NATIONAL POLICY DEVELOPMENT FRAMEWORK 2020

Approved by Cabinet on 2 December 2020

THE PRESIDENCY
REPUBLIC OF SOUTH AFRICA

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LIST OF ACRONYMS

APP	Annual Performance Plan
BBBEE	Broad-Based Black Economic Empowerment
CBA	Cost-Benefit Analysis
DG	Director-General
DPME	Department of Planning, Monitoring and Evaluation
EBPM	Evidence-Based Policy Making
IGR	Inter-Governmental Relations
ILO	International Labour Organisation
JTM	Joint Tagging Mechanism
M&E	Monitoring and Evaluation
MTSF	Medium-Term Strategic Framework
NDP	National Development Plan
NEDLAC	National Economic Development and Labour Council
NSG	National School of Government
OCSLA	Office of Chief State Law Advisor
OECD	Organisation for Economic Cooperation and Development
PAIA	Promotion of Access to Information Act
PAJA	Promotion of Administrative Justice Act
PEPUDA	Promotion of Equality and Prevention of Unfair Discrimination Act
PSPPD	Programme to Support Pro-Poor Policy Development
SAMEA	South African Monitoring and Evaluation Association
SEIAS	Socio-Economic Impact Assessment System
WHO	World Health Organisation

Ms Lusanda Mxenge
Acting Director-General and Secretary of the Cabinet

FOREWORD

Since the dawn of our democratic era, from a policy perspective, South African policy making had evolved. During the first five years post 1994, the first Administration focused mainly on policy, legislative and institutional reforms to address the injustices of apartheid regime and on building a non-racial, inclusive democratic society. The former Policy Coordination and Advisory Services (PCAS) in the Presidency performed the critical function of policy coordination and research services in post-apartheid South Africa and it was discontinued in 2010.

In absence of the Policy Unit, the Department of Planning, Monitoring and Evaluation was created in 2010 to focus on short-medium term planning, performance monitoring, improvement to service delivery and institutionalisation of evaluations across government. Additional establishment was the National Planning Commission to focus on the long-term planning for the country which resulted in formulation and adoption of the National Development Plan, Vision 2030.

It is only with the introduction of our National Development Plan: Vision 2030, that policy coordination has been re-prioritised and has taken its rightful place in our administration as a powerful tool to address policy inconsistencies and lack of structural reforms. If we are to improve our performance, we have to "get back to the basics" by improving our policy thinking (capacity), strengthening policy coordination and ensuring meaningful participation as well as policy learnings from ex post assessments.

The Nation Policy Development Framework will guide all government departments in drafting their respective public policies. The framework seeks to standardise the policy formulation processes across all spheres of government. In doing so, it will set out the basis for policy development (codifying practice and process), coordination, policy making cycle, expected standards and institutional arrangements to be put in place for effective policy development and implementation.

It will also contribute to inculcation of a culture of evidence based policy making towards improved service delivery. The re-established Policy Unit (Policy and Research Services) in the Presidency will monitor the implementation of this framework and continue to provide capacity development through trainings, policy briefs on best policy making practices and implementation guidelines.

I would like to thank all the officials in national, provincial and local government who made significant contributions to the design of this framework. Thanks to the former Director-General and Secretary of the Cabinet, Dr R. Cassius Lubisi, Prof. Busani Ngcaweni, Mr Lawrence Matemba, Dr Sam Koma, Dr Langer Laurenz, Prof. Stewart, Prof. Mcebisi Ndletyana, Prof. Herbert Maserumule, Dr David Mohale, Dr TK Pooe, Ms Pulane Kole, Mr Jan Magoro and the Editorial Team Mr Nazeem Mahatey, Mr Nolan Lister and Ms Futhi Ntshingila.

EXECUTIVE SUMMARY

The National Policy Development Framework seeks to entrench good public policy- making practices in South Africa by setting out clear principles for effective policy development and implementation. The Constitution of the Republic of South Africa stipulates that people's needs must be responded to, and that the public must be encouraged to participate in policy-making. South Africa is confronted with the triple challenges of unemployment, poverty and inequality. In order to address these problems, the South African Government has policy levers at its disposal to promote employment creation and improve the socio-economic conditions of citizens.

