

Report of the Select Committee on Co-Operative Governance and Traditional Affairs, Water, Sanitation and Human Settlements on Forensic Investigations Conducted in Mpumalanga Local Municipalities in Terms Of Section 106 of the Local Government: Municipal Systems Act Of 2000: Dated 23 November 2022

1. Background and Overview

- 1.1 The Select Committee on Cooperative Governance and Traditional Affairs (Water, Sanitation & Human Settlements), having conducted proactive oversight in terms of section 106 of the Local Government: Municipal Systems Act of 2000 in Mpumalanga Local Municipalities, the Select Committee reports to the National Council of Provinces as follows:
- 1.2 Section 106 of the Local Government; Municipal Systems Act states that if an MEC has reason to believe that a municipality in the province cannot or does not fulfil a statutory obligation binding on that municipality or that maladministration, fraud, corruption or any other serious malpractice has occurred or is occurring in a municipality, the MEC must (a) by written notice to the municipality, request the municipal council or municipal manager to provide the MEC with information required in the notice or (b) if the MEC considers it necessary, designate a person or persons to investigate the matter
- 1.3. Section 106 (3) (a) further states that an MEC issuing a notice in terms of subsection (1) (a) or designating a person to conduct an investigation in terms of subsection (1) (b), must within 14 days submit a written statement to the National Council of Provinces motivating the action
- 1.4 As part of ensuring executive accountability and performing parliamentary oversight on matters related to corruption, fraud and maladministration in Local Municipalities, the Select Committee jointly coordinated with the Portfolio Committee, two days' engagement meetings in Mpumalanga Provincial Legislature from the 25th to 26th October 2022.

2. Objective of the Proactive Oversight Visit

- 2.1. The primary objective of the proactive oversight visit was to engage the Mpumalanga Department of Cooperative Governance and Traditional Affairs and the Law Enforcement Agencies (i.e. Hawks: Directorate for Priority Crime Investigation (DPCI), Special Investigation Unit(SIU) and the National Prosecution Authority (NPA) on the progress made in respect of the findings, recommendations, opened cases and prosecutions related to the forensic investigations conducted in local municipalities in terms of section 106 of the Local Government: Municipal Systems Act, No 32 of 2000.
- 2.2. The secondary objective of the proactive oversight visit was to accord the affected local municipalities opportunities and platforms to table their municipal action plans to deal with the findings and recommendations of the investigations conducted in terms of section 106 of the Local Government: Municipal Systems Act, No 32 of 2000.

3. Delegation of the Select Committee

- 3.1. The delegation of the Select Committee was composed of the following Members of Parliament and officials: Hon N Ndongeni (ANC) Eastern Cape; Hon S Mthethwa (ANC) KwaZulu-Natal; Hon N H Hadebe (IFP) KwaZulu-Natal; Hon M Barttlet, (ANC) Northern Cape; Hon IM Sileku (DA) Western Cape; Hon K Motsamai (EFF) Gauteng; Hon C Visser (DA); North West; Hon M Dlamini (EFF); Mpumalanga; Hon A D Maleka(ANC), Mpumalanga; Hon Ms S Shaikh (ANC) Limpopo; Hon TSC Dodovu (ANC) North West; Mr TM Manele Committee Secretary; Mr B Lwazi Committee Assistant, Mr M Molepo, Parliamentary Communication Officer

4. General Overview of the Proactive Oversight Visits

- 4.1. During the period of the proactive oversight visits, the MEC of the Department of Cooperative Governance and Traditional Affairs, the Provincial Heads of the Hawks: Directorate for Priority Crime Investigation (DPCI) , National Prosecuting Authority (NPA) and Special Investigating Unit (SIU) briefed the delegation of the select committee on the progress regarding investigations, criminal cases and prosecution status as the result of forensic investigations

conducted in Mpumalanga local municipalities in terms of section 106 of the Local Government: Municipal Systems Act of 2022

- 4.2. The Mayors and the Municipal Managers of the Dr Pixley Isaka Seme; Govan Mbeki; Lekwa, Dr JS Moroka and Dipaleseng local municipalities tabled their municipal action plans to implement the findings and recommendations of the section 106 forensic investigations reports

5. **Presentation by Department of Cooperative Governance and Traditional Affairs**

- 5.1. The Mpumalanga Department of Cooperative Governance and Traditional Affairs briefed the delegation of the Select Committee on the progress of forensic investigations conducted in Mpumalanga local municipalities in terms of Section 106 of the Local Government: Municipal Systems Act of 2000.
- 5.2. The Departmental presentations focused on findings and recommendations in the Dr Pixley Isaka Seme; Govan Mbeki; Lekwa, Dr JS Moroka and Dipaleseng Local Municipalities
- 5.3. The Department of CoGTA reported that there is very minimal progress in the **Dr JS Moroka Local Municipality** in addressing the findings of the S106 investigation report. There does not appear to be any progress that the municipality has made in implementing the recommendations of the S106 Investigation report. The only progress given is that the matters have been reported to the SAPS: Directorate for Priority Crimes Investigations, but there is no progress on any of the cases. The municipality has also indicated that it will be pursuing legal action against implicated officials and councillors. No consequence management has been implemented by the municipality against officials and councillors implicated in wrong doing and some have left the Local Municipality.
- 5.4. Department of CoGTA reported that **Dr Ka Isaka Seme Local Municipality** has made progress in addressing the findings of the S106 investigation report. A number of short term recommendations have been addressed. 9 of the recommendations in the S106 have been fully dealt with by the municipality. The municipality has instituted consequence management against officials currently in the municipality who have been implicated in allegations of wrong doing. The Municipal Manager who has been suspended has subsequently left the municipality by mutual agreement. There are officials who are undergoing disciplinary processes and the PMU Manager and an official from Supply Chain Management are also on suspension and undergoing disciplinary processes. The municipality has indicated that some of the matters have been referred to law enforcement agents, however it is not giving progress on such cases. The findings made against sector departments have not been addressed by the respective departments. The municipality has opened criminal cases for some of the individuals implicated in wrong doing
- 5.5. The Department of CoGTA reported that **Dipeleng Local Municipality** has presented the report and an action plan to council. The municipality has also established an adhoc committee of council to monitor the implementation of the action plan. The municipality has made significant progress in addressing the findings of the S106 investigation but most are still in progress. Cases of maladministration, fraud and impropriety have been reported to the law enforcement agencies, but no cases have yet been enrolled in court. There is oversight by the Accounting Officer and the Executive Authorities towards the implementation of the action plan which is evident from the quarterly monitoring and reporting, cases registered with law enforcement agencies (SAPS, SIU), legal advice sought and establishment of disciplinary boards to consider internal disciplinary proceedings. There is a need for the municipality to recoup money that has been misappropriated and hold people accountable for their action.
- 5.6. The Department of CoGTA reported that **Lekwa Local Municipality** has made progress in addressing the findings of the section 106 investigation report. However, the process of implementation is very slow. The local municipality has managed to fully resolve 5 of the findings of the section 106 investigation report. The local municipality has failed to implement consequence management for both the officials and business entities implicated in wrong doing in the municipality. the local municipality has also failed to institute civil cases against both the officials and business entities implicated in wrong doing. The local municipality has indicated that some of the matters have been referred to the law enforcement agents for further auctioning, however, no report has been provided by the local municipality
- 5.7. The Department of CoGTA reported that **Govan Mbeki Local Municipality** has made progress in addressing some of the findings of the section 106 investigation report. It has fully resolved two of its findings and other are still work in progress. The local municipality has initiated disciplinary processes against officials. However, none of the implicated officials have

