Code for
Ethical Leadership
in Local Government

THE ETHICS INSTITUTE

An initiative of The Ethics Institute in partnership with:

cooperative
governance

Department:
Cooperative Governance
REPUBLIC OF SOUTH AFRICA

SOUTH AFRICAN LOCAL
GOVERNMENT ASSOCIATION
SALGA
Inspiring service delivery

moral regeneration movement

INTELLECTUAL PROPERTY

Messages of commitment

November 2023

Father Smangaliso Mkhatshwa

Chair of the Local Government Ethical Leadership Initiative (LGELI) advisory committee, and chair of the Moral Regeneration Movement.

The journey to develop the Code for Ethical Leadership in Local Government commenced in earnest in November 2020 when the LGELI Advisory Committee had its first meeting. It was clear that there is a need for a document to guide municipal leaders on building ethical and effective organisations. The Advisory Committee has been steadfast in its position that this should be a moral rather than a legal document. We envisage that this Code will guide conversations on the spirit and practice of ethical leadership in local government, and impact positively on the lives of communities. I wish to thank the members of the Advisory Committee, as well as the Working Group for their dedication to the project.

Ms Thembi Nkadimeng

Minister of CoGTA

The Department of Cooperative Governance fully supports the development of the Code for Ethical Leadership in Local Government. The Code is in line with the strategic objectives of the Local Government Anti-Corruption strategy which puts specific emphasis on ethical leadership. In our view, the Code will contribute towards addressing some of the governance challenges at municipalities, especially the prevalence of unethical conduct by leadership at various levels. The Code was developed through a collaborative effort and there was extensive consultation with all key stakeholders. It is only through collaboration that we can win the fight against corruption and ensure the promotion of ethics in municipalities. Moving forward, it will be key to put measures in place to ensure that the Code is institutionalised in municipalities.

Cllr Bheke Stofile

President of SALGA

For good governance and service delivery to prevail, upholding ethical behaviour by public officials and councillors is fundamental. To improve good governance and work towards realising the goals of the Constitution and the White Paper on Local Government, it is crucial to establish an ethical framework for social and economic growth at the local level.

The Code for Ethical Leadership in Local Government is a vital component of inculcating such a culture of ethical and servant leadership in the sector. As a partner of the Local Government Ethical Leadership Initiative, SALGA is fully committed to drive the implementation of the Code.
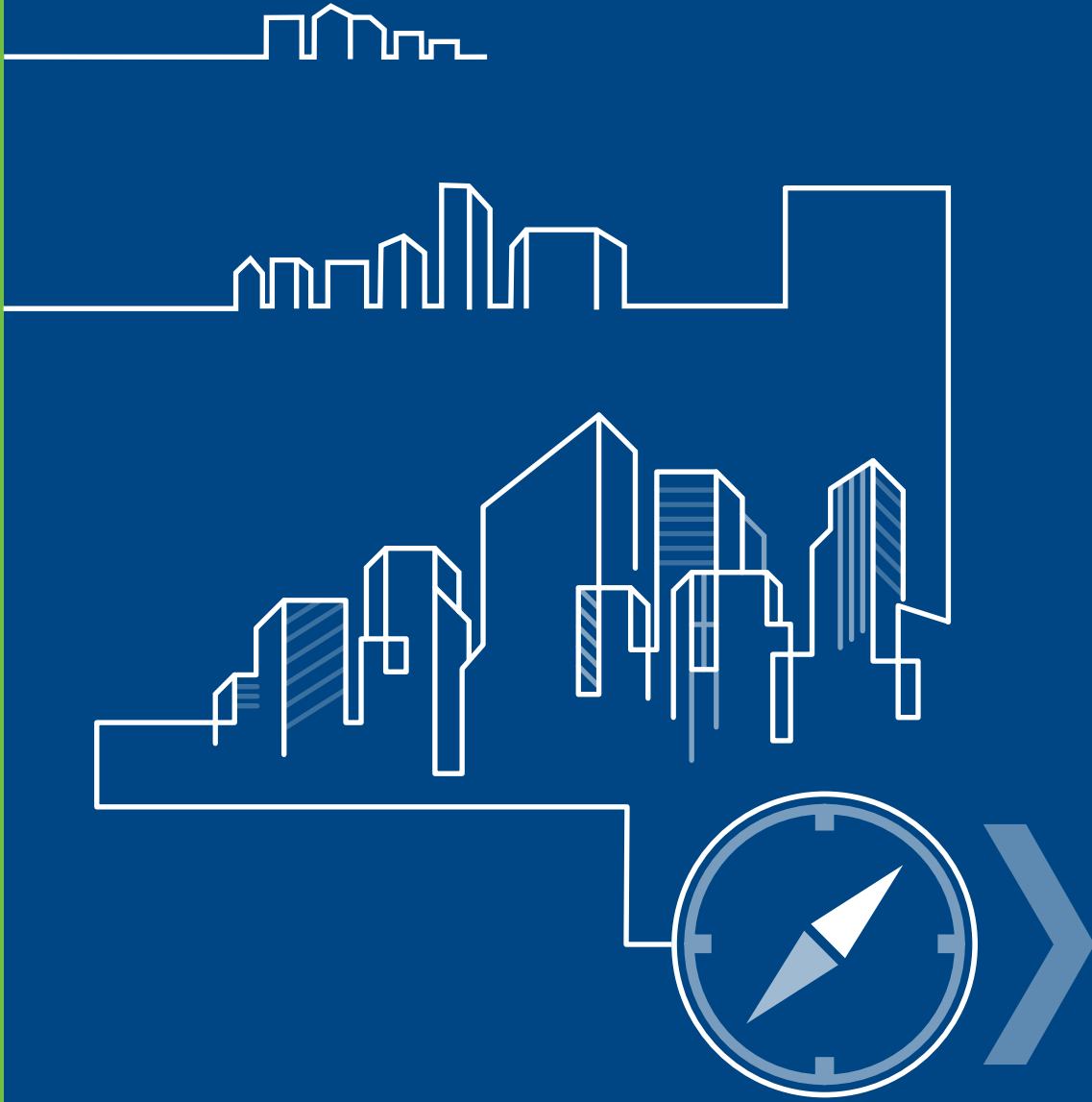
Prof Deon Rossouw

