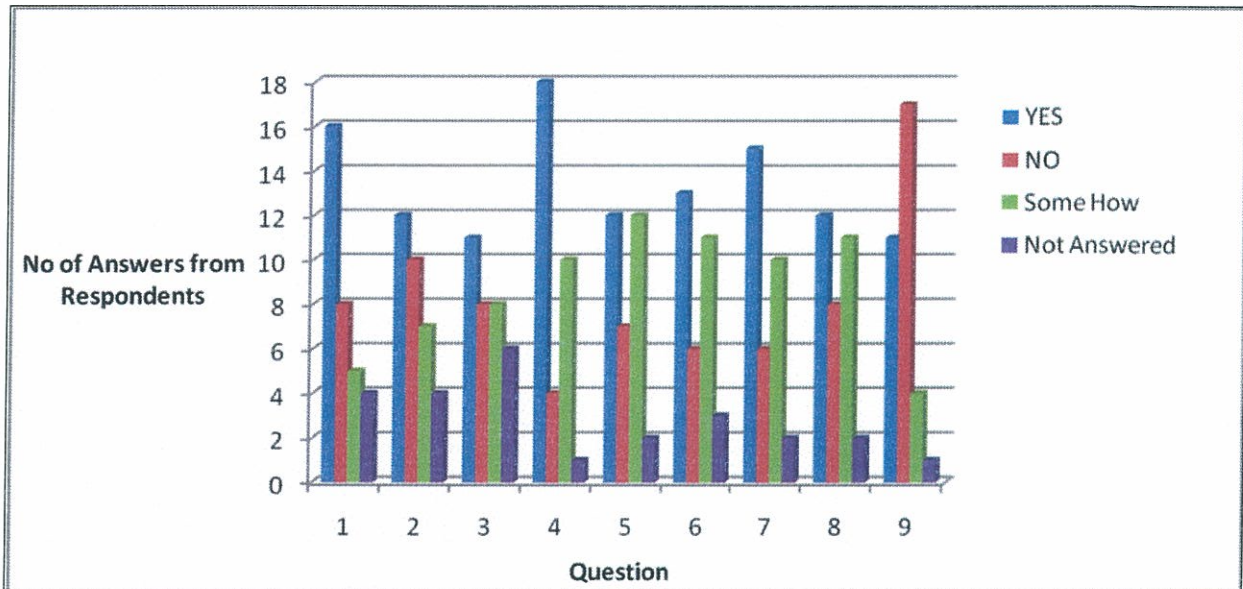


Diagram 4.4

Question 1 – Is the legislature resourced to do its work? (Use Y/N)

Question 1a- Financially

The respondents, (49%,) indicated that the Legislature is not adequately resourced in the financial area, 36% of the respondents said no and 15% indicated that they are unsure of the financial resources that are available to the Legislature.

Question 1b- Human (especially support staff)

42% of the respondents indicated that there are not enough support staff resources at the Legislature, 37% indicated that there are enough support staff available as a resource to the Legislature, and 21% indicated that they were not sure of the human resources available.

Question 1c – Material

It can be deduced from the responses received that the Legislature needs to improve in this area of resources, as only 37% of the respondents indicated that the Legislature is resourced adequately in this area, and 42% indicated that it was not, 24% indicated that this area could be improved or stay the same as they did not answer the question with a “yes” or a “no”.

Question 2 -Are Members adequately capacitated to perform their functions effectively?

Question 2a- Ability to ask the right questions

Members are adequately capacitated to perform this function, “Ability to ask the right questions”, as 55% of the respondents, indicated that members are capacitated, and only 15% indicated that members are not capacitated in this area, and 30% was not sure.

Question 2b – Listening / communication

The answers received for this question is not very positive as only 37% of the respondents indicated that members are capacitated in listening and communication skills, and the total percentage combined for “no” and “some how” is 63%, indicating that capacitating is required in this area.

Question 2c – Probing

In this area of capacity it is also noted that members do need capacitating in this skill, as only 39% of the respondents indicated that members are capable and 27% indicated that members are not and 33% were unclear of the members’ ability in this area.

Question 2d – Critical thinking

It can be deduced that members are critical thinkers as 45% of the respondents indicated that members are critical thinkers, 25% of the respondents indicated that members are not critical thinkers, and 30% of the respondents were unclear of the members’ ability in this area.

Question 2e – Emotional intelligence

This area of the resource question indicates that members are spread over the ability level, as 37% of the respondents answered that members are able to perform this function effectively, 30% indicated that members are not able to

perform this function effectively, and 33% were unclear of the members' ability in this area.

Question 3 - Do you think Members have sufficient time allocated to do oversight?

Time is a critical area of resource availability for members, to enable them to perform effectively. It is deduced from the answers received from the respondents that more time is needed, as 55% of the respondents indicated that the time allocated for oversight is not sufficient, only 33% indicated that the time is sufficient, and 12% was unsure of the time allocated to do oversight.

In the section of resources it can be deduced that the Legislature has to improve in this area to capacitate the members, as resources are critical in ensuring that members are able to do their oversight work effectively and efficiently.