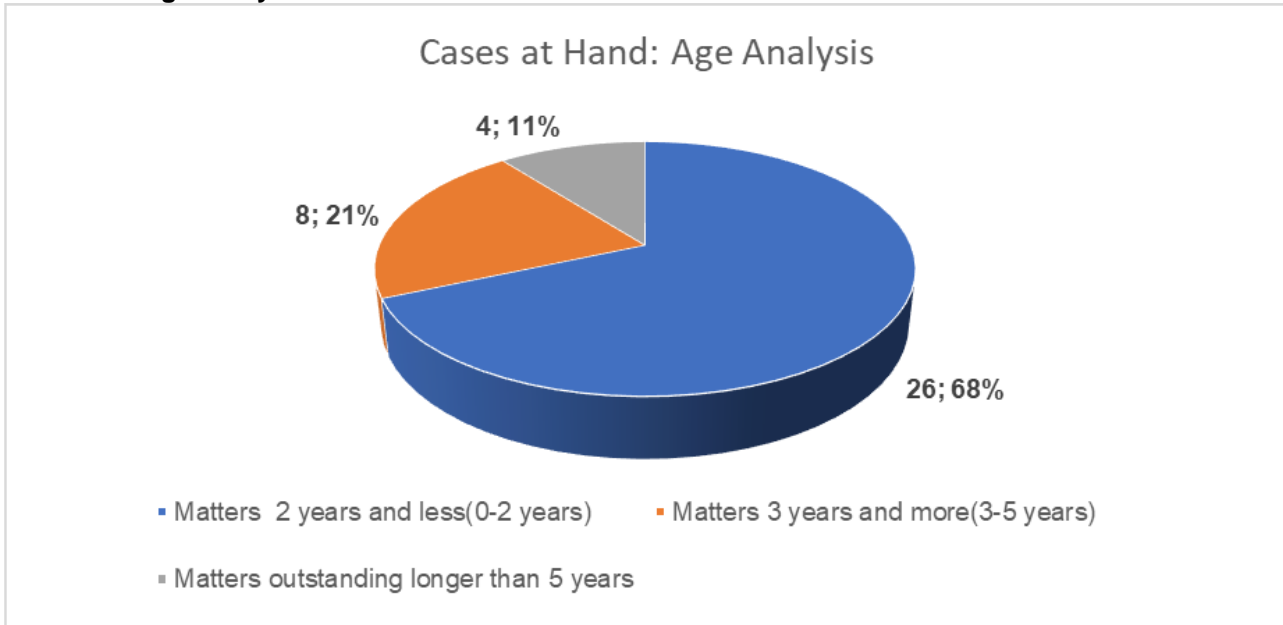
been found guilty. The municipality has not taken action against former officials and councillors implicated in wrong doing but have left the institution. The local municipality has reported cases of fraud and corruption to the HAWKS and these cases are being investigated. The local municipality has provided the case number.

- 5.8. In concluding, the Department of CoGTA indicated that Dr Pixley Ka Isaka Seme and Dipaleseng Local Municipalities have shown progress in addressing the findings of the section 106 investigation reports. Govan Mbeki and Lekwa Local municipalities are very slow in implementing the recommendations of section 106 investigation reports.
- 5.9. The Department of CoGTA further indicated that Dr JS Moroka local municipality has made no progress in addressing the findings of the section 106 investigation reports.
- 5.10. In the opinion of the Department of CoGTA, there appears to be little commitment from Dr JS Moroka to implement the findings of section 106 investigation reports. The matters with law enforcement agents have not led to any arrests or individual being arrested. All the affected local municipalities must give progress on cases referred to the law enforcement agents

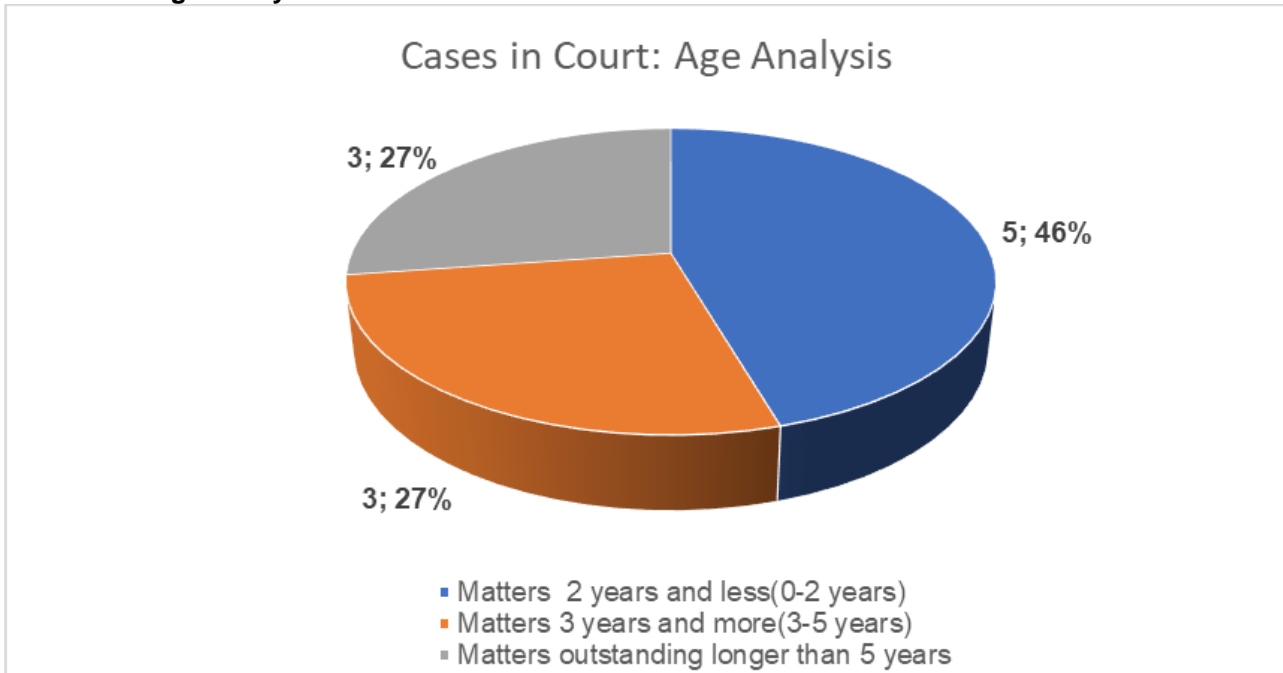
6. Presentation by the National Prosecution Authority (NPA)