CEO of The Ethics Institute

Ethics is the cornerstone of safe, just, and prosperous communities. It is therefore imperative that leaders in local government should lead with personal integrity. However, personal integrity cannot be legislated. It depends on the personal commitment of leaders to put the interest of the communities that they serve before their personal interests. It is our hope that this Code will inspire our local government leaders to serve our local communities in the spirit intended in our Constitution.

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Introduction

1. Background to the Code

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

The White Paper on Local Government (1998) not only sets out the vision for democratic local government, but also envisions the type of political leadership required to achieve that vision – a political leadership which:

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

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

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

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

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

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

The Local Government Ethical Leadership Initiative (LGELI) was therefore established to give effect to this part of the Local Government Anti-Corruption Strategy. It is a partnership between The Ethics Institute (TEI), the Department for Cooperative Governance (DCoG), the South African Local Government Association (SALGA), and the Moral Regeneration Movement (MRM), and it was set up specifically to develop the *Code for Ethical Leadership in Local Government.*

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

The process is summarised in the graphic below:

Establishment of Advisory Committee	
National research	Desktop research
	Provincial engagement
	National engagement
	Survey
Discussion document	
Draft Code	
National consultation	
Code for Municipal Ethical Leadership	
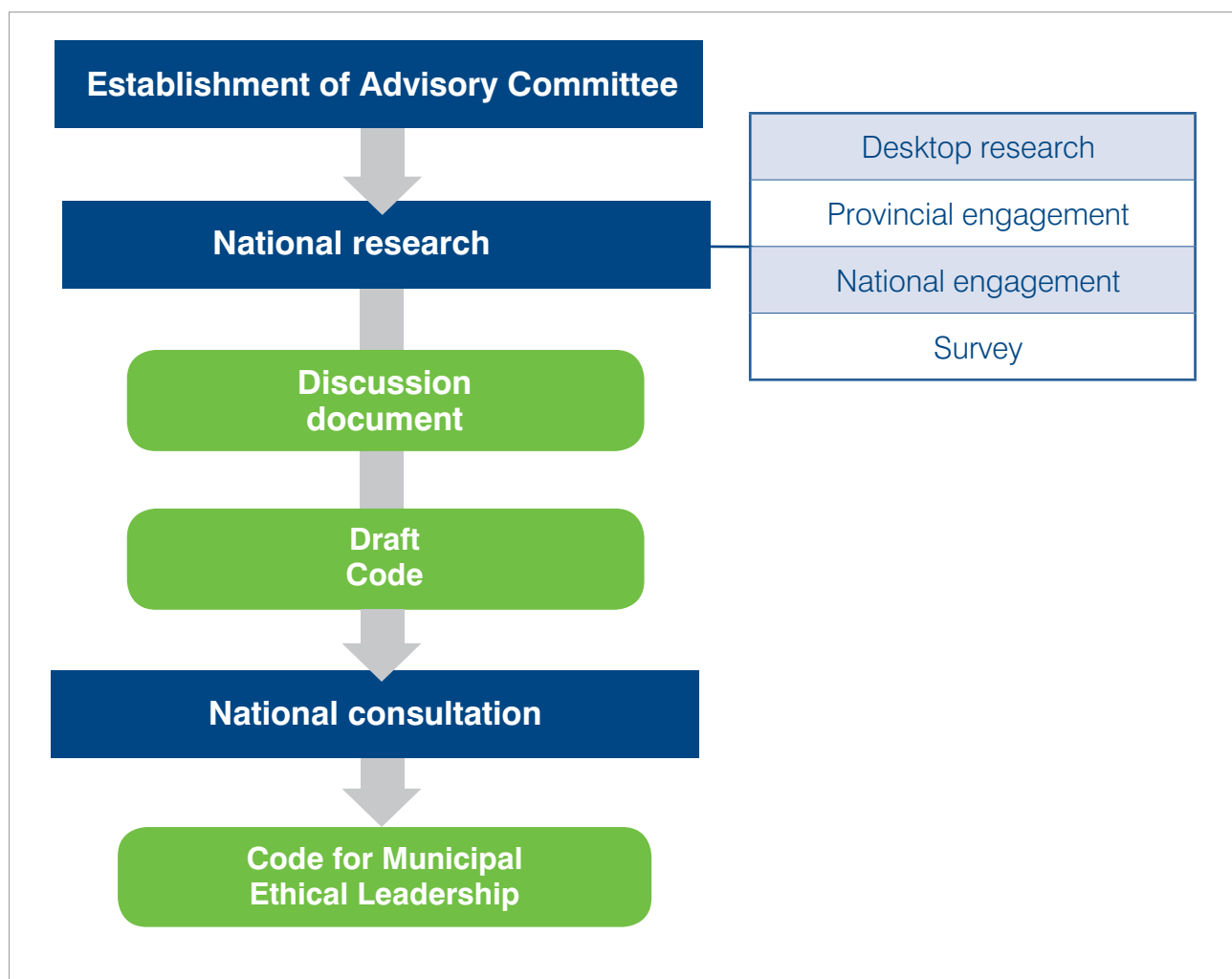
2. Purpose