It can be deduced from the above that "measurement is a fundamental aspect of social science research. It may be a transition from concepts to variables- from sometimes ambiguous mental images to empirical measures."(Babbie at al 2003: 26)

4.6. THE QUALITATIVE ANALYSIS OF DATA COLLECTED

Bless (2000: 156) describes qualitative research as research that depends on unstructured interviews steered by the researcher to take a particular desired direction. According to Clark et al (2000:40) it is the researcher's skills that determine data collection.

4.7. REPORTS

4.7.1. AUDITOR GENERAL

On 23 October 2007 the Auditor General, Mr. Terrence Nombembe presented a report on the audit outcomes of the 2006/07 financial year for the Eastern Cape provincial departments. This was the first time that a provincial picture of the audit outcomes of all departments was presented to the Legislature. All MEC's and Heads of Departments were invited and responded with full attendance. Departmental reports were analysed and here under is the presentation as summarized.

4.7.2. PROVINCIAL DEPARTMENTS – EASTERN CAPE

Table 4.1. 2006-07 Audit Opinion

TYPE OF AUDIT OPINION	2006-07		2005-06	
	No.	%	No.	%
Adverse	3	23	0	0
Disclaimer	1	8	5	38
Qualified	7	54	5	38
Other matters (2005-06 : Emphasis)	2	15	3	24
Unqualified	0	0	0	0
TOTAL ANALYSED	13	100	13	100
TOTAL	13	100	13	100

The table above reflects the following departmental audit opinions:

Adverse =Departments of Health, Social Development and Education

Disclaimer = Department Public Works

Qualified = Department of - Sports, Recreation, Arts and Culture

Finance

Office of the Premier

Economic Development, Environment and Tourism

Housing, Local Government and Traditional Affairs

Transport and Roads

Provincial Legislature

Other matters of emphasis = Department of Safety and the Department of
Agriculture

Unqualified (Clean Audit report) = No department

A number of contributing factors to the state of affairs as reflected above were identified. The major one was lack/ poor basic management skills by public officials. Even the oversight body, the Legislature had not been spared from the crisis. Moreover, if one compares the 06/07 audit opinions with 05/06 as per the figure above, the situation is getting worse, because during the 05/06 financial year there was not a single department that received an adverse audit opinion compared to 3 in 06/07. Furthermore, in both years none received an unqualified audit report. The increase in the number of qualified and adverse opinions could be attributed to the departments' inability to follow up and correct previous years identified weaknesses. Furthermore the inability of the Legislature to monitor properly SCOPA resolutions contributes to this anomaly.

This also points to weaknesses in the oversight role of the legislature, particularly as it pertains to monitoring.

5.5.2 PUBLIC SERVICE COMMISSION REPORTS

Section 196 of the Constitution provides for a Public Service Commission whose powers and functions are dealt with in subsection 4(a) to (g) of the same section. For the purposes of this topic, focus will be on the following powers and functions:-

“b) to investigate, monitor and evaluate the organization and administration, and the personnel practices of the public service,

c) to propose measures to ensure effective and efficient performance within the public service,

e) to report in respect of its activities and the performance of its functions, including any finding it may make and directions and advice it may give, and to provide an evaluation of the extent to which the values and principles set out in section 195 are complied with,

f) (i) to investigate and evaluate the application of personnel and public administration practices, and to report to the relevant executive authority and legislature, and

(ii) to monitor and investigate adherence to applicable procedures in the public service.

As indicated above, the PSC reports to all Legislatures on its work /activities in the provinces. The most recent reports tabled are as follows:

Report on the Audit of Reporting Requirements and Departmental Monitoring and Evaluation Systems within National and Provincial Government – June 2007.

The following are key findings by the PSC on the Eastern Cape after having sampled four departments, namely,

Education.

Health

Public Works

Office of the Premier

On average the province meets half of its reporting requirements with regard to the 30 different reports that need to be submitted to various national departments. Reports are mainly used to monitor programme implementation, strategic planning and budgeting but not generally for resource allocation, resource mobilization, impact knowledge sharing, conferences and publications.

There is an awareness of the need to institutionalize Monitoring and Evaluation

(M&E) systems within the province, with two departments (Health and Office of the Premier) having established M&E units, although these lack capacity.

Even though this kind of reporting cuts across provinces, the Eastern Cape administration has received much assistance and had numerous interventions, with the last one in 2004 (the IMT) reporting on a number of weaknesses in the system. The IMT consisted of senior managers from National Departments, consultants and experts in management from the private sector who were sent by the then President Mbeki to assist the province while the Section 100 constitutional intervention was applicable. It became clear that lack of capacity, mal-administration are the main sources of the woes of the Eastern Cape government.

It is interesting to note though that House Resolutions adopted by the ECPL indicated that the committees had already identified the issues raised and observed by the IMT well before these were sent to the province. The IMT used the Auditor General's Report of the financial year 2001/02, and the various Legislature findings and recommendations on reports of the House which had raised these issues as early as year 2000 and even before. Also worthy noting is the Public Service Commission report dated August 2007 on the Management of Poor Performance in the Public Service in which the PSC concludes that management is not up to the task of managing poor performance. This assertion

reflects a finding of senior management's inability/ unwillingness to manage effectively and efficiently in the public service.