- 6.1. The Provincial Head of the National Prosecution Authority briefed the delegation of the Select Committee on the status of investigation and prosecution cases in Mpumalanga Local Municipalities. The presentation focused on local municipalities involved and number of cases.
- 6.2. The Provincial Head informed the delegation that Mpumalanga Province was proclaimed in May 2019 and the National Prosecution Authority shares excellent stakeholder relation and engagement with Directorate for Priority Crime Investigation and Special Investigation Unit
- 6.3. The Provincial Office of the National Prosecuting Authority has adopted a multi-disciplinary project management methodology in addressing fraud and corruption cases in the local municipalities. The purpose of the approach was to engage with Directorate for Priority Crime Investigation to develop investigative and prosecution strategy after analysing resources required for each municipal case
- 6.4. The Provincial Head informed the delegation that a procurement task team was created to specifically address municipal cases headed by regional head with 8 dedicated and experienced prosecutors. Majority of municipal fraud, corruption and contravention of Municipal Finance Management Act emanate or originate from the findings of Auditor-General of South Africa
- 6.5. The Provincial Head indicated that modus operandi are generally the same in all municipal cases, complicity in the abuse of office by senior public servants, usually Municipal Managers, Chief Financial Officers, Supply Chain Managers, Security Managers, Speakers, Whips / Councillors colluding with service providers to siphon millions from the state coffers
- 6.6. The Provincial Head reported on the number of local municipalities under investigations and the number of reported cases per each municipality. In terms of the report presented there are 3 reported case numbers in Mbombela Municipality; 3 reported case number in Dipaleseng Municipality; 2 reported case number in Nkomazi Municipality; 3 in Steve Tshwete Municipality; 5 in Govan Mbeki Municipality; 6 in Emalahleni Municipality; 9 in Dr JS Moroka Municipality; 2 in Dr Pixley Ka Isaka Seme Local Municipality; 2 in Bushbuckridge Municipality; 1 in Lekwa Municipality; 2 in ThabaChweu Municipality and 2 in Msukaligwa local municipality.
- 6.7. In terms of the report presented by the Provincial Office of the National Prosecution Authority, currently, there are 11 cases on the court roll and 29 under investigation
- 6.8. According to the Provincial Head, the Asset Forfeiture Unit has not yet had any recovery in municipal cases. Certain municipality cases have been identified and will be enrolled in court in due course

Bar Chart: Age Analysis of Cases at Hand



Bar Chart: Age Analysis of Cases in Court



7. Presentation by the Special Investigation Unit (SIU)

- 7.1. The Provincial Head of Mpumalanga Special Investigation Unit briefed the delegation of the Select Committee on the status of investigation on fraud and corruption in Dr JS Moroka, Dipaleseng, Victor Khanye, Thaba Chweu, Mbombela and Mkhondo Local Municipalities.
- 7.2. The office of the SIU Mpumalanga met with both Municipal Managers of the Dr JS Moroka Local Municipality and Dipaleseng Local Municipality respectively. The purpose of the meetings was to request further documents from the Municipality in order to start with the SIU internal process. The aim and objective of the SIU internal process is to motivate for a proclamation to the Hon President which would authorize the investigation. Documents were received and SIU internal process has started.
- 7.3. The Special Investigation Unit Mpumalanga received various allegations of irregularities, corruption and wasteful expenditures from whistleblowers and media relating to the Victor Khanye Local Municipality and Thaba Chweu Local Municipality.

- 7.4. The Business Development and Management team of the SIU, started some engagement sessions with the Municipal Manager and Speaker respectively to request documents relating to the allegations. Documents were received in order to start the SIU internal process.
- 7.5. In Victor Khanye local municipality documents were received from the Municipal Manager and further engagement is ongoing with Thaba Chweu Municipality
- 7.6. The information and documents received in respect of the Mbombela Local Municipality and Mkhondo Local municipality went through the SIU internal process.
- 7.7. The result of the Case Assessment Committee was that a motivation for a proclamation was approved and forwarded to the Hon President via the Department of Justice to issue a Proclamation to mandate an investigation. Awaiting the issuing of the proclamation.