The purpose of the Code is to give guidance to local government leaders on how to navigate those issues that have the biggest impact on ethical governance in municipalities based on the research. There are certain behaviours that are destructive to ethical governance, and should be avoided, and others that are supportive of ethical governance, and should be promoted.

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

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

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

While the Code for Ethical Leadership in Local Government contains some elements of personal conduct, it is predominantly about the role that leaders should play to ensure ethical and effective municipalities. So instead of being a code of personal conduct, it is a governance code, similar to the King Code for Corporate Governance. It guides leaders on how to create well-governed and effective organisations.

4. Who does the Code apply to?

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

Since the Code guides leaders on the ethical principles required to create healthy organisations, it applies both at the individual and collective levels. Each leader must personally decide to live the spirit and principles of the Code. The outcomes will, however, only be achieved if leaders also live and implement these principles as a collective. For that reason, councils are encouraged to formally adopt the Code through a council resolution.

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

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

5. Will the Code be enforceable?

The Code sets out the spirit and intent with which legislation and regulations should be implemented in local government. Neither spirit, nor intent can be legally enforced. Instead, it requires personal commitment. Leaders will either choose to abide by the Code, or they will not.

For example: one can put legislation in place to ensure that appointments are made. However, if people have bad intentions, they will find a way of complying with the law but still not appointing the best person. To ensure the spirit of the law is implemented requires good intent and moral commitment.

Our experience through the consultative process that was followed to produce this Code convinced us that there are enough good leaders who want to do the right thing – even when no one is watching.

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

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

6. Who will promote the Code?

The Code will be promoted, institutionalised, and supported by the project partners. The impact of the Code will be monitored and evaluated over time by DCoG and SALGA.

At the same time, the success of the Code depends on individual municipal leaders and community stakeholders. It is envisaged that they in turn will promote and support the Code by living it and sharing it in their sphere of influence.