In May 2007 the PSC tabled a report on Senior Management Service Compliance with Performance Agreements in the Eastern Cape Provincial Administration. This report was a result of the study conducted by the PSC on compliance by Senior Management Service (SMS) with Performance Agreements in 06/07 financial year. The study was prompted by reports of inconsistency of Senior Management in implementing the Performance Management and Development Systems (PMDS) in the Public Service (Eastern Cape). The PSC made the following observation:-

“Heads of Departments are supposed to provide the required leadership to drive performance management and development in their respective departments. Working together with their Executing Authorities, Heads of Departments are supposed to lead by example and ensure that they themselves enter into Performance Agreements and undergo performance reviews as required by the Framework for the evaluation of HOD. Sadly in the Public Service Commission's experience, such leadership is largely still lacking”. This statement serves as an indictment on the part of members of the Legislature as the “supervisor” as well as members of the Executive Council as leadership with direct hands on the responsibility of managing heads of departments. The PFMA section 36(5) states, “ The employment contract of an accounting officer

for a department, trading entity or constitutional institution must be in writing, and where possible, include performance standards". This therefore means that where HOD's contracts fall short of performance agreements, such HOD's are in breach of the law and as such that act is punishable. This therefore raises the questions as to the number of managers who have had disciplinary steps taken against them for non-compliance. This is the responsibility of the Executing Authority. The Legislature must get answers from the respective executing authorities as to whether or not corrective measures have been taken against managers that have not complied with provisions of the act.

4.8. INTERVIEWS

On interviewing the Deputy Speaker the following experiences have been shared with the researcher through an interview. The Deputy Speaker (Interviewee) has been a Member of the Legislature since 1994 and this points to experience gained over that period of time. In sharing such experience, the interviewee has shown that in the first five years of democracy in South Africa, the Eastern Cape could not close its books, owing to the amalgamation of three previous administrations (Ciskei, Transkei, Cape Provincial Administration). Accounting books of these administrations were previously un-audited and therefore closing balances could not be established. This situation was exacerbated by the lack/ unavailability of supporting documentation and thus nothing could be done except to zero-base all books of accounts. This decision

was taken by the Legislature in 1998. Despite this, the Director-General of the Department of Public Service also conducted Provincial Reviews which were followed by the Presidential Review Commission instituted by the then President Mandela. All these reviews came to similar conclusions, which included the following:

The public service lacked capacity and was unable to adjust to principles of transparency due to the deep-rooted level of corruption and maladministration which was entrenched in the ethos of officials.

In 2007, despite all endeavors undertaken previously which included the (IMT) Interim Management Task Team and application of section 100 of the Constitution by National Government on the Eastern Cape, the financial management of departments has not improved. However a number of reports per constitutional obligation of the Public Service Commission have been concluded.

All the above reflects that not all is well in departments in the Eastern Cape. The people of the province voted for the members of the Legislature for them to represent their interests in government. Government performance in departments internally is found wanting by credible institutions established to ensure good corporate governance such as the PSC and the AG's office. This is further illustrated by the same findings and recommendations year after year.

This state of affairs impacts negatively on the image of the province and delivery of services to the people.

Understanding the background of the public service in the province, and balancing that understanding with the needs of the people, as well as the principles of democratic governance as enshrined in the Constitution, the Legislature is challenged with providing solutions. This study has focused more on internal governance of both the Legislature and government departments. There still needs to be a further study on the impact that this state of affairs has on service delivery and citizen satisfaction survey on the quality of such service delivery because lack of good governance internally in an organization does have a negative impact on performance of that organization with respect to its “customers”.

According to Stapenhurst et al,(2005:10) for the Legislature to be able to provide leadership in this regard, “it is necessary for the committees of Legislature to be supported adequately in this manner:-

There must be co-operation of all parties on the committee.

Effective research staff with knowledge of public administration and accountability must be provided.

Members must have relevant experience.

Clear vision on improvements that are needed in public administration.

Effective chairing and proper follow-u”.

4.9. CONCLUSION

Learning from the above observations, it can be deduced that “measurement is a fundamental aspect of social science research. It may be a transition from concepts to variables- from sometimes ambiguous mental images to empirical measures.”(Babbie at al 2003: 26).

It must be noted that quantitatively there is general understanding from the respondents of the mandate of the Legislature. This is influenced by the fact that respondents are role-players in the oversight processes but the questions assisted in bringing out to the fore the effectiveness or not of the Legislature in meeting its mandate. From the analysis it is clear that the Legislature is performing at 49% of its possible 100% capacity overall, which indicates that the Eastern Cape Legislature can improve in its overall performance to ensure effective service delivery in the Province.

Statistics clearly indicate that the overall understanding of the functions and processes of the Legislature’s Institution Framework of Oversight, is understood by the majority of the respondents and the processes are effective. In the section of resources it can be deduced that the Legislature has to improve in this area to

capacitate the members, as resources are critical in ensuring that members are able to do their oversight work effectively and efficiently.