8. Presentation by the Hawks: Directorate for Priority Crime Investigation

- 8.1. The Provincial Head of the Directorate for Priority Crime and investigation briefed the delegation of the Select Committee on status of fraught and corruption related cases Mpumalanga Local Municipalities.
- 8.2. In line with the section 106 investigation in local municipalities reported by the Department of CoGTA, the Provincial Head reported on fraught and corruption cases in Dipaleseng; Govan Mbeki; Dr JS Moroka; Lekwa; Dr Pixley Ka Isaka Seme Local Municipalities. The report focused on the case numbers; descriptions of cases and current status
- 8.3. The Provincial Head reported that the case was reported on 2022/08/31 by the Acting Municipal Manager of **Dipaleseng Local Municipality**. The case is based on Section 106 report. The investigation was conducted by a hired forensic company. It is alleged by the complainant that Dipaleseng Local Municipality received money from the Department of Water and Sanitation for a project. It was then agreed that Gert Sibande District Municipality will continue with the project and that the money received by Dipaleseng Municipality from the Department of Water and Sanitation should be paid into the account of Gert Sibande District Municipality. The amount of R55 423 237 was not paid over and later was discovered that the mentioned amount does not appear on the bank account of Dipaleseng Municipality. An enquiry was made from the former CFO, and he stated that the money was used to defray operational expenditure. Complainant further stated that in terms of Section 22(1) of the Division of Revenue Act maintain that any unspent funds reverts back to the National Revenue Fund. This case is the same as Balfour CAS: 83/03/2022.
- 8.4. The Provincial Head reported that the Audit General report reflected that **Govan Mbeki local Municipality** cannot account for expenditures. Thereport indicates fruitless expenditure's. Value involved R256 million. The case is still under investigation. It is alleged that Gavan Mbeki Local Municipality made a payment to a company for services which was not rendered. The company was procured unlawfully through utilization of Section 32 of Supply Chain Management, whereby required SCM processes were not followed. The Case still under investigation and 5 possible have been suspects identified
- 8.5. The case was reported on 2022/02/11 by the Executive Mayor of Govan Mbeki Local Municipality. According to complainant, on 2020/08/20, the former Executive Mayor, submitted a report titled "NON-PERFORMANCE" with serious allegation of misconduct allegedly committed by the former Municipal Manager.
- 8.6. The allegation came from the report of Independent Investigation conducted by Attorneys. The investigation detected that Municipality SCM Policy was not followed in the Tender that was s advertised and the appointment of the service provider. The Case still under investigation and 1 possible has been suspects identified
- 8.7. The Dr JS Moroak Local Municipality account was hacked and about R23million has been transferred to different accounts. The suspects rendered services for **Dr JS Moroka Municipality**. They submitted an invoice to the Municipality for the amount of R1 623 352.19. The Municipality overpaid the service providers by making a payment to the amount of R0 623 352.19. They Municipality suffer a loss of R9 Million. 3 suspects were arrested and charged, case is currently courtgoing. the matter has been remanded to 31 October 2022

- 8.8. It is alleged that the former Municipal Manager of Dr JS Moroka municipality appointed the service providers as consultants for water projects without following SCM processes whereby the bid adjudication committee in their report suggested that the advert be re-advertised. The Municipal Manager ignored the recommendation and appointed the serviceproviders.
- 8.9. It is alleged that during the year 2018 Dr JS Moroka Municipality allocated R18 million budget for the draught relief fund. A company was appointed to drill 10boreholes. The Company sub-contracted to another company to drill 15 boreholes. The boreholes were supposed to benefit the community. The Boreholes were actually drilled inside the officials' residential yardsand farms. It was also discovered that one of the boreholes which was drilled, falls outside the jurisdiction of JS Moroka Municipality. Actual Loss R18 Million.
- 8.10. It is alleged that the Councillors awarded posts to family membersin 2016 Another Councillor appointed his wife at the Municipality. Value to be determined. Case under investigation. (7 possible suspects have beenidentified) Submitted to DPP 2022-09-13. It is alleged by a councillor that he perused the Municipality forensic investigation report and he notice irregularities relating overtime payments to bodyguards of the Mayor at Dr JS Moroka Municipality. The Acting Municipal Manager approved the payments of overtime. Value R 123 259-80.
- 8.11. Abuse of petrol cards and fleets belonging to Dr. JS Moroka LocalMunicipality by its employees were presented to the MEC, Co- operative Governance and Traditional Affairs Mpumalanga. In conducting a forensic investigation, the monthly fuel records from Standard Bank was investigated over the period 7 September 2018 to October 2018 then again from 7 January 2019 to 7 May 2019. The Municipal Manager identified that the municipality spenta total of R13,243,129.94 on petrol / fleet cards. The case under investigation and suspect to be identified
- 8.12. It is alleged that seven (7) Companies were appointed by Lekwa Local Municipality in contravention of Sec 32 of the SCM procedures/processes and were paid without services being rendered. Lekwa Municipality appointed a company for the construction of Morgenzon Stadium. The company submitted a fraudulent completioncertificate for Morgenzon Stadium while in true fact the stadium was not completed. Value R 8.7 million.
- 8.13. It is alleged that in Dipaleseng Local Municipality there was a project of R13 million that was approved by the Municipality for upgrading Siyethemba SportsStadium. But when the project was not completedand the project manager gave an explanation is because some of the allocated funds were diverted from the initial project for something elseand the actual amount that was spent on the project was R1,9 million. The case is still under investigation.

9. Tabling of Municipal Action Plan by Dr Pixley Ka Isaka Seme Local Municipality

- 9.1. The Local Municipality tabled its municipal action plan to deal with the findings and recommendations of section 106 forensic investigation report. The action plan provided progress on findings related to Acts of maladministration levelled against the Office Bearers and Employees. (Interference by the Executive Mayor in the Administration of the Municipality; irregular payments of overtime; Non-implementation of Municipal Council; Resolutions/wrong resolutions are passed; underspending of MIG funds; abuse and non-compliance with the Supply Chain Management processes, including fictitious quotations and/or suppliers; non-compliance with Recruitment, Selection Procedures and Nepotism; failure to complete initiated projects; and irregular selling of RDP houses and empty stands
- 9.2. The Local Municipality has not made progress on findings related to non-compliance with the Supply Chain Management processes, including fictitious quotations and/or suppliers. The municipality needs to consider taking criminal or civil action against an official who signed tender bid documents without authority.
- 9.3. The Local Municipality has made progress on finding related to irregular selling of RDP houses and empty stands underspending of MIG funds. The municipal council has resolved on 20 April 2021 to place the Municipal Manager on suspension and on 30 June 2022, the Council resolved to have mutual separation with the Municipal Manager and the parties parted ways.
- 9.4. The Local Municipality has also made progress on matters related to non -implementation of council resolution by ensuring that regular briefing of the Mayoral Committee and Oversight Committee on the implementation of council resolutions. The Municipal Manager and Legal Services Manager attend all council meetings and are given opportunity to advise the council

9.5. The Local Municipality has instituted consequence management against officials who have been implicated in allegations of wrong doing. The Manager of Performance Management Unit (PMU) and an official from supply chain are also on suspension and undergoing disciplinary processes.