7. Acknowledgement to King IV

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

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

The Code:
- Follows King IV's example of an *outcomes-based approach* for a governance code. This means that governance is not an end in itself, but a tool for delivering specific outcomes. The test of effectiveness is in whether these have been achieved.
- Adopts a *principle-based* (rather than a rules-based) approach to corporate governance. This approach requires leaders to mindfully apply the principles of the Code (in the intended spirit), rather than mindlessly complying with rules. *Mindful application* of codes of governance is about achieving the benefit of good governance in the interest of the municipality and applying the Code as a way of adding value and not as a compliance burden that adds no value.
- Embraces the understanding as advocated by King IV of seeing governance as a *holistic and integrated* set of arrangements.
- Adopts the idea that all of the principles set out in the Code are *collectively* required in order to work towards good governance.
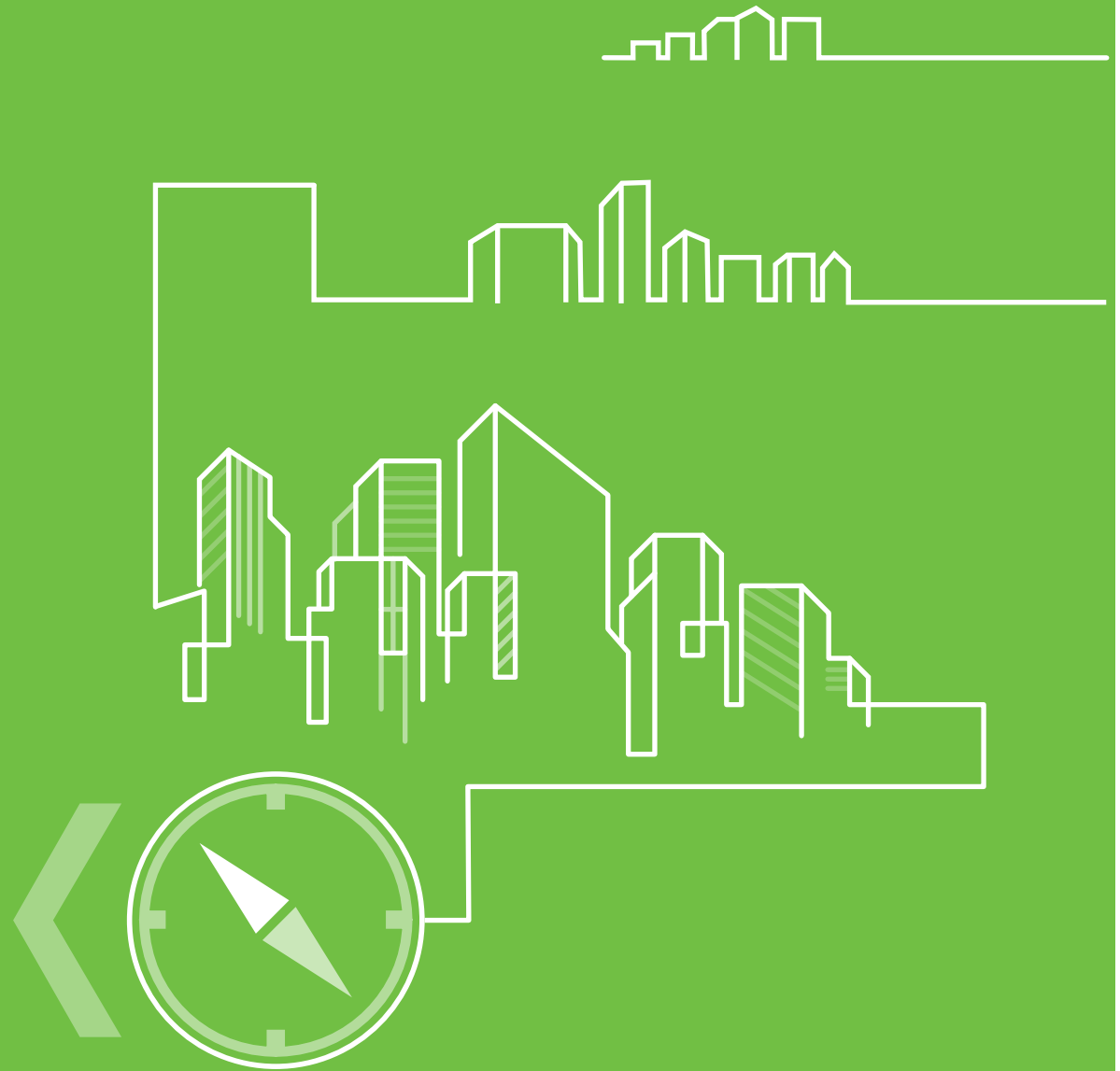
A. Code for Ethical Leadership in Local Government

1. Rationale – Key to the Code

Ethical leadership is an absolute prerequisite for successful developmental local government as envisaged by the Constitution. The truth, however, is that neither ethics, nor leadership can be legislated or externally enforced. It is an individual choice.

It is the premise of this Code that the majority of leaders in local government are ethical people, who want to do the right thing. At the same time, the research has clearly shown that leading ethically in local government can be very difficult, and that there are certain practices that undermine ethical leadership (making it more difficult) and others that empower ethical leadership (making it easier).

This Code therefore aims to be a tool to help municipal leaders navigate this challenging terrain. It clarifies what practices have been proven by the research to undermine ethical governance, and should therefore be avoided, and what practices are enabling, and should be pursued.

It is not a case of minimally complying with the Code that will lead to good outcomes, but also the spirit and intent with which it is done. At the end of the day, it is a moral choice by the individual leader, as well as the municipal leadership as a collective.
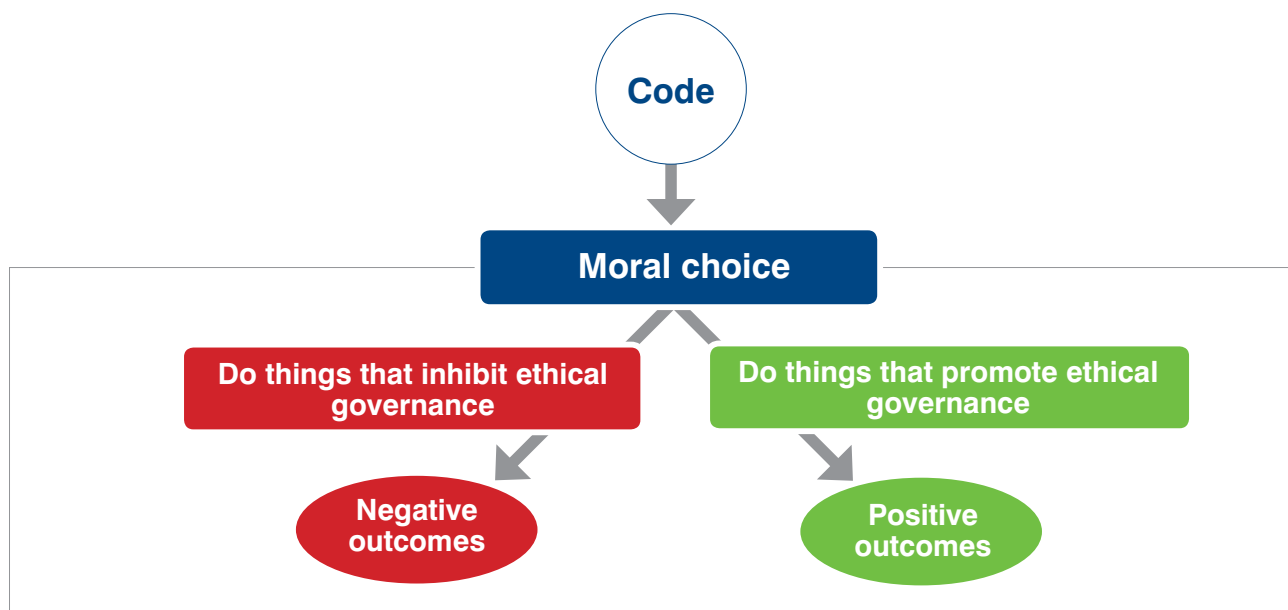
This Code aims to give effect to the spirit of the Constitution and create an environment where the existing legislative and regulatory framework can thrive, by setting out the following in relation to ethical leadership in local government:

- The outcomes: What is it that we want to achieve?
- The spirit: What is our core consideration?
- The principles: What must be done to achieve the outcomes?

This Code has been developed for municipal leaders who want to be part of the solution – who want to build a better local government and a better South Africa.

2. Graphic overview

OUTCOMES: What do we want to achieve?

An ethical culture ⟫ Well-functioning municipality ⟪ Trust

PRINCIPLES: How do we achieve what we want?

An ethical municipal leader:

1. Sets the tone for an ethical culture.

2. Follows a community-centred approach to governance.

3. Respects the boundary between the political and administrative spheres of the municipality.

4. Ensures the appointment of staff who have competence and integrity.

5. Ensures the appropriate level of competence, integrity, and diversity on committees and oversight structures.

6. Deals fairly and decisively with ethics transgressions and poor performance.

7. Engages respectfully and constructively with other municipal leaders.

SPIRIT OF ETHICAL MUNICIPAL LEADERSHIP: What is our core consideration?

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

The spirit of the Constitution and local government legislation underpins the Code.

3. OUTCOMES of ethical municipal leadership

The test of the successful implementation of the Code will be in whether the outcomes have been achieved. The outcomes are the positive effects which the municipality will experience as a result of ethical municipal leadership.

OUTCOMES: What do we want to achieve?

An ethical culture **Well-functioning municipality** **Trust**

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

- Ethical culture

- Ethical leadership builds an ethical culture in the municipality as a workplace. This means that the systems and the culture make it easier for people to behave in the right way, rather than the wrong way, and people do the right things whether they are being watched or not.
- Ethical leadership promotes ethics in the community. Leaders are not just responsible for delivering services, but also strive to promote healthy community relations, social cohesion, and positive societal values within their communities.

- Well-functioning municipality

- The National Development Plan emphasises that meeting our transformation agenda requires functional municipalities and a capable machinery at a local level that can create safe, healthy and economically sustainable areas where citizens and people can work, live and socialise.
- A well-functioning municipality is characterised by governance systems and processes that provide direction, create policy clarity, and ensure oversight and accountability. The right people are appointed and resources are used fairly and wisely.
- This leads to the developmental and sustainable provision of services to all citizens especially the most vulnerable – in fulfilment of the Constitutional mandate of local government.

- Trust

- Ethical leadership creates trust between the municipality and all its stakeholders, as well as trust that its leaders are able to fulfil their roles and responsibilities, and are morally committed to this task.

4. SPIRIT of ethical municipal leadership

**SPIRIT OF ETHICAL MUNICIPAL LEADERSHIP:
What is our core consideration?**

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

In whose interest do municipal leaders lead?

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

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

What does this mean for leaders?

Leaders should ask themselves the question:

✓ Is what we are doing in the long-term sustainable interest of the municipality and all its communities?

✓ Am I considering the long-term, sustainable interest of the municipality and all its communities above personal, political and factional interests?

✗ If not, that course of action would not be in line with ethical leadership and should not be pursued.

The above does not mean that the interests of other stakeholders should be ignored. Good governance means balancing the legitimate interests of all material stakeholders with the best interest of the municipality. Where interests are in conflict, leaders should carefully consider them, always keeping in mind their core mandate.

5. PRINCIPLES of ethical municipal leadership

The principles indicate what municipal leaders should do to achieve the desired outcomes. The spirit of ethical municipal leadership (as a core consideration) should always guide how the principles are implemented.

The principles are mutually reinforcing, and all contribute collectively to achieving the outcomes.

PRINCIPLES: How do we achieve what we want?

An ethical municipal leader:

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

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

Unpacking the issue

Ethics is about doing what is good and right, balancing one's own interests with the interest of others.