The wealth of information received from all respondents cannot be underestimated and as such findings, recommendation and conclusion will be presented in the next chapter with the hope that these will help improve service delivery.

Chapter 5 : Findings, Conclusions and Recommendations

5.1 INTRODUCTION

“Humans employ two types or methods of coming to conclusions about things: deductive reasoning and inductive reasoning” (McNabb 2002:61). The purpose of this chapter is to present an exposition of the findings of the study, make recommendations and draw some conclusions. The research sought to evaluate the efficacy of the oversight role performed by the Eastern Cape Legislature in relation to the poor quality of service delivery by the respective provincial departments. The study also sought to come up with recommendations that can be adopted and implemented with a view to improve oversight and thereby improve government’s performance in the delivery of services.

As indicated earlier with regards to methodology, consultations through questionnaires and interviews coupled with literature reviews have been conducted. Key to literature review has been legislation which includes the Constitution 1996 as well as such regulatory framework as the PFMA. Chapters three and four respectively dealt at length with the methodology and data presentation in the study. This chapter is intended to present findings as reflected hereunder.

5.2. FINDINGS

This section deals with findings as summarized from observations made during the data analysis process. These findings cover areas such as quantitative research in the form of questionnaires, as well as from qualitative comments made by the respondents. The other areas covered are deductions made during literature review (Auditor General and Public Service Commission reports). The section also covers deductions made from analysis of books, and all of these are summarized here-under.

There is a weak link between the functioning of the Legislature and the Executive Authority. This weak link is characterized by the following:

- ❖ Minimal or no action is taken by the executive on implementation of Legislature resolutions/ decisions.
- ❖ Weak relations result in MPL's (Members of the Provincial Legislature) frustration levels reaching a point where their emotional intelligence or leadership capability is being diminished.
- ❖ Even though the Legislature does raise areas of poor performance and/ or non-compliance in management of departments, minimal or no corrective measures are taken against non-performing officials by the responsible executing authorities.

- ❖ Most government officials, whose responsibility it is to deliver services, regard the oversight role as a fault finding exercise and hence the fear-driven appreciation. Others call it critical oversight.
- ❖ Parliamentary Liaison Officers do not understand their role of being a link between departments and the Legislature and this contributes negatively to already weak relations.
- ❖ There is also malicious compliance by officials which is influenced by an intransigent, negative attitude rising from knowing that there is no consequence for this behaviour.
- ❖ Tracking of implementation of House Resolutions and follow-up on decisions taken is very weak since the Legislature is poorly resourced and therefore limited in its capacity to effectively perform its functions.
- ❖ Most government officials lack professionalism, commitment and dedication in their work hence repeatedly the same House Resolutions are held over year after year.
- ❖ The doctrine of “separation of powers” contributes a great deal in the confusion of roles of the Executive and the Legislature, despite the constitutional provisions being clear on the mandate of each.

- ❖ Poor service delivery contributes a great deal in denting negatively the image of the Provincial Government.
- ❖ The Legislature as an institution has weak internal management performance particularly at sectional management level.
- ❖ The quality of information supplied by departments is often unclear, unreliable, irrelevant, in-comparable and difficult to understand thus resulting in doubt on its trustworthiness.
- ❖ The leadership style of Members is also questionable in that sarcastic style of asking questions (interrogation) seems to be the common feature in the breakdown of the relationship.
- ❖ Delays in discussing site visit reports contributes to the diminishing confidence or trust of the people in the parliamentary system.

5.3. CONCLUSIONS

According to MacNabb (2002:214), “The numerical values in correlations analysis serve as a mathematical *summary* measure of the degree of correlation between the X and Y variables. The summary number is called the *correlation coefficient*”. This therefore means that there is a correlation between the Legislature as the overseeing body and government departments as performing bodies. The 49% statistical result on performance of the Legislature clearly

indicates that there are weaknesses in the oversight performance of the Legislature, hence the consistent poor performance by government.

Members of the Executive are members of the Legislature before they join the Executive and all Members of the Legislature are elected leaders of society and as such whether in the executive or in the Legislature, these members carry an oversight responsibility. Members of the Executive are expected to oversee implementation of policy priorities in their respective departments, while MPL's are expected to oversee implementation of policy priorities and outcomes by their counterparts in the executive. "Oversight... is the proactive interaction initiated by a Legislature with the executive and administration organs... that encourages compliance with the constitutional obligation on the executive and administration to account to the public's elected representatives, and which advances the ideals of good government, development and cooperative governance" (Besdziek *at al* 1999: 8).

All Members of the Legislature are elected to lead but members of the ruling/governing party have an added responsibility of ensuring implementation of the mandating party's policies if it is to retain and maintain power. The challenges facing the Eastern Cape Administration are not insurmountable but require able leaders to play their role, especially public representatives. Administrative heads of departments are not immune from this responsibility since they are appointed on the basis of individual qualifications and understanding of the mandating

party's policies. Furthermore, Section 195 of the Constitution, 1996 dictates the basic values and principles governing the public service, through which these accounting officers are expected to lead their departments with the support from the political head.

