

**REPORT TO: ALL SECTION 79 PORTFOLIO COMMITTEES**

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**1. ITEM NUMBER: HS 10/10/20**

**2. SUBJECT**

**TERMS OF REFERENCE OF ALL SECTION 79 PORTFOLIO COMMITTEES: FOR REVIEW AND FINAL ADOPTION BY COUNCIL**

**OPDRAGTE VAN ALLE ARTIKEL 79 PORTEFEULJE- KOMITEES: VIR HERSIENING EN FINALE AANNEMING DEUR DIE RAAD**

**IMIGAQO YOKUSEBENZA KWAZO ZONKE IIKOMITI EZINGECANDELO-79: UKUBA KUPHENGULULWE KWAYE KWAMKELWE OKOKUGQIBELA LIBHUNGA**

**3. DELEGATED AUTHORITY**

In terms of delegation

This report is for DECISION BY

**Committee name :**

The Executive Mayor together with the Mayoral Committee (MAYCO)

Council

**4. DISCUSSION**

The Terms of Reference (TOR) documents for all Section 79 Portfolio Committees (PC) were last reviewed in late 2018, with adoption by Council in January 2019.

Section 12 of the Terms of Reference documents for all PCs makes provision for an annual review process as set out below:

*“This Terms of Reference may be reviewed annually or as regularly as deemed appropriate. Amendments to the Terms of Reference are subject to approval by the Municipal Council and will be applicable from date of approval until amended by the Municipal Council.”*

A PC Chairpersons workshop was therefore held on 14 August 2020 to review and refine the contents of all TOR documents, to bring it in line with other Council documents, for example, the Rules of Order for Section 79 and 80 Committees, as well as to streamline the documents for all portfolio committees.

In addition to the above alignment, the City’s Internal Audit department, on undertaking an audit of the existing TOR documents and related internal processes, proposed a number of amendments which in their view would enhance the support provided to the portfolio committees. These proposals have also been incorporated into the documents which were considered by the PC Chairpersons at the aforementioned workshop.

The purpose of this report is for the portfolio committee to consider the amended document for finalisation and submission to Council at its meeting on 29 October 2020.

- 4.1. Financial Implications  None  Opex  Capex
- Capex: New Projects
  - Capex: Existing projects requiring additional funding
  - Capex: Existing projects with no additional funding requirements

4.2. Policy and Strategy  Yes  No

4.3. Legislative Vetting  Yes  No

4.4. Legal Compliance

4.5 Staff Implications       Yes     No

4.6 Risk Implications       Yes     No

## 5. RECOMMENDATIONS

It is recommended that:

- a) The relevant amended Terms of Reference document for the Portfolio committee, attached hereto as Annexure A, be considered
- b) The amended Terms of Reference document for the committee be submitted to Council for adoption.

Daar word aanbeveel dat:

- a) Die betrokke gewysigde opdragdokument vir die portefeuljekomitee, hierby aangeheg as bylae A, oorweeg word
- b) Die gewysige opdragdokument vir die komitee vir aanneming aan die Raad voorgelê word.

Kundululwe ukuba:

- a) Makuthathelwe ingqalelo uxwebhu olufanelekileyo olulungisiweyo leMigaqo engokuSebenza kweekomiti zemicimbi yamasebe, oluqhotyoshelwe apha njengesihlomelo-A
- b) Uxwebhu olulungisiweyo olungeMigaqo engokuSebenza kweekomiti, malungeniswe kwiBhunga ukuze lamkelwe.

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## ANNEXURES

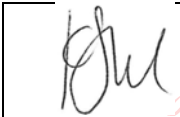
### ANNEXURE A - AMENDED TERMS OF REFERENCE FOR RELEVANT PORTFOLIO COMMITTEE

**FOR FURTHER DETAILS CONTACT**

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DIRECTORATE	CORPORATE SERVICES		
SIGNATURE : DIRECTOR			
		FILE REF NO	

**EXECUTIVE DIRECTOR**

NAME	COMMENT:
DATE	
SIGNATURE	



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Date: 2020.09.24 12:54:38 +02'00'

**LEGAL COMPLIANCE**

- REPORT COMPLIANT WITH THE PROVISIONS OF COUNCIL'S DELEGATIONS, POLICIES, BY-LAWS AND ALL LEGISLATION RELATING TO THE MATTER UNDER CONSIDERATION.
- NON-COMPLIANT

NAME	COMMENT:
DATE	
SIGNATURE	

Joan-Mari Holt

Digitally signed by Joan-Mari Holt  
Date: 2020.09.25 14:43:46 +02'00'

Certified as legally compliant based on the contents of the report.