In the organisational context, ethics refers to values that guide the organisation in its interaction with its stakeholders. Ethical action is therefore to achieve what is good, right and lawful both for the municipality, and for the community.

Ethical leadership goes beyond simply acting ethically oneself. It also means setting an ethical tone in one's environment and positively impacting the ethical culture, both in the municipality and the community.

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

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

Practical Implementation

An ethical municipal leader:

i. **Leads by example – living the values of ethical municipal leadership**
    The following values are key to the spirit and execution of ethical municipal leadership and each municipal leader should aspire to integrate these into their character:

    • **Integrity** – consistently living in an honest and upright manner doing what one says.

    • **Community centredness** – living the values of Ubuntu and Batho Pele to engage with communities meaningfully and respectfully, and objectively considering their long-term sustainable interests above personal, party-political or factional considerations.

    • **Accountability** – holding oneself accountable, accounting to stakeholders for one's decisions and actions, and fairly holding others accountable for their decisions and actions.

    • **Diligence** – working hard at achieving objectives, doing so to the best of one's abilities, and continuously striving to improve one's knowledge.

    • **Courage** – standing strong in one's convictions, and standing up for what is right, especially when the above values are being compromised.

ii. **Ensures compliance with the spirit and letter of the legislative and regulatory framework**

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

    • Municipal leaders use the law to protect and improve governance and service delivery, and not to maliciously drive political agendas. The law must not be weaponised in bureaucratic wars.

    • Municipal leaders act ethically beyond mere legal compliance, and as a minimum, abide by the relevant municipal Code of Conduct.

    • Municipal leaders avoid conflicts of interest, and manage unavoidable conflicts in a way that builds trust.

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

    • They ensure the establishment of ethics structures and capacity as set out in the Municipal Integrity Management Framework.

    • They clarify ethical expectations of councillors and officials.

iv. **Promotes civic ethics in the community**

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

Pitfalls that inhibit good governance

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

How other stakeholders support this principle

- Council should:
  - Formally adopt the Code for Ethical Leadership in Local Government through a council resolution.
  - Set an ethical tone in all their deliberations and committee meetings.

- Political parties should:
  - Advocate the importance of abiding by the Code to the councillors that they deploy, and hold them to account should they not abide by it.
  - Continuously emphasise the importance of setting the tone and that ethical leadership should be the non-negotiable 'way' in which they lead. Ethical leadership should be the core focus of training conducted by parties.
  - Avoid accepting funding from companies or individuals who are service providers to the municipality, as this could lead to conflicts of interest.

- Municipal trade unions / labour leaders should:
  - Assist in building an ethical culture for a well-functioning, trusted municipality.
  - Ensure that municipal leaders are encouraged to live by the Code.

- Business partners and service providers should deal openly and transparently with municipalities and municipal leaders, and avoid giving donations where this could potentially lead to a conflict of interest.

- Communities should support the spirit of ethical leadership. As much as communities expect leaders to be ethical, they should similarly strive to abide by high ethical standards, and not put unreasonable demands that pressurise councillors into unethical conduct. They should engage respectfully with all municipal stakeholders.

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

Unpacking the issue

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

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

Practical Implementation

An ethical municipal leader:

i.   Places the interest of the community first
  - Where personal, party-political or factional interests are in clear conflict with the community's interests, municipal leaders should stand up for the community's interests and put them first.

ii.   Consults meaningfully with communities

- Councillors should have frequent engagement with communities, not just during elections. These engagements should be meaningful in that councillors should listen and be responsive to the community's needs.
- They should build constructive relationships with the community and seek out opportunities for engaging with civil society.
- Officials should similarly engage with communities to get a sense of realities on the ground.
- Councillors should aim to be a source of civic education, informing communities of their rights and responsibilities as citizens, and how to access services in all of government.
- Councillors should help communities think of their long-term sustainable interest and balancing that with short-term needs.
- Officials should advise councillors appropriately and timeously to ensure accurate communication with communities.

iii.   Is open and truthful with communities

- Councillors should be thoughtful about not making commitments to communities that cannot be kept – especially during campaigning. They should always give honest feedback on what is possible (in line with municipal budgets) and manage community expectations.
- Leaders should proactively give the community information about issues that concern them.

iv.   Is responsive to communities

- Councillors should give feedback to communities on their concerns.
- Officials should constructively support councillors to address community concerns, as far as it is lawful, sustainable and not at odds with the municipality's Integrated Development Plan (IDP).

v.   Ensures the prudent use of resources

- Leaders should always ensure that the resources of the municipality are used prudently, with long-term thinking in mind, and in the sustainable interest of the municipality and all its communities.

vi.   Considers the interests of everyone in the community, not just those who voted for them

- Councillors should be careful of unfairly favouring their party members or constituencies where opportunities and services are meant for the whole community (for example, the allocation of local labour opportunities or housing).
- This does not mean that they cannot promote the specific needs of their wards and constituencies, especially when their needs are neglected.

vii.   Aspires to a shared, inclusive vision for the community

- Leaders should aim to bring together diverse role players and interest groups to formulate and realise a shared vision.

viii.   Where required, builds coalitions in the best interest of the community

- Where required, councillors should seek to negotiate coalition agreements which are in the best interest of the municipality and centred on what is best for the community. Coalition agreements should focus on achieving stability in the municipality and ensuring sustainable service delivery.
- Coalition agreements should be made transparent so that communities can hold municipal leaders to account.