The Eastern Cape Province therefore requires effective leaders who are able to “see whether his or her co-leaders have a big enough vision for their areas of responsibility. Great leaders know that the size of the vision determines the magnitude of the outcome...and the smaller the vision, the smaller the outcomes” Tucker (<http://govleaders.org/gallup-leading-leaders.htm>). This assertion therefore enjoins the leadership of the people, public representatives to be great leaders indeed. It goes without saying that the statement by former President Mbeki to the effect that “Managers must manage and leaders must lead” remains a challenge for the Eastern Cape.

This leadership ability is expected to be displayed in the allocation of financial resources. Further the Legislature is also expected to utilize these resources in a manner that places its core business at the forefront of everything it does. Whilst resources are never enough, effective and efficient utilization of such scarce resources, must be the guiding principle in the budgetary and expenditure processes. For this to take place, both political and administrative leadership in both the Executive and the Legislature must share the vision of the Legislature as discussed earlier. Recommendations on how to achieve this follow here-

under. The Legislature has an important role to play in the governance of the Province. Failing to play the leadership role is equal to failing the people of the Province in the important task of delivery of services, especially to the poor.

5.4. RECOMMENDATIONS

The views expressed in this section as recommendations are based on the comments from respondents and observations made by the researcher throughout the research process, on the strength of the researcher's personal experience in the field of study. The recommendations may seem few in the light of the number of findings. This is due to the fact that the findings are a multiplicity of interconnected outcomes resulting from major and key actions not being affected.

For instance, when leaders give strategic leadership, the question of non-implementation of House Resolutions/ decisions will not arise. This means that maintaining discipline will be at the core of day- to- day performance of all involved and this will contribute to minimizing audit queries and promoting efficiency and effectiveness. To enable leaders to be able to provide strategic leadership, capacity building must be prioritized for both political and administrative leaders. This means that the key priority must be to capacitate leaders so as to enhance their performance. This will also assist in clarifying roles and responsibilities, as well as strengthening emotional intelligence of

such leaders. Respect for each other's position/ responsibility will also be promoted, thereby minimizing conflict and frustration. Training/ capacity building for leaders must be compulsory in order for them to be skilled enough to handle situational analysis and thereby provide adequate response and the necessary leadership /direction. This will also assist in promoting professionalism in the workplace, especially as it affects delivery of services. Therefore the style of leadership must improve.

The structure and functioning of the Legislature must receive the necessary attention and the budgetary process must take into account the responsibilities of the Legislature in this regard. The Rules of the House dictate that the Appropriation bill will not be passed by the House unless there is agreement between the MEC responsible for Finance and the Speaker on the budgetary allocation of the Legislature. This rule must be implemented to its logical conclusion. The Legislature must avoid discussing stale/outdated reports as this contributes to limiting its influence in addressing and responding to challenges picked up during site visits or oversight meetings.

As indicated earlier a further study on the impact of this failure on the delivery of services that is non-implementation of government policy needs to be conducted to assess the resultant wastage and human suffering.

Members of the Executive must play their role in the process of ensuring the delivery of services to the poor. The Premier of the Province must be well capacitated, strong enough to take unpopular decisions and be responsive to the task at hand. The leadership of the Province must be alive to the fact that “failing to lead is leading to fail” and the people of the Eastern Cape do not deserve a leadership that leads to fail.

The Eastern Cape has great potential to improve. All that is required is the positive attitude from all role-players coupled with good quality leadership that prioritises the needs of the people.

5.5. ANNEXURE

5.5.1. LETTER TO MEMBERS AND PROVINCIAL LEADERS

TO WHOM IT MAY CONCERN

As part of completing my Masters Programme in Public Administration at the University of Fort Hare, I have chosen for my Research Project the topic - AN ASSESSMENT OF THE PROVINCIAL LEGISLATURE - Improving our performance with regard to OVERSIGHT.

I do acknowledge the good work that has been done, but believe that through this exercise, there can even be better performance. I therefore would like to request you to participate in this study by sharing your insights and experiences about how performance can further be enhanced.

The targeted respondent of this study and purposive sample are the following:

POLITICAL OFFICE BEARES	LEGISLATURE STAFF
Leaders of Government Business	Secretary
MEC's	Chief Parliamentary Officer
Speaker	Directors / Managers
Deputy Speaker	Shop stewards
Chair of Chairs	Lower – rank staff members
Whips	Researchers
Chairperson of Committees	PUBLIC SERVICE OFFICIALS
Members	Director General
PUBLIC OPINION MAKERS	Heads of Departments
Public Service Commission in Eastern Cape	

Please participate in changing this environment by influencing such change through investing 10 -15 minutes of your valuable time and answer the questions attached hereto.

Your assistance and co-operation is much appreciated.