CITY OF CAPE TOWN  
ISIXEKO SASEKAPA  
STAD KAAPSTAD

## Terms of Reference

### Human Settlements Portfolio Committee

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#### 1. Introduction

Oversight is a crucial role of the Municipal Council in monitoring and evaluating the actions of the executive and administration in the discharge of the vast powers they possess. It also includes avoidance of abuse of power and guarding against under-performance. Vast powers have been conferred on a Municipal Council; see section 160 (1)(a) of the *Constitution of the Republic of South Africa, 1996 and Regulations* -

*"A Municipal Council makes decisions concerning the exercise of all the powers and the performance of all the functions of the municipality";*

It is also possible for Municipal Councils to delegate the oversight role or part thereof to Committees of the Council. The *Local Government: Municipal Structures Act No. 117 of 1998 and Regulations* permits the establishment of one or more section 79 committees for the effective and efficient performance of any of its functions or the exercise of any of its powers – sect 79(1)(a).

The Terms of Reference in this document set out the working arrangements and list vital information about the committee such as the details of its role, powers and duties, chair and membership, administrative support and **should be read in conjunction with the Committee Oversight document.**

#### 2. Role

The Portfolio Committee has an important oversight role especially in regard to the IDP, budgets, policies, rendering of services, strategic objectives and priorities and by-laws. Oversight entails the watchful, strategic and structured scrutiny of the actions of the executive and administration of the Municipal Council.

The oversight role of the Human Settlements Portfolio Committee includes developing strategy for the monitoring and evaluation of the actions or inactions of the executive and administration and may require:

- Briefings;
- Hearings;
- Considerations of reports;
- Scrutiny of relevant documents;
- Supply of relevant information;
- Physical access to relevant records, books and other documentation;
- Posing questions in Council; and
- Tracking of inputs, processes, activities, outputs and outcomes against indicators.

#### 3. Term

The Human Settlements Portfolio Committee was established by Council on 13 December 2018 resolution C19/12/18. The Terms of Reference was approved by Council on 31 January 2019 resolution C22A/01/19 and shall remain until amended by resolution of Council.

## 4. Functional area

- Informal Settlements and Backyarders
- Human Settlement Implementation
- Home Ownership Transfers, Tenancy Management, and Staff Housing (HOTTs)
- Integrated Urban Management

NB: The Council's System of Delegations document further sets out all general and/or specific delegations of this committee

## 5. Membership

The Portfolio Committee will comprise of a Chairperson, a ~~Deputy Chairperson~~ (non-statutory) and members of Council appointed in terms of section 79 (1)(b) and (2)(c) of the *Local Government: Municipal Structures Act No. 117 of 1998 and Regulations* and in accordance with section 160(8)(a) of the *Constitution of the Republic of South Africa, 1996 and Regulations* which requires that such Committees be constituted in a manner that allows parties and interests reflected within the Council to be fairly represented. ~~The updated committee membership is reflected in the "All Council committees" membership list available on the City web, via the link below:~~

<http://cityweb.capetown.gov.za/en/councilonline/Pages/Information.aspx>

~~Councillor Beverley van Reenen (Chairperson)-~~

~~Alderman Siva Moodley (Deputy Chairperson)-~~

~~Members:-~~

~~Councillor Phelisa S Mzolisa-~~

~~Councillor Khayaletu Nethi-~~

~~Councillor Marita J Petersen-~~

~~Councillor Steven T Vuba~~

~~Councillor Sumaya Taliq-~~

~~Councillor Marlene R Abrahams-~~

~~Councillor Oscar Solomons~~

~~Councillor J P Fitz-~~

~~Councillor Patience Nyakaza Sandla-~~

~~Councillor Carl Pophaim~~

~~Councillor X Joja~~

~~Councillor Jongidumo J Maxheke~~

~~Councillor Rhoda Ann Bazier~~

~~Councillor Thembisile M Batembu~~

~~Councillor Sibusiso Nkomiyahlaba~~

~~Councillor Bridgette Truter~~

~~Councillor Grant Classen~~

~~Councillor Anwar Adams~~

~~Councillor Mlungisi K Bafo~~

~~Councillor Mzubanzi Dambuza~~

Members shall have the highest regard to the Code of Conduct for Councillors set out in Schedule 1 of the Local Government: Municipal Systems Act No. 32 of 2000 and shall at all times be committed to the following values:

- Openness and transparency
- Honesty and integrity
- Tolerance and respect
- Equality and fairness
- Appreciation of cultural differences
- Sustainability
- Consensus building

## 6. Responsibilities

### Chairperson

#### Definition

A Councillor appointed in terms of sect 79(2)(c) of the Local Government: Municipal Structures Act No. 117 of 1998 and Regulations by the Council of the City of Cape Town as Chairperson of the Human Settlements Portfolio Committee.

### Responsibilities

- 6.1 The Chairperson will meet regularly with the applicable Executive Mayoral Committee Member(s) responsible for Human Settlements within the City, they will provide strategic and political direction with regard to Human Settlements requirements in the City for the City of Cape Town.
- 6.2 The Chairperson must develop an Annual Oversight Work Plan (*derived from the relevant Service Delivery Budget Implementation Plans [SDBIPs]*) for each year, based on the Committee's assigned functions and responsibilities, ensuring that such plan is aligned to all relevant strategies and governance priorities for service delivery and operational implementation as well as to ensure that all relevant matters are covered by the agendas of the meetings planned for the year.
- 6.3 The Chairperson must in accordance with the Annual Oversight Work Plan, assign roles and responsibilities to members based on the individual member's expertise and interests.
- 6.4 The Chairperson must assess collective Committee performance outcomes as referred to in section 10 of this Terms of Reference – through self- and stakeholder assessments and facilitate appropriate remedial action (action plans) to enhance the Committee's performance.
- 6.5 The Chairperson must exercise overall responsibility for the Annual Oversight Work Plan adopted by the Committee.
- 6.6 The Chairperson must demonstrate an objective and evidence based approach to the oversight function.
- 6.7 The Chairperson must set and agree to the agenda for meetings of the Human Settlements Portfolio Committee which contain clear objectives and outcomes for such meeting.

### Deliverables

- Annual Oversight Work Plan
- Agendas in accordance with Council's approved calendar of meetings
- Remedial action plans to enhance the Committee's performance
- Signed minutes of meetings of the Human Settlements Portfolio Committee
- Quarterly overview report to the Human Settlements Portfolio Committee
- Assignments in terms of the Annual Oversight Work Plan adopted and assigned by the Portfolio Committee

### Committee member

#### Definition

A Councillor appointed in terms of sect 79(1)(b) of the Local Government: Municipal Structures Act No. 117 of 1998 and Regulations by the Council of the City of Cape Town to serve as a member of the Human Settlements Portfolio Committee.

#### Responsibilities

- 6.8 Members must be fully prepared for the Human Settlements Portfolio Committee meetings and are expected to attend each meeting in accordance with the Code of Conduct and Rules of Order governing the meetings of Section 79 Committees.
- 6.9 Members must exercise all actions required to fulfil the personal work assignments in terms of the oversight annual work plan adopted by the Committee.
- 6.10 Submit reports and/or recommendations to the Committee and/or Chairperson in connection with the discharge of such work assignments mentioned in 6.9 above.

## Deliverables

- Submissions and assignments in respect of the discharge of such work assignments mentioned in 6.9 above.

## Committee

### General roles

Within its terms of reference, the Human Settlements Portfolio Committee will:

- 6.11 consider and adopt the Chairperson's annual oversight work plan;
- 6.12 comment on draft policies and by-laws and recommend same to the Executive Mayor;
- 6.13 consider the draft business plans and SDBIPs and recommend to the Executive Mayor;
- 6.14 make recommendations to the Executive Mayor in regard to the draft IDP including amendments to the IDP during the annual review thereof for decision by Council;
- 6.15 make recommendations in regard to the setting or revision of tariffs, levies, taxes and duties to the Executive Mayor;
- 6.16 monitor the implementation of Council's IDP, budget, business plans, strategic objectives, policies and programmes in relation to their functional area, and report thereon to the Executive Mayor;
- 6.17 evaluate the impact and performance of service delivery generally within the functional area of their respective Committee (outcomes monitoring), and report to the Executive Mayor;
- 6.18 assist the Executive Mayor to determine the best way, including partnerships and other approaches, to deliver on Council's strategies, programmes and services to the maximum benefit of the City within the Committee's functional area and to recommend the same to the Executive Mayor;
- 6.19 assist the Executive Mayor to identify the needs of the Municipality as far as it relates to the functional area of the Committee and to recommend the same to the Executive Mayor, in terms of section 56 (2)(a) of the Structures Act;
- 6.20 review and evaluate the needs of the municipality in order of priority, in terms section 56 (2)(b) of the Structures Act and recommend the same to the Executive Mayor;
- 6.21 require Councillor(s) and/or official(s) to submit report(s) to the Committee to assist the Committee in the performance of its functions within its functional area;
- 6.22 conduct research, community and other consultations and undertake inspections in regard to matters relating to the Committee's oversight functions;
- 6.23 consult and invite reports from public bodies/persons and request them to address the Committee in the analysis of issues affecting the functional area of the Committee area;
- 6.24 collaborate with the Public Participation unit in order to enhance the public participation process.

## 7. Authority, accountability and reporting

*The Human Settlements Portfolio Committee is a Committee of Council established in terms of section 79 of the Local Government: Municipal Structures Act No. 117 of 1998. In terms of section 79(2) the Municipal Council:*

- (a) *Must determine the functions of a committee*
- (b) *May delegate duties and powers to it*
- (f) *May determine a committee's procedure*

- 7.1 The Chairperson must report quarterly on all decisions taken by the Committee to the Municipal Council in accordance with the requirements of the System of Delegations read



together with section 63 of the Local Government: Municipal Systems Act.

- 7.2 The Chairperson must submit an Annual report to Council of the functional operations of the Human Settlements Portfolio Committee. The report should include:
- 7.2.1 A summary of how the Committee executed their assigned functions and responsibilities against the annual work plan;
  - 7.2.2 Clarify and justify their decisions or actions;
  - 7.2.3 A summary of key cross-cutting issues dealt with together with other Portfolio Committees and how these matters were effectively dealt with;
  - 7.2.4 A summary of and explanation of how the Committee went about amending any faults or errors found when exercising their oversight role and what steps were taken to prevent recurrence in future;
  - 7.2.5 Details of meetings and the number of meetings attended by each member. This is to include attendance at meetings of Working Groups and Joint Working Groups.
- 7.3 The Human Settlements Portfolio Committee should recommend its Annual report for approval by the Municipal Council.
- 7.4 The Human Settlements Portfolio Committee should consider any other reports that the City issues that relate to the Committee's responsibilities.

## 8. Meeting procedures

### 8.1 Rules of Order

The *Constitution* provides:

*"A municipal council may make by-laws which prescribe rules and orders for:*

- a) *Its internal arrangements;*
- b) *Its business and proceedings."*

Council on 11 August 2016 by way of resolution number C04/08/16 adopted *Rules of Order for Section 79 Committees of Council*. Such Rules govern the meeting procedures of this Committee.

### 8.2 Quorum

Rule number 7.1:

*"The quorum for a meeting of a section 79 Portfolio Committee is a majority of its members."*

### 8.3 Frequency of meetings:

- 8.3.1 Meetings of the Committee will be held in accordance with the meetings scheduled in the approved Council calendar of meetings.
- 8.3.2 Special Meetings to be called as the need arises to expedite decision making that are within the ambit of the Committee, in terms of the Rules of Order.

### 8.4 Meeting: Agendas, Minutes and Logistics

- 8.4.1 Electronic agendas must be distributed at least **72 hours** prior to a meeting for preparation purposes. **Executive Committee Services will at all times strive to circulate Volume 1 no later than 5 days before the meeting. Any late reports will form part of subsequent volumes.**
- 8.4.2 Executive Committee Services provides secretarial, administrative support and logistical support to the Committee. The relevant line departments provide the Committee with support of a technical nature and are also responsible for secretarial support with respect to any workshops arranged by the Human Settlements Portfolio Committee.
- 8.4.3 The minutes of meetings once confirmed and approved by members of the Human Settlements Portfolio Committee must be signed and each page thereof initiated by the Chairperson and managed in accordance with paragraph 8.4.4. **The Chairperson must**

sign and initial the confirmed minutes within 7 working days.