10. Tabling of Municipal Action Plan by Govan Mbeki Local Municipality

- 10.1. The Local Municipality tabled its municipal action plan to deal with the findings and recommendations of section 106 forensic investigation report. The action plan provided progress on findings related to non-compliance with MFMA and SCM regulations as well as the Municipal Supply Chain Policy; non-compliance with council resolution, irregular Expenditure; appointments made not in accordance with the policies and procedure; Officials colluding with service providers and playing a role in the appointment and procurement of Sinohile Transport & Projects CC; appointment of a service provider whose Tax matters are non-compliant; irregular extension or termination of contracts for service providers;
- 10.2. The Local Municipality has not addressed the finding related to abuse of and non-compliance with the Supply Chain Management process including advertising of tenders without complying with SCM process
- 10.3. The Local Municipality has made some progress on findings related to irregular and underspending of Municipal Infrastructure Grants (MIG), Water Services Infrastructure Grant (WSIG) and the failure to complete initiated projects; reporting of Directors of certain Companies to the HAWKS, opening of case under CAS136/2/2021 and handing of all relevant documents to the HAWKS

11. Tabling of Municipal Action Plan by Lekwa Local Municipality

- 11.1. The local municipal presented their action plan and progress report on the implementation of section 106 forensic investigation. The municipality indicated that the purpose of the investigation was to deal with matters related to maladministration; fraud; corruption and failure of the municipality to execute its mandate.
- 11.2. The municipality further indicated that section 106 forensic investigation was conducted to investigate the collapse in financial controls (Eskom, DWS and SARS); Irregular expenditure; an unfunded budget over the MTREF; UIF&W; collapse in Supply Chain Practices and section 32 appointments made by the municipality
- 11.3. On matter related to the allegations related to lack of proper controls and financial stability, the municipality reported that an arrangement exists through a court order since 2017, there are 4 companies that pay directly to Eskom. The municipality pays 15% of its equitable share. The municipality is honouring the court order. The municipality has on average between January and May paid 76% of the Eskom account excluding interest.
- 11.4. In dealing with the findings that the Municipality has an irregular expenditure of R1 billion as per the audit report, the municipality reported that UIFW from 2012/13 to June 2021 has been reported to MPAC for further investigation. MPAC is yet to compile its investigation. A report will be tabled to council once the investigations have been completed
- 11.5. The municipality's budget is still unfunded as adopted by council on 31 May 2022. The budget was adopted while the NCR was present. The municipality is working on a revenue enhancement strategy as part of the Financial Recovery Plan
- 11.6. The municipality maintains tender register and ensures that all supporting documents (BSC, BEC, BAC minutes and appointment letters) are maintained for ease of audit. A new tender has been issued for the appointment of a valuer. All appointments will be made in accordance with SCM policies and issued on official letterheads
- 11.7. The Executive Mayor in consultation with Council and advised by the Disciplinary board, issued a warning letter as recommended by the 106 report to the Municipality Manager
- 11.8. Corporate Services to establish the circumstances leading to wrong doing and all implicated officials to face recommended remedial action. Legal services to provide an opinion in relation to black listing of service providers implicated in wrong doing. The municipality has already commenced with the blacklisting process of the consultants and contractors involved in all the transgressions stated in the s106 report

- 11.9. The municipality has in September 2022 re-established the LED forum with renewed terms of reference and a newly elected chairperson. The LED Forum has a direct working relationship with the municipality through the department of Planning and Economic Development.
- 11.10. The 2021/22 annual procurement plans were approved. All tenders awarded for the 2021/22 F/Y were made through competitive bidding. The municipality has established a panel of consultants for the implementation of infrastructure projects. As at 30 September 2022 the municipality's make spending was at 28% with an intention of spending the entire allocation by January 2023.

12. Tabling of Municipal Action Plan by Dr JS Moroka Local Municipality

- 12.1. The Local Municipality tabled its municipal action plan to deal with the findings and recommendations of section 106 forensic investigation report. The action plan deals with allegations related to misuse public funds to pay overtime to certain officials for work not done; Abuse of mayoral vehicle by the Mayor; non-implementation of council resolutions, Municipal Manager using security companies contracted to municipality to provide his personal security; misuse of Council assets; abuse of Municipal petrol cards / fleet; abuse of regulation 32 on appointment of service providers resulting in fictitious invoices being submitted without services being rendered.
- 12.2. The municipality also dealt with allegations related to councillors interfering with procurement processes, where some services providers have been procured directly by Councillors; irregularly extending of contracts for service providers; Irregular appointment of two (2) security companies contracted to the Municipality; unspent Municipal infrastructure Grant and Service Delivery issues.
- 12.3. The final set of allegations dealt by the municipality related to submission of two different Budget and IDP Documents, which is against the law and irregular appointment of staff; An amount of R40 million was spend on the construction of a fresh produce market, which to date remains incomplete; An amount of R18 Million for drought relieve project was provided to Dr JS Moroka municipality but some boreholes were drilled in houses of employees and councillors of the municipality.
- 12.4. The municipality reported on allegation related to lack of price negotiation process undertaken for the project of water treatment chemicals that the matter The matter will be referred to MPAC for investigation and recommendations. The municipality reported on allegations related to misuse by officials and councillors of an amount of R18 Million for drought relieve, that the matter has been referred to Attorneys for civil action against the implicated former employee and Councillors
- 12.5. The local municipality has not addressed the matter related to Irregular appointment of two (2) security companies currently contracted to Municipality, irregularly extending of contracts for service providers, abuse of regulation 32 on appointment of service providers resulting in fictitious invoices being submitted without services being rendered.
- 12.6. Councillors interfering with procurement processes, where some services providers have been procured directly by Councillors, irregular appointment and awarding of bursaries,
- ,12.7. The municipality has not addressed this finding. As Ms Rampedi is no longer in the employ of the municipality civil proceedings should be instituted to recover the wasted resources. Abuse of Municipal petrol cards / fleet, misuse / abuse of Council assets, use security companies contracted to municipality to provide personal security to municipal manager

13. Tabling of Municipal Action Plan by Dipaleseng Local Municipality

- 13.1. The Local Municipality tabled its municipal action plan to deal with the findings and recommendations of section 106 forensic investigation report. The action plan deals with allegations related to non-compliance with Supply Chain processes of all procurement of R200 000 and more from June 2019 to June 2020; salary discrepancies among Section 56 managers and section 54 managers; irregular payment of additional allowances (travel allowances, cell phone allowance and housing allowance) not included on appointment letter with no supporting documentation or council resolution; application for rollover of R61.3 million for RBIG conditional grant and of which R55 million was not cash backed; Grant funding used for other purposes rather than what it was transferred for to the municipality from June 2019 to June 2020; utilization of the

COVID 19 Grant; deviations from the supply chain processes awarded in terms of section 36 of the municipal supply chain regulation from June 2010 to June 2020.