Pitfalls that inhibit good governance

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

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

How other stakeholders support this principle

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

- <u>Municipal trade unions / labour leaders</u> should ensure the interests of their members are balanced with community interests.

- <u>Political parties</u> should inculcate community-centredness in councillors.

- <u>DCoG and SALGA</u> should assist with civic education of communities and leaders.

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

Unpacking the issue

The political sphere (council) and the administrative sphere (officials) of the municipality have different functions. Councillors are responsible for the governance of the municipality. That means that they should set the strategic objectives (through the IDP) and the policy framework for the municipality, and provide oversight.

Municipal officials (under the leadership of the municipal manager and senior managers) are responsible for the practical implementation of the objectives and policies, and for reporting to council.

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

Practical Implementation

An ethical municipal leader:

i.   Respects the principle of separation of powers

Councillors set the strategic objectives and the policy framework for the municipality. They also provide oversight through appropriate structures. Outside of that, councillors should guard against being overly involved in operational matters of the municipality. They should work at an arm's length with municipal officials (following due process) to address community needs and service delivery, in line with the IDP.

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

ii.   Actively guards against politicising or factionalising the administration

- Officials should be apolitical in the execution of their duties.
- Councillors must assist in building the apolitical culture in the administration.

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

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

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

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

Pitfalls that inhibit good governance

Councillors might be required to engage with the administration to ensure service delivery. They, however, sometimes overstep this, which leads to interference. It is important to keep a clear distinction between these two concepts:

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

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

The Councillor Code of Conduct prohibits a councillor from interfering in the administration of the municipality, unless the council has given the councillor a mandate. It is a criminal offence for a councillor to attempt to improperly influence municipal officials, and this is punishable by a fine or imprisonment of up to two years.

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

How other stakeholders support this principle

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

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

Municipal Public Accounts Committees (MPACs) should play an oversight role to ensure that there is no political interference in the administration.

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

Unpacking the issue

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

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

Practical Implementation

An ethical municipal leader:

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

- Councillors should ensure the appointment of a municipal manager and s56 managers who have the competence (considering the set competence requirements and their track record) and experience to fulfil their duties, as well as the integrity to build trust with staff, councillors and communities.
- They should ensure a robust and fair recruitment process to fill the above positions, including conducting pre-employment background checks, as well as competency assessments.
- Staff who have been dismissed for misconduct must not be appointed before the expiry of the prescribed sanction period.
- Similarly, the management team of the municipality should ensure the appointment of staff who have competence and integrity.

ii.   Avoids politicising the administration through staff appointments.

- Political party office-bearers must not be appointed into the administration.
- Councillors should not attempt to influence the appointment of staff at any level below that of s56 managers.
- Councillors should develop policies to distinguish between appointment of officials to political offices and those who are appointed into administrative offices in the municipality. The policy should clearly stipulate that those who are in administrative offices should not be political deployees.

iii.   Strives to ensure stability in the management team of the municipality.

- Once a competent management team is employed, leaders should, as far as possible, aim to maintain stability in the team.
- The practice of dismissing staff with every political change in council should be avoided. This is more attainable when professional, rather than political staff were appointed in the first place.

Pitfalls that inhibit good governance

Aside from destructive deployment practices, positions are sometimes created within the staff establishment of the municipality that are not necessary, or people are appointed to positions that do not exist in the staff establishment.

At other times, and perhaps because inappropriate people have been appointed, external consultants are used to perform the work that staff members should be able to perform.

All of these practices are extremely wasteful and deplete resources that should be used for service delivery.

How other stakeholders support this principle

The <u>DCoG</u> should maintain an up-to-date database of officials who have been dismissed for misconduct.

<u>Provincial departments for cooperative governance</u> should assess whether senior officials comply with the minimum competency requirements, and should take action where they do not.

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

Unpacking the issue

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

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

Similarly, committees within the administration, such as recruitment and selection committees, or tender committees, should be comprised of officials who have the required competence and integrity.

Practical Implementation

An ethical municipal leader:

i. **Selects the strongest possible candidates (considering their competence and integrity) onto committees and oversight structures.**

ii. **Co-opts external expertise onto committees and oversight structures where the internal technical expertise is insufficient.**
    - In council, the first prize is for political parties to ensure that councillors are capable, thus avoiding extra expense of external experts.
    - Councillors should ask themselves if they would trust MPAC and the audit committee to oversee their personal finances. The community deserves at least the same standard of oversight.

iii. **Ensures an appropriate mix of skills and diversity on committees.**

- Strong committees have diverse and appropriate skill sets that contribute to the effectiveness of the committee.

