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The WRC operates in terms of the Water Research Act (Act 34 of 1971) and its mandate is to support water research and development as well as the building of a sustainable water research capacity in South Africa.

Towards a systematic review of the Water Services Authority model

A Water Research Commission (WRC) report reviewed the water services authority model and provides recommendation for its improvement.

Background

In South Africa, the Constitution assigns the responsibility for provision of water services to local government. Municipalities designated as Water Services Authorities (WSAs) are responsible for the overall management and regulation of water and sanitation services within their area of jurisdiction. The role of WSAs is separated from that of Water Service Providers (WSPs), which are responsible for providing water supply and sanitation services within a specific area. WSAs may opt to allocate the WSP function to other entities, including other municipalities, water boards and private companies, or perform this function themselves. Enabled collectively through the Water Services Act, Municipal Structures Act and Municipal Systems Act, this is known as the WSA model.

Challenges with water service provision in South Africa have been well documented. This project set out to examine the extent to which inherent factors in the design of the WSA model have contributed to these challenges. The study consolidated existing knowledge and identified gaps for future research, to inform an evidence-based approach to future improvement of the WSA model.

Approach

Led by the Palmer Development Group, the research team collated, evaluated, and synthesised previous research on WSAs in South Africa. The analysis included data on WSAs' performance available at national level from a range of sources, including Statistics South Africa, the Department of Water and Sanitation, National Treasury, and other meta-reviews of WSA performance. Primary data were generated through interviews with key informants to validate and enrich the content for the documentation of

five case studies on select WSAs, i.e. City of Mbombela Local Municipality; Joe Gqabi District Municipality; Kgetlengrivier Local Municipality; Emfuleni Local Municipality; and Ngaka Modiri Molema District Municipality.

Findings

The study's root cause analysis shows that many challenges facing WSAs are not necessarily specific to water services but are municipal or government-wide challenges that are manifesting in water services.

Municipalities that are not performing well financially are typically struggling as a result of systemic municipal-wide governance and organisational problems, rather than inherent financial issues specific to water service provision. Non-payment for services rendered is pervasive across WSAs and contributes to the indebtedness of many municipalities. Instability in municipal political leadership and among senior staff, and political interference in technocratic decision-making, often manifests in poor service delivery. Decision making regarding service levels is also often made without considering the life-cycle costs of the infrastructure.

When the state of a municipality becomes so poor that intervention is required, national and provincial government have, in most cases, been unable to provide the required support. Some of the norms and standards set by national government have proven onerous for municipalities to comply with, including those pertaining to supply chain management and the use of public-private partnerships to deliver municipal services.

Interventions by national and provincial government in WSAs, focused on water services, have not successfully diagnosed the causal factors leading to service delivery failures. Sectoral remedies imposed have inadequately dealt

with the root causes of municipal failure. Interventions under section 139 of the Constitution are complex and multifaceted processes, and in dealing with crisis in WSAs, the relationships between political leadership at national and provincial level is critical, as is harmonisation between relevant departments.

Courts have intervened in the functioning of the WSA model, successfully elevating critical issues, but have introduced uncertainty and instability into the system. While these cases remain to be tested at Constitutional level, the research team argues that the courts are best placed to hold municipalities and intervenors to account, rather than enforce changes to service provision arrangements within municipalities.

Recommendations

The study put forward recommendations to assist in resolving the issues raised in the findings, including:

1. Revise the criteria for designating WSAs and apply them to the currently designated WSAs.

A review of the process for designating WSAs is long overdue. The revised criteria should be rational, objective, and transparent. Application of the revised criteria to the currently designated WSAs will provide a good indication of these municipalities' abilities to adequately fulfil their WSA responsibilities.

2. Complete the review of the two-tier system of local government.

The two-tier system of local government has created ambiguity in the delivery of many services, including water. The review currently underway is necessary, particularly to rationalize district municipalities. Reviews conducted to date have recommended that there be fewer, larger districts, and that stronger local municipalities should exist as a single tier of local government.

3. Place more emphasis on support to local government prior to reaching intervention point.

Currently, WSAs are not sufficiently supported by provincial and national government. A proactive, differentiated approach to supporting municipalities should be adopted, along with early warning systems. Provincial authorities should not wait for abject failure of service delivery before providing support to municipalities.