- 8.4.4 Appropriate record management of Human Settlements Portfolio Committee activities must be maintained and published subject to Council-approved processes.
- 8.4.5 Legal advisory services to the Human Settlements Portfolio Committee shall be rendered by the City's Legal Department.
- 8.4.6 A standing invitation to Human Settlements Portfolio Committee meetings should be sent to:
- Mayoral Committee members
  - Executive Management
  - The nominated Legal Representative(s) to the Human Settlements Portfolio Committee
- 8.5 Appointment of Working Groups/Joint Working Groups/Ad hoc Committees:
- 8.5.1 The Human Settlements Portfolio Committee may individually or jointly with other Portfolio Committees consider that, in order to better facilitate cross-cutting reviews, the discharge of their duties would be best served by the appointment of working parties or panels or groups or Committee members to assist the Committees in their functions.
- 8.5.2 Working groups established are not sub-Committees and are not subject to the Rules of Order of Section 79 Committees and accordingly have no powers other than to investigate and make recommendations to the parent Committee.
- 8.5.2.1 Attendance of ad hoc Committees are compulsory and therefore the Rules of Order in terms of Leave of Absence apply.
- 8.5.3 The Terms of Reference of any working group/ad hoc Committee established under 8.5.1 above must be clearly stipulated by the appointing "parent" Committee together with a defined period for their operation and existence and must be within the powers of the appointing Committee.
- 8.5.4 Such working groups/ad hoc Committees must keep attendance registers each time that they meet which are to be submitted to the Chairperson of the "parent" Committee within the defined period as determined in 8.5.3 above.
- 8.5.5 Working Groups/Joint Working Groups/Ad hoc Committees will receive secretarial and administrative support from the line departments within which the specific discipline is being scrutinized/ investigated.
- 8.5.6 Such working groups/ad hoc Committees may conduct research, liaise with external organisations operating in the area, whether national, regional or local, to ensure that the interests of local communities are enhanced by collaborative working.
- 8.6 General
- 8.6.1 Human Settlements Portfolio Committee will formalise operational processes, systems and procedures as necessary for the performance of its terms of reference, in consultation with the relevant Executive Director(s) and Executive Services.
- 8.6.2 Human Settlements Portfolio Committee uses a schedule of outstanding matters to keep track of the various stages of the Committee's review process with respect to each of the reports or topics under consideration.
- 8.6.3 Human Settlements Portfolio Committee must deal with all matters, as instructed by Council. It is therefore important to prioritise the items on the schedule of outstanding matters.

## 9. Relationship and Interaction

- 9.1 Chairperson ~~and Deputy Chairperson~~ will regularly meet with the Mayoral Committee member(s) to discuss issues of concern, for strategic guidance and political direction.

- 9.2 Chairperson ~~and Deputy Chairperson~~ will regularly meet with the Executive Director(s) who provide support, advise and assist in ensuring an integrated approach to the management and delivery of Council's priorities and objectives.
- 9.3 The Chairpersons ~~and Deputy Chairpersons~~ of the respective Portfolio Committees which have established Joint Working Groups, to consider any cross-cutting issues that are of significant interest or concern, will together exercise overall responsibility for the scope of work programme of such Joint Working Group to ensure a collaborative outcome.

## 10. Performance Evaluation

- 10.1 The Human Settlements Portfolio Committee must assess and evaluate its performance and achievements of the Committee.
- 10.2 The findings of the Committee Self-assessment must be presented to the Municipal Council in the Committee's Annual Report.
- 10.3 Where the self-assessment highlights a need for improvement to the role, operational processes or membership of the Human Settlements Portfolio Committee, the Chairperson should take action to ensure that such improvements, upon approval by the Municipal Council, are implemented.
- 10.4 The effectiveness and efficiency of the Human Settlements Portfolio Committee will be monitored by the Municipal Council annually.

## 11. Dispute Resolution

- 11.1 With regard to paragraph 6.7 above, the following:

Should there be any disagreement with what should be included on the agenda, such dispute is to be referred to the Chief Whip for discussion and resolution.

Note: The Human Settlements Portfolio Committee makes recommendations to Council. Council takes the decisions so the dispute resolution application to Council will apply, in terms of the Promotion of Administrative Justice Act.

## 12. Approval, Amendment, Modification or Variation

This Terms of Reference may be reviewed annually or as regularly as deemed appropriate. Amendments to the Terms of Reference are subject to approval by the Municipal Council and will be applicable from date of approval until amended by the Municipal Council. The approved Terms of Reference will be published on the municipal website to promote awareness to all stakeholders.