Thanking you in anticipation

Noxolo Kiviet (Miss)

5.5.2 QUESTIONNAIRE

QUESTIONNAIRE TO ASSESS EFFECTIVENESS OF EASTERN CAPE
LEGISLATURE IN FULFILLING THE OVERSIGHT RESPONSIBILITY

Vision, Mission & Mandate of Legislature	YES	NO	Some how	Comments
Do you understand what oversight is?				
Do you know the vision/ mandate of the Legislature?				
Does the Eastern Cape Legislature's Vision & Mission contribute to service delivery in the province?				
Does the legislature (in your opinion) perform its functions effectively?				
Is there a general understanding of what oversight is?				
Do Eastern Cape Provincial Legislature oversight processes meet your expectations?				
Are petitions handled appropriately?				
Any other relevant comment				

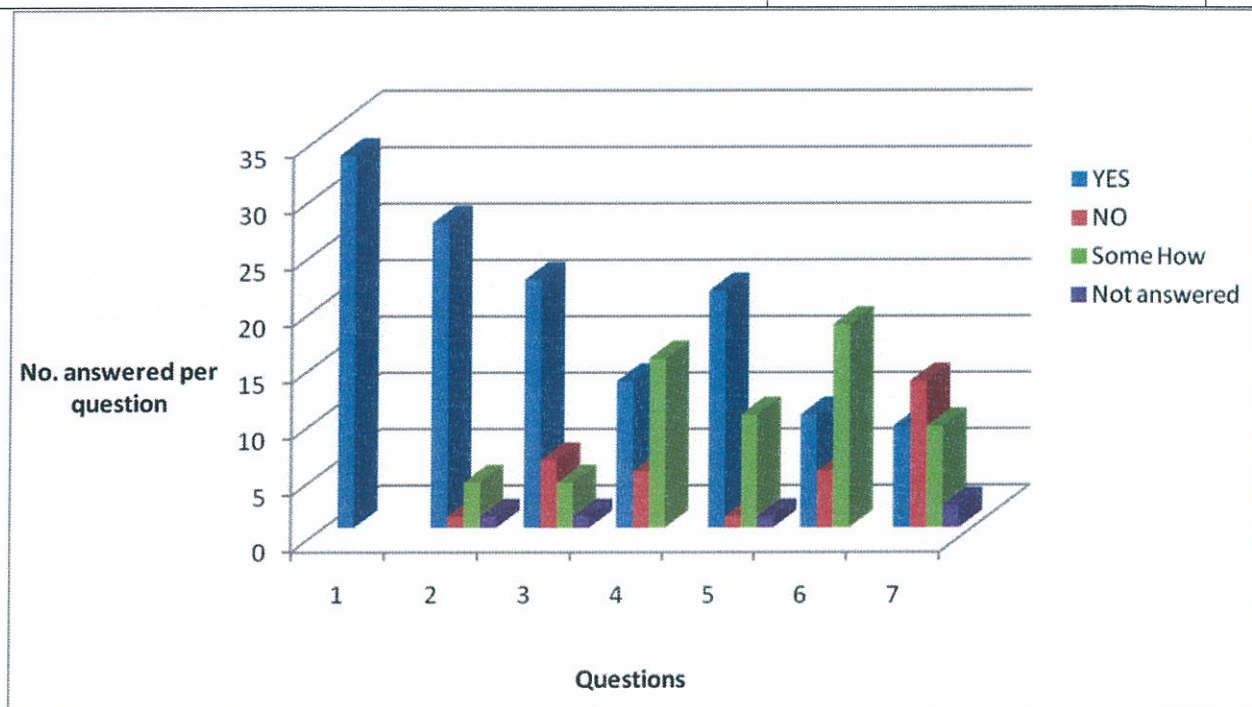
Performance of the Legislature	YES	NO	Some how	Comments
Does the Legislature function as you would expect it to?				
Does the legislature have a clear Performance Management (for oversight) system in place?				
Do you think the Legislature can improve in its Performance if yes (in what areas)? If no, why and what can be done to rectify that?				
Do you think the Legislature Performance contributes to service delivery in Departments and in the Province?				
Do you think Provincial Departments appreciate and acknowledge the oversight responsibility of the Legislature?				
Any other relevant comment				

Institution Framework of Oversight	YES	NO	Some how	comments
Is the legislature properly organized/ structured to perform its function?				
Are procedures and processes of reporting clearly under-stood by all involved in the oversight function?				
Is the current committee structure functioning effectively?				
Are there clear protocols of what is expected from Provincial Departments by committees?				
Is information provided by departments (use Y/N) Understandable Reliable Relevant Comparable				
Any other relevant comment				

