



# LOCAL GOVERNMENT PROFESSIONALISATION INDABA \_\_\_\_\_ 2023



*“STRONG PARTNERSHIPS FOR RESTORING TRUST IN A CAPABLE AND DEVELOPMENTAL LOCAL GOVERNMENT: A CLARION CALL TO DRIVE THE LOCAL GOVERNMENT PROFESSIONALISATION AGENDA”*

Establishing and upholding standards of professional ethics and integrity  
Dr Daniel Rampai- Integrity Commissioner-  
COJ

1



1



## CONTEXTUAL REMARKS

## THE LOCAL INTEGRITY SYSTEM (LIS)

- The LIS is a novelty in the South African local government sector.
- The LIS is a group of interrelated and interdependent institutions, instruments and measures collectively known as “actors” or “pillars”.
- The singular goal of any LIS is to defend ethics and integrity and control and direct all aspects of the municipality’s operations.
- Traditional pillars are political will, council, regulatory environment and a core integrity custodian like the Integrity Commissioner.
- The LIS success depends on the commitment of council towards ethics and integrity.
- Commitment is ability by council to create space and environment that empowers the core integrity custodian to enforce ethical provisions.
- The LIS is grounded on acknowledgement by council and executive of their position as key actors and formal structures within the municipality’s administrative and political order.



## FOUNDATIONAL PRINCIPLES

- *Ethics* is ethical values that guide decision-making, conduct and relationships between the organisation, its stakeholders and the society as a whole.
- *Corporate governance* refers to the exercise of ethical and effective leadership by the governing body to achieve ethical culture, good performance and legitimacy.
- *Integrity*, in the context of governance and ethics, means possessing the quality of being honest and having strong moral principles.
- Ethics, governance and integrity provide values that guide behaviour and find expression in various regulatory instruments.



## ETHICS AND GOVERNANCE FRAMEWORK

Critical aspects of the framework are:

- Political will to curb corruption;
- An active council to curb corruption and attain and sustain ethics and integrity;
- Regulatory environment that comprises various regulatory instruments; and
- A core integrity custodian such as the Integrity Commissioner to enforce regulatory instruments.

Council's goal of achieving high ethics and integrity performance depends on the quality of its relationship with the Integrity Commissioner.



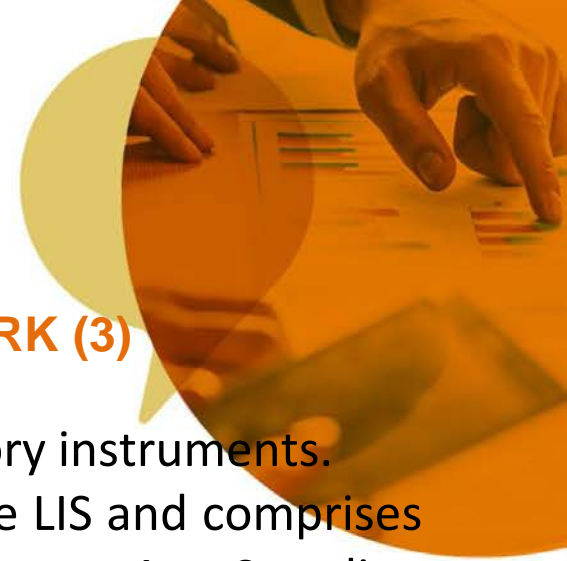
## ETHICS AND GOVERNANCE FRAMEWORK (2)

- The primary role and responsibility of council rests on five core leadership capacities.
- These capacities represent independent but mutually reinforcing forces for positive change.
- Any collective action by council that embraces these capacities represents a tangible expression of political intent to initiate key reforms to defend ethics and integrity and curb corruption.
- Political will is the commitment of actors to undertake actions to achieve a set of objectives.
- Political will consists of political “can” and political “must”. Political “can” derives from innate values and is activated because getting the job done is intrinsically rewarding. Political “must” consists of public pressure and citizen engagement, rules and regulations.