- Diversity (for example, in political, racial, cultural, gender and age terms) should be considered in the composition of committees.

- Committees might also include a minority of councillors who are still developing their governance skills and experience. The number of such members needs to be balanced with the need for the committee to still fulfil its functions effectively in the interest of the community.

iv. **Ensures stability on committees to allow for committee members to mature and gain experience.**

Pitfalls that inhibit good governance

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

How other stakeholders support this principle

Council should ensure that committee members are trained on their responsibilities.

Political parties should:
- As far as possible, and with due regard to the democratic process:

  - field councillors with competence and integrity.

  - ensure a diverse set of skills and competencies amongst councillors. (This can be done especially among proportional representation councillors.)

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

Unpacking the issue

The overall focus of ethical leadership should be to proactively ensure a supportive ethical culture and strong governance environment, where performance is high, and transgressions are less likely to occur. Transgressions will, however, still occur in most organisations and should be dealt with decisively. Failure to deal with transgressions creates a culture of impunity where people think that they can get away with misconduct without consequences. A culture of poor performance can similarly arise when performance issues are not addressed. At the same time, discipline and performance management should not be abused to fight personal or political battles.

Practical Implementation

An ethical municipal leader:

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

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

  There should be access to competent capacity for conducting investigations and managing disciplinary processes, including well-functioning disciplinary boards.

ii. **Ensures that sub-standard performance is addressed timeously and fairly.**
  • Performance management should aim to develop employees, while holding them accountable for executing their duties and achieving their objectives.
  • Continued underperformance should be dealt with fairly and decisively.

iii. **Ensures that personal and political considerations do not trump the best interest of the municipality and all its communities in discipline and performance management.**

iv. **Deals decisively with conflicts of interest.**
  This includes the development of policies and procedures to deal with conflicts of interest, including:
  • Managing the information from conflicts of interest disclosure processes.
  • Conducting lifestyle audits when it is observed that a person's lifestyle appears excessive for their income.
  • Taking action when conflicts are discovered.

v.   **Ensures that audit findings are addressed.**
  • Findings of both internal auditors and the Auditor-General of South Africa must be dealt with in a timely and decisive manner.
  • The importance of material irregularities should be escalated to the highest priority.
  • Mechanisms should be institutionalised to prevent recurrence of negative findings.

Pitfalls that inhibit good governance

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

To ensure trust with the community, all disciplinary processes for senior leaders should be dealt with independently and include external oversight.

How other stakeholders support this principle

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

Council committees should ensure strong oversight and accountability.

Municipal trade unions / labour leaders should constructively support the principle of fair, independent and timely discipline and performance management processes.

Communities should hold political parties and representatives to account.

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

Unpacking the issue

In any professional environment there are likely to be differences with others. These are likely to be worse in an environment where people are on different sides of the political spectrum. In many municipal environments there have been incidents of personal, factional or political differences that have led to chaotic and sometimes violent scenes in council chambers. When the community sees these scenes, it breaks down the trust they have in municipal leadership. It also creates an environment where the important work of council cannot continue.

Differences should be dealt with maturely so that they do not detract from the work of the municipality. This is also applicable in the administrative sphere.

Practical Implementation

An ethical municipal leader:

i. **Aspires to reciprocal relationships of trust and integrity with each other.**
   - Even though they are on different sides of the political spectrum, councillors should treat each other with respect.
   - Leaders' dealings should be honest and above board to ensure an atmosphere of mutual trust in the interest of the municipality and its communities.
   - They should remain professional and committed when they have differences with others – remaining committed to acting in the best interest of the municipality and its communities.

ii. **Ensures that personal, political and factional differences do not get in the way of doing the work of the municipality in the interest of the community.**

- Councillors should constructively participate in council meetings – especially when there are differences of opinion.
- They should keep in mind that they are setting an example to communities about how to engage with conflict. Communities are also watching how their councillors are spending the time they are being paid for to do the work of the community.

How other stakeholders support this principle

Political parties should emphasise to their deployed councillors the importance of professionalism in the conduct of their roles and responsibilities. They should take action against councillors who act disrespectfully towards others.

Municipal trade unions / labour leaders should ensure that labour disputes are resolved with respect for people and property.

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This Code for Ethical Leadership in Local Government (LGELI) was developed as part of the Local Government Ethical Leadership Initiative – a partnership between The Ethics Institute (TEI), the Department for Cooperative Governance (DCoG), the South African Local Government Association (SALGA), and the Moral Regeneration Movement (MRM).

The Code was developed by the LGELI Working Group under the guidance of the LGELI Advisory Committee, which consists of *ex officio* members of the partner organisations, as well as other societal leaders.

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Provincial Champions:

- We wish to acknowledge the role played in each of the provinces by committed public servants in the offices of premiers, provincial departments of cooperative government, provincial SALGA staff, as well as representatives of the Moral Regeneration Movement in provinces.

Notes

Please visit the website
www.tei.org.za/lgeli

- to download the Code
- to find out about training opportunities for councillors and officials
- for the latest developments on the Code.

For more information on the Code and its implementation, contact:
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