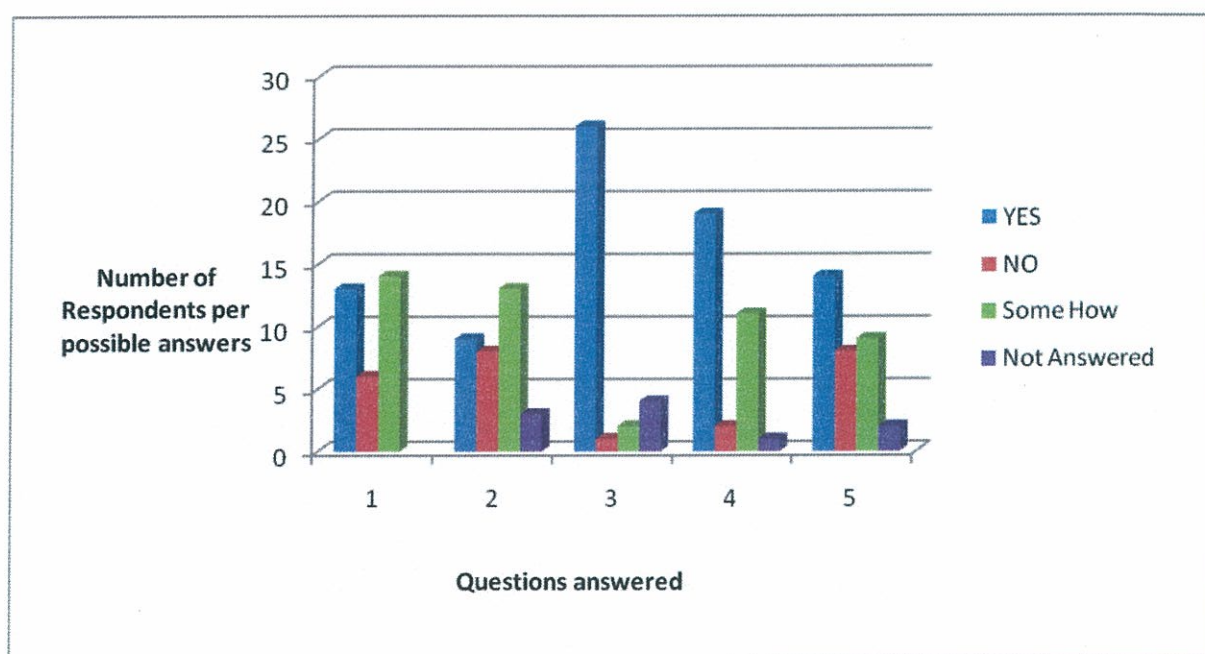
Availability of Resources	YES	NO	Some how	comments
<p>Is the Legislature sufficiently resourced to do its work? (Use Y/N)</p> <p>Financially</p> <p>Human (esp. support staff)</p> <p>Material</p> <p>Other? (specify)</p>				
<p>Are members adequately capacitated to perform their functions effectively?</p> <p>Ability to ask the right questions</p> <p>Listening/ communication</p> <p>Probing</p> <p>Critical thinking</p> <p>Emotional intelligence</p> <p>Other? (Specify)</p>				
<p>Do you think members have sufficient time allocated to do oversight effectively?</p>				
<p>General comments</p> <p>Please add any comments/ opinions/ views you have not listed above.</p>				

5.5.3. SUMMARY OF DATA COLLECTED

Vision, Mission & Mandate of Legislature	YES	NO	Some how	Not Answered	Total
1. Do you understand what oversight is?	33				33
2. Do you know the vision/ mandate of the Legislature?	27	1	4	1	33
3. Does the Eastern Cape Legislature’s Vision & Mission contribute to service delivery in the province?	22	6	4	1	33
4. Does the legislature (in your opinion) perform its functions effectively?	13	5	15		33
5. Is there a general understanding of what oversight is?	21	1	10	1	33
6. Do Eastern Cape Provincial Legislature oversight processes meet your expectations?	10	5	18		33
7. Are petitions handled appropriately?	9	13	9	2	33
	135	31	60	5	231
Any other relevant comment					