- 13.2. The municipal reported on non-compliance with supply chain management process that a legal opinion has been obtained that recommended that disciplinary measures be instituted against implicated officials. The matters have been referred to the Disciplinary Board. The municipality reported a committee has been established to monitor the implementation of the S106 action plan and it includes the Chairperson of the Audit Committee.
- 13.3. The municipality reported further that criminal case has been opened with SAPS (CASE114/8/2022) on 31 August 2022 to deal with the recommendation of instituting legal proceeding against the former CFO on allegation of application for rollover of R61.3 million for RBIG conditional grant and of which R55 million was not cash backed.
- 13.4. The municipality also reported that criminal case has also be opened with SAPS (CASE 114/02022) on 31 August 2022 on allegation of Grant funding used for other purposes rather than what it was transferred to the municipality from June 2019 to June 2020 .
- 13.5. On allegation related to irregular payment of additional allowances not included on appointment letter without supporting document or council resolution, the municipality reported that all implicated officials have been referred to the Financial Misconduct Disciplinary Board.
- 13.6. The municipality reported that on findings related to salary discrepancies among section 54 and 56 managers, attorneys have been appointed to claim back the overpayment from the implicated officials. However, on recommendation that action must be taken against executive mayor for falling to ensure that all salaries paid to section 54 and 56 were in line with the regulation, no action taken due to the fact that the mayor is no longer a councillor.

14. Observations and Recommendations: Department of Cooperative Governance and Traditional Affairs

- 14.1. The Select Committee has noted that the Department of CoGTA has conducted investigations in terms of section 106 (1) (b) of the Local Government: Municipal Systems Act, 2000 in Lekwa Local Municipality (July 2018); Dr JS Moroka Local Municipality (March 2020); Dr Pixley Ka Isaka Seme Local Municipality (June 2020); Govan Mbeki Local Municipality (June 2020); Dipaleseng Local Municipality (September 2021); Nkomazi Local Municipality (October 2021) and Emalahleni Local Municipality (November 2021)
- 14.2. The Select Committee has also noted that the Department of CoGTA handed over the reports and finding to the local municipalities in order for the municipalities to develop action plans and implement the findings and recommendations
- 14.3. The Department of CoGTA handed over the forensic investigation reports to Lekwa Local Municipality on 8 July 2020; Dr JS Moroka Local Municipality; Dr Pixley Ka Isaka Seme Local Municipality; Govan Mbeki Local Municipality on 6 October 2020 and Dipaleseng Local Municipality on 10 February 2022. All these Local Municipalities submitted their action plans that were approved by their respective councils to the Department of CoGTA.
- 14.4. The Select Committee has noted that after the Local Government Elections the section 106 forensic investigations reports were resubmitted by the Department of CoGTA to the new municipal councils with a directive that they must be re-tabled to the new councils
- 14.5. The Select Committee has also noted that the reports for the section 106 investigations in Nkomazi and Emalahleni Local Municipalities have not yet been handed over to the respective municipalities by the Department of CoGTA.
- 14.6. The Select Committee has further noted that the section 106 forensic investigation in Bushbuckridge local municipality has not been finalised by the Department of CoGTA due to lack of co-operation from the local municipality. the investigation has been restarted on 05 October 2022.
- 14.7. Based on the assessment report tabled by the Department of CoGTA, the Select Committee has noted with great concern the slowness of the local municipalities in implementing the recommendations of the section 106 investigation reports. Of great concerns also by the

Select Committee and the Department of CoGTA is the slowness of Dr JS Moroka local municipality in implementing the section 106 investigation report.

- 14.8. In order to oversee the work done by the local municipalities in implementing the recommendations of section 106 reports, the Select Committee has noted that the Department of CoGTA has established Project Steering Committee composed of Provincial Treasury, South African Police Services and the National Department of Cooperative Governance

15 In light of the above-mentioned observations, the Select Committee on CoGTA recommends as follows:

- 15.1. The Mpumalanga Department of Cooperative Governance and Traditional Affairs should fast track the process of handing over the reports for the section 106 investigations in Nkomazi and Emalahleni Local Municipalities
- 15.2. The Mayors of Nkomazi and Emalahleni Local Municipalities should ensure that the Municipal Managers develop municipal actions plans to deal with the findings and recommendations emanating from the forensic investigations conducted in terms of section 106 of the Local Government: Municipal Systems Act of 2000
- 15.3. The Mpumalanga Department of Cooperative Governance and Traditional Affairs should monitor the progress made by the above-mentioned local municipalities in developing municipal action plans on section 106 findings and recommendations
- 15.4. The MEC of Mpumalanga Department of Cooperative Governance and Traditional Affairs should table reports on each local municipality on the outcomes of forensic investigations conducted in terms of section 106 of the Local Government: Municipal Systems Act of 2000.

16. Observations and Recommendations: National Prosecuting Authority

- 16.1. The Select Committee has noted that most of fraud and corruption cases that the National Prosecution Authority is dealing with need unique skills from both the investigators and prosecutors. The cases the National Prosecution Authority is dealing with take long time to investigate due to their complexity such as forensic audits reports
- 16.2. The Select Committee has also noted with great concern the institutional, Witness and under resource challenges experienced by the National Prosecution Authority in performing its mandate of processing criminal cases.
- 16.3. These institutional and witness challenges include the service by 1 dedicated Specialized Commercial Crimes Court and the reluctance of Witnesses who are in the employment of the municipalities to co-operate due to fear of reprisal.
- 16.4. The Select Committee has noted with serious concern that when complicit municipal officials become aware of the investigations, they begin to hide or destroy documents
- 16.5. The Select Committee has further noted with great concern that the Witnesses who do co-operate with the National Prosecution Authority end up being victims of occupational detriment such as suspensions and disciplinary action and assassinations
- 16.6. The Select Committee has furthermore noted that DPCI in Mpumalanga is under –resourced, only one investigator carrying many dockets resulting in work overload. In terms of statistics, The Select Committee has noted that there are 10 numbers of court cases, 10 numbers pending decision of the National Prosecuting Authority; 20 number of cases under investigation; 40 number of cases on hand and 17 cases of section 106 investigation reports
- 16.7. The Select Committee has noted with concerns investigation matters that affect all the three law enforcement agents. The general concerns raised by members of the select committee relate to age delayed cases; recycling of officials implicated in corruption cases; killings of key witnesses in corruption cases; lack of arrests and prosecution of people involved in corruption;

referral of cases back to investigators; inadequate courts and magistrates to deal with corruption related cases.