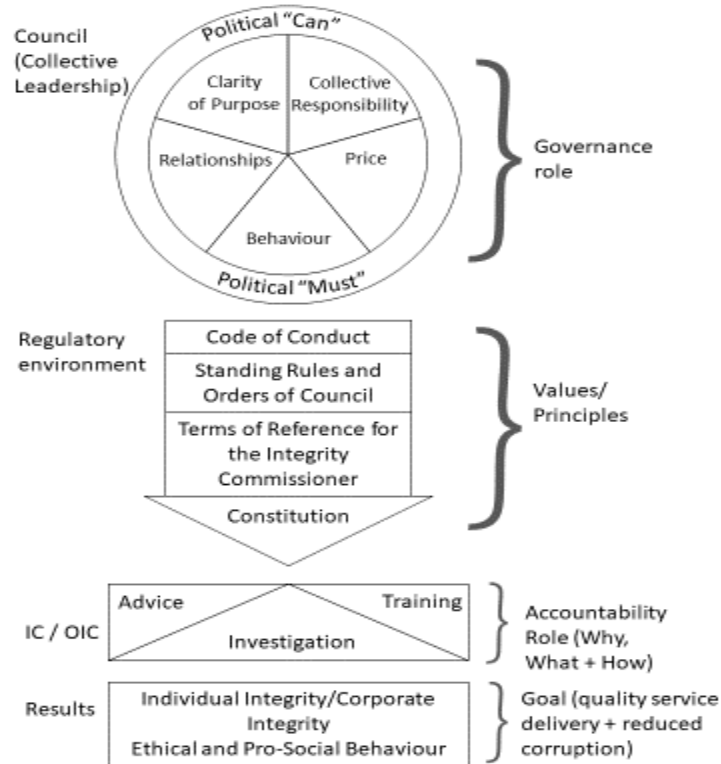


## ETHICS AND GOVERNANCE FRAMEWORK (3)

- Council performs its role subject to applicable regulatory instruments.
- The regulatory environment is another key actor in the LIS and comprises regulatory instruments such as Code of Conduct, Structures Act, Standing Rules and Orders of council, King IV, and the Constitution.
- Collectively, these instruments constitute adequate and complete provisions on ethical conduct.
- Perceived lack of responsive and accountable local government is not so much the result of inadequate or incomplete provisions on ethical conduct, but rather the lack of enforcement of these provisions.
- Actors tasked to enforce ethics and integrity measures often lack incentives to execute the new function.
- New measures might threaten their power base or affect their resource accumulation strategies.



# IMPLICATIONS OF ETHICS AND GOVERNANCE FRAMEWORK





## IMPLICATIONS OF ETHICS AND GOVERNANCE FRAMEWORK (2)

- The framework highlights the significance of interrelationships, interdependences and combined effectiveness between council and the Integrity Commissioner as key actors in the LIS.
- Any disjuncture between council and the Integrity Commissioner will negatively impact the integrity of governance and governance of ethics in the municipality.
- Council ought to constantly and consistently interact with the Integrity Commissioner in the execution of his mandate.
- Expectedly, pillars of the integrity system do not possess equal strength.
- Thus, the overall impact of an integrity system can be accomplished through overcompensation by specific pillars.
- E.g. council can support the Integrity Commissioner by developing and implementing proactive policies and practices to support its commitment to attaining and sustaining ethics and integrity.



## CODE OF CONDUCT AS KEY REGULATORY INSTRUMENT

- The Code of Conduct is the key regulatory instrument at the disposal of the municipal council.
- The question as to whom councillors are accountable under the Code of Conduct was resolved by the High Court in *van Wyk v Uys (2001)*.
- The court held that enforcement of the Code of Conduct vests in municipal council as part of its internal disciplinary proceedings.
- However, the court stressed the potential incompetence of council in enforcing the Code of Conduct which could lead to questionable or unsustainable results.
- In addressing unethical behaviour, municipalities must ensure that internal procedures are irreproachable.
- The innovative way to achieve this is for council to establish a core integrity agency and delegate its accountability role to such an agency.



## CONCLUSION

- Good governance is a prerequisite for responsible performance, creation of ethical culture, and legitimacy.
- Compliance with existing regulatory instruments is not coincidental but should be a deliberate act.
- Generally, man has been raised to believe that the rule of law is designed to protect and guide us fairly, effectively and even compassionately.
- But, today we are beginning to understand that even where the law is clear and courts are accessible, the legal system still falls short.
- Thus, we are at a place where the law no longer guides and protects us, leaving ethics as the lone standard by which to gauge behaviour.
- The frightening reality is: the space in which ethics is becoming the sole guide is expanding. Will public representatives cope?
- So, we have an inherent responsibility to hold ourselves to a higher ethical standard.





**THANK YOU**

**DO YOU WANT MORE?**