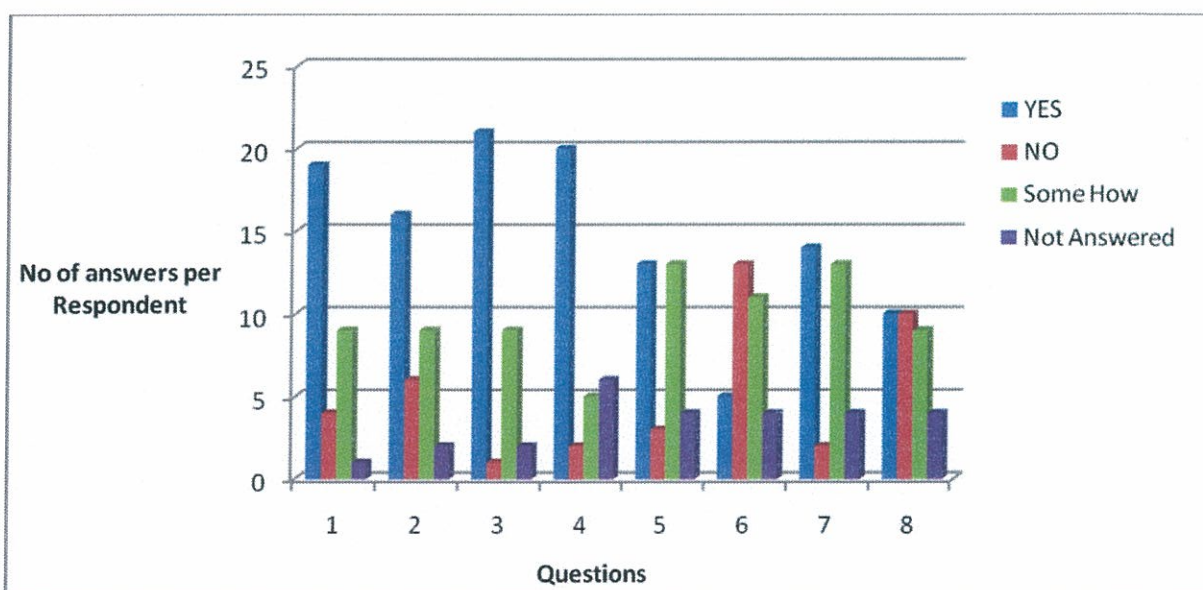


Performance of the Legislature	YES	NO	Some how	Not Answered	Total
1. Does the Legislature function as you would expect it to?	13	6	14		33
2. Does the legislature have a clear Performance Management (for oversight) system in place?	9	8	13	3	33
3. Do you think the Legislature can improve in its Performance if yes (in what areas)? If no, why and what can be done to rectify that?	26	1	2	4	33
4. Do you think the Legislature Performance contributes to service delivery in Departments and in the Province?	19	2	11	1	33
5. Do you think Provincial Departments appreciate and acknowledge the oversight responsibility of the Legislature?	14	8	9	2	33
Totals	81	25	49	10	165
Any other relevant comment					

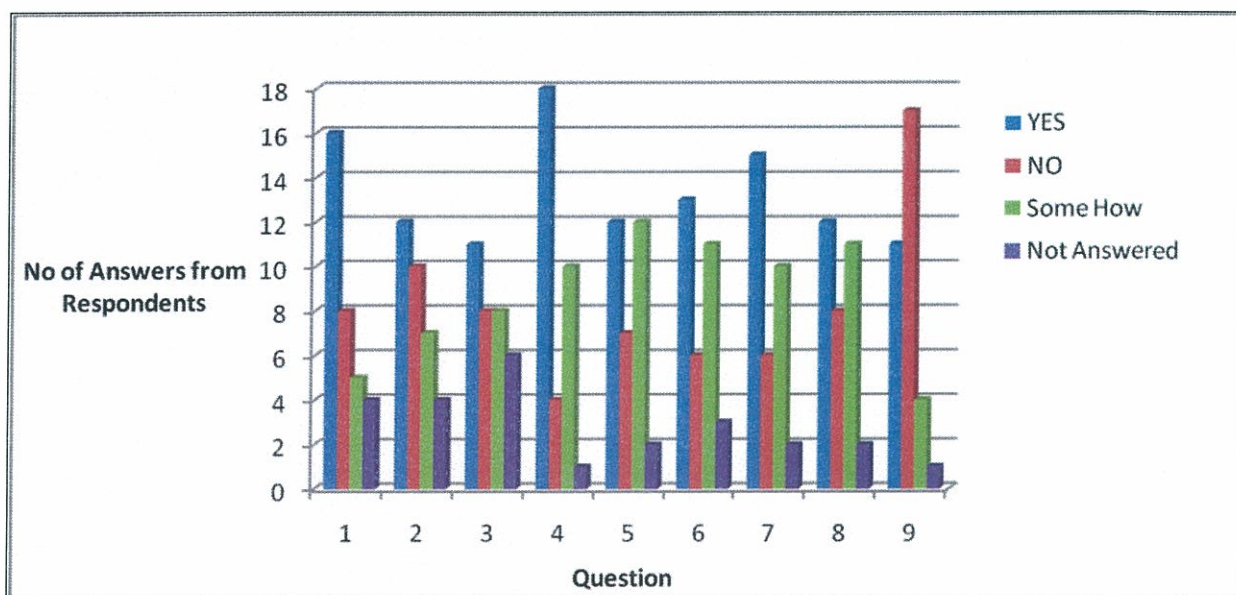


• Human (esp. support staff)	12	10	7	4	33
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Institution Framework of Oversight	YES	NO	Some how	Not Answered	Total
1. Is the legislature properly organized/ structured to perform its function?	19	4	9	1	33
2. Are procedures and processes of reporting clearly under-stood by all involved in the oversight function?	16	6	9	2	33
3. Is the current committee structure functioning effectively?	21	1	9	2	33
4. Are there clear protocols of what is expected from Provincial Departments by committees?	20	2	5	6	33
5. Is information provided by departments (use Y/N) Understandable	13	3	13	4	33
• Reliable	5	13	11	4	33
• Relevant	14	2	13	4	33
• Comparable	10	10	9	4	33
Totals	118	41	78	27	264
Any other relevant comment					



1. Is the Legislature sufficiently resourced to do its work? (Use Y/N)- Financially	16	8	5	4	33
Availability of Resources	<i>YES</i>	<i>NO</i>	<i>Some how</i>	<i>Not Answered</i>	<i>Total</i>
• Material	11	8	8	6	33
2. Are members adequately capacitated to perform their functions effectively?	18	4	10	1	33
a. Ability to ask the right questions					33
b. Listening/ communication	12	7	12	2	33
c. Probing	13	6	11	3	33
d. Critical thinking	15	6	10	2	33
e. Emotional intelligence	12	8	11	2	33
3. Do you think members have sufficient time allocated to do oversight effectively?	11	17	4	1	33
Totals	120	74	78	25	297
General comments					
Please add any comments/ opinions/ views you have not listed above.					



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