- 16.8. The Select Committee has also noted serious concerns about unresolved related corruption cases; delays in opening corruption case numbers; reluctance of whistle-blowers to participate in protection programme; lack of consequence management; gaps in implementation of coordination and anti-corruption strategies; slow implementation of section 106 findings and recommendation; destruction of document by municipal officials implicated in fraud and corruption allegation cases and failure to recoup monies misappropriated as the result of fraud and corruption in municipalities. .

17. In light of the above-mentioned observations, the Select Committee on CoGTA recommends as follows:

- 17.1. The National Prosecuting Authority in Mpumalanga should fast track the process of recruitment, selection and appointment investigators in order to effectively and efficiently deal generally with allegations of corruption and fraud and specifically in local municipalities
- 17.2. The National Prosecuting Authority in Mpumalanga should strengthen collaborative work with other law enforcement agencies such as the special investigation Unit (SIU) and the Directorate for Priority Crime Investigation (DPCI) in order to effectively and efficiently deal with allegations of fraud and corruption in local municipalities

18. Observations and Recommendations: HAWKS (Directorate for Priority Crime Investigation)

- 18.1. The Select Committee has noted that the Directorate for Priority Crime Investigation in Mpumalanga is currently investigating cases of fraud and corruption in Mbombela Local Municipality, Dipaleseng Local Municipality, Nkomazi Local Municipality, Steve Tshwete Local Municipality, Govern Mbeki Local Municipality; Emalahleni Local Municipality; Dr J S Moroka Local Municipality; Dr Pixley Ka Isaka Seme Local Municipality; Bushbuckridge Local Municipality; Lekwa Local Municipality; Thaba Chweu Local Municipality and; Msukaligwa Local Municipality
- 18.2. In line with the progress report tabled by the Department of CoGTA, the Select Committee has also noted that the Directorate for Priority Crime Investigation is currently investigating matters related to corruption in the above--mentioned local municipalities and there is no prosecution yet.
- 18.3. Although progress has been registered in terms of opening of criminal cases, provision of case numbers, description of cases of fraud and corruption, the Select Committee has noted with concern the absence of arrests and slowness of prosecution of people involved in corruption, fraud and maladministration in the local municipalities
- 18.4. The Select Committee has noted the Directorate for Priority Crime Investigation (DPCI) is experiencing capacity challenges and the directorate is in the process of advertising posts
- 18.5. Besides the capacity challenges, the Select Committee has noted that the other challenges faced by Directorate for Priority Crime Investigation in executing its mandate and delaying investigation, include the incomplete information provided by the municipality and the vastness of the policing area due to the geographical structure of the Mpumalanga Province

19. In line with the above-mentioned observations, the Select Committee on CoGTA recommends as follows

- 19.1. The Directorate for Priority Crime Investigation (DPCI) should fast track the process of recruitment, selection and appointment investigators in order to effectively and efficiently deal generally with allegations of corruption and fraud and specifically in local municipalities
- 19.2. The Directorate for Priority Crime and Investigation should strengthen collaborative work with other law enforcement agencies such as the special investigation Unit (SIU)

and the National Prosecution Authority (NPA) in order to effectively and efficiently deal with allegations of fraud and corruption in local municipalities.

20. Observations and Recommendations: Special Investigation Unit (SIU)

- 20.1. The Select Committee has noted that the special investigation Unit has received various allegations of irregularities, corruption wasteful expenditures from whistle-blowers and the media relating to Mbombela Local Municipality, Mkhondo Local Municipality, Dr J S Moroka Local Municipality; Dipaleseng Local Municipality; Thaba Chweu Local Municipality and; Victor Khanye Local Municipality
- 20.2. The Select Committee has also noted that the SIU Business Development and Management Team has started an engagements session with the Municipal Managers and Speakers respectively to request documents relating to the allegations of irregularities, corruption and wasteful expenditures from the local municipalities in order to start the SIU internal process
- 20.3. The Select Committee has further noted that the information and documents received from Mbombela Local Municipality and Mkhondo Local Municipality have already gone to the internal processes of the Special Investigation Unit
- 20.4. Furthermore, the Select Committee has noted the Case Assessment Committee of the Special Investigating Unit has recommended motivation for Proclamation to be forwarded to the President of the RSA via the Department of Justice and Correctional Service so that the signed Proclamation by the President could authorize investigation in Mbombela Local Municipality and Mkhondo Local Municipality.

21. In light of the above-mentioned observations, the Select Committee on CoGTA recommends as follows:

- 21.1. The Case Assessment Committee of the Special Investigation Unit (SIU) should fast track the process of determination of the allegation of fraud, corruption and wastefully expenditure in Dr J S Moroka Local Municipality; Dipaleseng Local Municipality; Thaba Chweu Local Municipality and; Victor Khanye Local Municipality, like it has done with Mbombela and Mkhondo Local Municipalities
- 21.2. The Special Investigation Unit (SIU) should strengthen collaborative work with other law enforcement agencies such as the Directorate for Priority Crime Investigations (DPCI) and the National Prosecution Authority (NPA) in order to effectively and efficiently deal with allegations of fraud and corruption in local municipalities

22. Observations and Recommendations: Dr Pixley Ka Isaka Seme Local Municipality

- 22.1. The Select Committee has noted that in terms of the assessment report tabled by the Department of CoGTA, the local municipality has made progress in addressing six findings of the section 106 report and that a number of short term recommendations have been addressed
- 22.2. The Select Committee has also noted that in terms of the assessment report tabled by the Department of CoGTA, the local municipality has instituted consequence management against officials currently in the employment of the municipality who have been implicated in wrong doing
- 22.3. The Select Committee has further noted that the municipal manager and the manager of performance management unit have been suspended and are undergoing disciplinary processes.
- 22.4. While acknowledging the progress made, the Select Committee has noted with concerns that in terms of the assessment report tabled by the Department of CoGTA, the local municipality

has not taken action against former employees and councillors who have left the municipality but were implicated in allegations of wrong doing

23. In light of the above-mentioned observations, the Select Committee on CoGTA recommends as follows:

- 23.1. Dr Pixley Ka Isaka Seme Local Municipality should institute civil case against the Officials and Councillors who have been implicated in fraud and corruption in the local municipality including the recouping of monies misappropriated
- 23.2. Dr Pixley Ka Isaka Seme Local Municipality should fast track the process of disciplinary hearings of the Municipal Manager and the Manager of Performance Management Unit have been suspended and are undergoing disciplinary processes.
- 23.3. Dr Pixley Ka Isaka Seme Local Municipality should provide quarterly reports to the Mpumalanga Department of Cooperative Governance and Traditional Affairs on the implementation of the above mentioned recommendations