4. Interventions should be grounded in a holistic diagnosis of the causes of municipal failure.

Interventions should be preceded by a comprehensive

evaluative appraisal of the municipality, not just its service delivery mechanisms. This should include examining the municipality's functionality, capability and required people and systems. Sectoral interventions often neglect systemic challenges faced by municipalities. Additionally, political issues require political solutions, which cannot be resolved through water sector interventions.

5. Review and harmonise legislation governing interventions.

The key question is how to improve intervention outcomes within existing legislative frameworks and beyond the current fragmented processes. What can be done pragmatically, and what are the options beyond the current disparate, parallel processes? What can be done to oblige (and give) the Minister of Water and Sanitation more powers to intervene directly?

DWS should conduct a review of the intervention provisions in the Water Services Act to align them with other legislation. This review should include a thorough assessment of DWS obligations towards WSAs, its own capacity to intervene in WSAs in crisis, and the potential role of the section 139 process in complementing that process.

Beyond reviewing legislation, there remains the need for harmonization. This has more to do with political and technical cooperation between COGTA, provinces, DWS and WSAs, and the commitment of necessary resources.

6. Address the regulatory gap in section 139 interventions.

Legislation is needed to provide clarity on the implementation process for interventions in terms of section 139 of the Constitution. It is important to establish a set of standardized practices that ensure consistency, alignment, and transparency in carrying out interventions. Additionally, the timing of interventions should be considered to enable their initiation well in advance of municipal failure.

7. Rethink the role of water boards as implementing agents for interventions in terms of section 63 of the Water Services Act.

Evidence suggests that water boards are not always the right vehicles to implement these interventions, specifically for functions beyond bulk water, such as sewage treatment, customer care, and reticulation. Their skill sets align with bulk water mandates and they face their own capacity challenges. Experience has shown that water boards have not offered the best quality of service nor the best value for money in providing water services.

This necessitates a reconsideration of the role that water boards can usefully play in section 63 interventions. It is important to identify where their strengths can be effectively utilized to support intervention objectives. For instance, water boards may be valuable in implementing emergency or short-term measures, rather than being seen as a universal solution to all water services delivery issues.

8. Retain the current flexibility around service provision modalities in the WSA model.

A strength of the WSA model lies in its flexibility. It does not prescribe a one-size-fits-all approach to water service provision. Any future review of the model should preserve this flexibility. Various options can be viable depending on specific circumstances, such as municipal entities serving as WSPs, retaining the WSP function within the WSA, or contracting external providers as a WSP.

It is crucial to carefully consider the options on a case-by-case basis, avoiding blanket assumptions. For example, there is currently insufficient evidence to support the notion that water boards are universally more effective than local government in providing water services. Similarly, there is no evidence to suggest that district municipalities consistently outperform local municipalities in terms of water service efficiency.

9. Review processes guiding how WSAs select the water services provision mechanism.

Any decision by a WSA to change WSP arrangements should follow a rigorous, objective section 78 process. However, many concluded section 78 processes have not achieved the legislative intent. Consequently, national government should review the section 78 process to make it more substantive and provide a clearer oversight role for national government where appropriate.

National Treasury should make a focused effort to refine supply chain management and public-private

partnerships legislation. Municipalities should receive support in the design, procurement, and ongoing management of public-private partnerships.

10. Improve economic and performance regulation of the retail water tier.

Coherent economic regulation of water services is needed, particularly in the weak area of retail water tariff regulation. This has been identified by DWS as a key area for improvement. A regulator can oversee water tariffs, establish service delivery standards for WSAs, and ensure accountability.

Economic regulation and standards regulation are closely linked since standards directly impact service costs. Therefore, it makes sense for the economic regulator to regulate the performance of the institutions responsible for water service provision. Mechanisms like licensing WSPs and monitoring section 78 processes could be included within the regulator's purview. This would grant the regulator the authority to issue and revoke service provision licenses if prescribed standards are not upheld.

Conclusion

The WSA model was intended as a means of decentralizing water management and improving service delivery at the local level. The research indicates that the observed shortcomings in providing water services are not primarily due to inherent flaws in the WSA model, but rather stem from systemic and structural issues within the local government system. There is little that a better designed WSA model can do to compensate for these systemic failures, and more emphasis is required on treating root causes rather than symptoms. Nonetheless, there are improvements that can be made to the WSA model, which when operating within a functional local government system, will undoubtedly lead to enhanced provision of water services.

To access the report,

Towards a systematic review of the Water Services Authority model

(WRC report no. 3072/1/23), Visit: <https://wrcwebsite.azurewebsites.net/wp-content/uploads/mdocs/30721.pdf>