24. Observations and Recommendations: Govan Mbeki Local Municipality

- 24.1. The Select Committee has noted that the local municipality has resolved some of the recommendations. It has fully resolved some of the findings and the rest are still work in progress. The municipality has initiated disciplinary process against implicated officials.
- 24.2. However, none of the officials have been found guilty. The Select Committee welcomed the initiative of the local municipality in reporting cases of fraud and corruption to the Hawks and these have been investigated
- 24.3. The Select Committee has noted and welcomed the commitment of the Department of CoGTA to monitor the local municipality in implementing the section 106 investigation report

25. In light of the above-mentioned observations, the Select Committee on CoGTA recommends as follows:

- 25.1. Govan Mbeki Local Municipality should fast track the process of resolving all outstanding findings and recommendations of section 106 investigations as well as disciplinary process against officials implicated in fraud and corruption in the municipality
- 25.2. Govan Mbeki Local Municipality should provide quarterly reports to the Mpumalanga Department of Cooperative Governance and Traditional Affairs on the implementation of the above mentioned recommendations

26. Observations and Recommendations: Lekwa Local Municipality

- 26.1. The Select Committee has noted that the municipality has made progress in addressing the findings of the section 106 investigation report. However, in terms of the assessment report of the Department of CoGTA, the progress of the municipality has been very slow.
- 26.2. The Select Committee has further noted that the local municipality has managed to fully resolved five of the findings of the section 106 report. However, the Select Committee has noted with serious concerns about lack of consequence management for both officials and business entities implicated in wrong doing in the local municipality
- 26.3. The Select Committee has furthermore noted with serious concern that there have been no civil cases instituted against both officials and business entities implicated in wrong doing in the local municipality
- 26.4. In terms of the assessment report tabled by the Department of CoGTA, the Select Committee has noted that local municipality has indicated that some of the matters have been referred to the law enforcement agencies for further actioning, however no report has been provided

27. In light of the above-mentioned observations, the Select Committee on CoGTA recommends as follows:

- 27.1. Lekwa Local Municipal should institute civil case against the Officials and Councillors who have been implicated in fraud and corruption in the local municipality including the recouping of monies misappropriated
- 27.2. Lekwa Local Municipal should should provide report on the matters that have been referred to the law enforcement agencies for further auctioning to the Department of Cooperative Governance and Traditional Affairs
- 27.3. Lekwa Local Municipality should provide quarterly reports to the Mpumalanga Department of Cooperative Governance and Traditional Affairs on the implementation of the above mentioned recommendations

28. Observations and Recommendations: Dr JS Moroka Local Municipality

- 28.1. The Select Committee has noted with serious concerns that the local municipality has achieved minimal progress in addressing the findings and implementing the recommendations of the section 106 report
- 28.2. In terms of the assessment report tabled by the Department of CoGTA, the Select Committee has also noted with concern that the only progress reported by the local municipality is that the matter has been reported to the SAPS: Directorate for Priority Crimes Investigations but there are no case numbers provided by the local municipality
- 28.3. The Select Committee has further noted with serious concerns that in terms of the assessment report tabled by the Department of CoGTA, the local municipality has dismally failed to implement consequence management against Officials and Councillors implicated in wrong doings and also failed to recoup the municipal funds or monies wrongly used.

29. In light of the above-mentioned observations, the Select Committee on CoGTA recommends as follows:

- 29.1. Dr JS Moroka Local Municipal should implement consequence management and institute civil action against the Officials and Councillors who have been implicated in fraud and corruption in the local municipality including the recouping of monies misappropriated
- 29.2. Dr JS Moroka Local Municipality should provide case numbers of fraud and corruption to the directorate for priority crime investigation and the Department of Cooperative Governance and Traditional Affairs should as to enable actions by law enforcement agency
- 29.3. Dr JS Moroka Local Municipality should provide quarterly reports to the Mpumalanga Department of Cooperative Governance and Traditional Affairs on the implementation of the above mentioned recommendations

30. Observations and Recommendations: Dipaleseng Local Municipality

- 30.1. The Select Committee has noted that in terms of the assessment report of the Department of CoGTA, the local municipality has established an Adhoc Committee of the council which includes the Chairperson of the Audit Committee to monitor the implementation of the action plan on section 106 report
- 30.2. The Select Committee has further noted and welcomed the significant progress of the municipality in addressing the findings of the section 106 report.
- 30.3. Furthermore, the Select Committee has also noted that in terms of the assessment report tabled by the Department of CoGTA, the local municipality has reported cases of

maladministration, fraud and impropriety to the law enforcement agencies and that the municipality has provided the case numbers

- 30.4. While welcoming the municipal action of instituting disciplinary processes against officials implicated in wrong doing, the Select Committee has noted that in terms of the assessment report tabled by the Department of CoGTA, the local municipality has not instituted civil cases against the officials who have left the employment of the municipality and the service providers who are implicated in wrong doing including, the recouping of monies misappropriated

31. In light of the above-mentioned observations, the Select Committee on CoGTA recommends as follows:

- 31.1. The Dipaleseng Local Municipal should institute civil action against the Officials and service providers who have been implicated in fraud and corruption in the local municipality including the recouping of monies misappropriated
- 31.2. The Dipaleseng Local Municipality should fast-track the process of disciplinary hearings of the Officials who are implicated in fraud and corruption in the local municipality
- 31.3. The Dipaleseng Local Municipality should provide quarterly reports to the Mpumalanga Department of Cooperative Governance and Traditional Affairs on the implementation of the above mentioned recommendations

32. Observations and Recommendations: Portfolio Committee on CoGTA

- 32.1. The Select Committee has noted and welcomed the commitment made by the Chairperson of the Portfolio Committee to strengthen oversight in order to ensure executive and municipal accountability on the implementation of action plans related to findings and recommendations emanating from the forensic investigations conducted in terms of section 106 of the Local Government: Municipal Systems Act of 2002

33. In light of the above-mentioned observations, the Select Committee on CoGTA recommends as follows:

- 33.1. The Select Committee and the Portfolio Committee to jointly coordinate during the first term of 2023 Parliamentary period in order to schedule a follow-up oversight meeting with the Department of Cooperative Governance and Traditional Affairs, the law enforcement agencies (NPA, HAWKS & SIU) and affected local municipalities on implementations of action plans, status of investigations, cases and prosecutions in terms of section 106 forensic investigations in the local municipalities

Report to be considered