Since 1994, very few national government departments have developed policy development frameworks to prescribe and set out procedures and processes on how to develop policy, as well as policy templates. However, policy-making challenges prevail in the country, as the government does not have a standardised or systematic approach on how to develop evidenced-based policies in South Africa. The introduction of the Socio-Economic Impact Assessment System (SEIAS) in 2015 that replaced the Regulatory Impact Assessment was the first major step in ensuring that proposed public policies are thoroughly analysed for likely impacts, costs and benefits, risks and aligned to national priorities as stipulated in the National Development Plan. In addition, it goes a long way to ensure that developed policies respond to the triple challenges of poverty, unemployment and inequality, by *inter alia,* reducing the regulatory burden on businesses to promote inclusive economic growth and to boost the country's competitiveness.

This framework aims to regulate policy management processes in South Africa. It will codify policy-making practices and entrench evidence-based policy-making. Further it seeks to guide officials, on policy analysis, policy development, policy authorisation, policy implementation and policy reviews. In doing so, policy-making standards and guiding principles are introduced for the entire policy-making cycle. The framework further clarifies approaches to intra/inter departmental consultation (policy coordination) and external stakeholder consultations during policy management process. It seeks to embed the Socio-Economic Impact Assessment System (SEIAS) in the policy-making process.

The framework introduces mechanisms for policy monitoring and evaluation (alignment with the Government Wide-Monitoring and Evaluation System and National Evaluation Policy Framework). Ultimately, it aims to promote, facilitate and institutionalise ex-post impact evaluations to improve policy performance and reduction in regulatory burden.

This document is a result of an extensive consultative process spanning over a period of two years with government departments in order to understand and appreciate dynamics, complexities and their policy making practices. It is benchmarked against similar policy frameworks in countries such as Malaysia, United Kingdom, Canada, Australia and Kenya.

1. INTRODUCTION AND BACKGROUND

In the 25 Year Review (1994-2019), the President Cyril Ramaphosa stated that "the review underscores the need for policy coherence to overcome all these difficulties and grow our economy, accelerate our transformation project, consolidate our social compact and advance the ideals of the National Development Plan". Policy incoherence is always cited as a growing concern. This is partly as a result of weak policy design and departments working in silos.

Laws that were not in accordance with the new Constitution were repealed. Legislation and policies that ushered in a democratic, non-sexist and non-racist society were promulgated and a solid foundation was laid for a more equitable, integrated and just society anchored on the democratic values of human dignity, equality and freedom[1].

Since 1994, South Africa has made significant progress in building structures for a democratic state. The fragmented governance structures under apartheid state have been consolidated into a system designed to serve developmental objectives. The composition of public service and local government has been transformed to represent the entire population. The introduction of democracy has provided a basis for greater accountability of the state to its citizens. The state has successfully restructured public finances, created an efficient tax system, and built an independent and credible reserve bank[2].

Notwithstanding the above progress, there is unevenness in policy management capacity which leads to uneven policy performance across the three spheres of government and a tendency for quick fixes coupled with frequent policy changes which strain limited capacity and negatively affect policy outcomes. Also, not all laws which are not in accordance with the Constitution were repealed.

Departments, when formulating public policies, rely on the technical expertise and experience of officials from diverse areas of specialisation, but mostly, research and legal services. It has been observed that while critical policy thinking and policy formulation could be executed relatively faster, delays are usually the result of consultations and the relevant policy authorisation process and structures such as the Cluster System, inter-departmental relations committees, Cabinet Committees, Cabinet and NEDLAC. The role of policy coordination units across government and parliamentary liaison officers is critical and aid most departments in securing policy approvals. It will be remiss not to recognise the important role performed by non-state actors such as civil society, academia, media and the private sector in shaping and influencing policy-making processes.

The process of law making is generally a lengthy and complicated one as it involves a number of structures and actors. Usually, the process begins with a discussion document called the green paper developed by a department on a particular policy matter. The green paper is then followed by a refined discussion document known as the white paper, which reflects a broad statement of government action. From a white paper, a bill is produced which is a draft law and undergoes a legislative process of drafting and consultation. In the immediate post-1994 period, this was generally accepted as the standard process to follow when developing public policy.

During the First and Second Administrations, there was a greater use of the green and white papers process as guiding principles. However, overtime the use of green and white papers was not as rigorously applied as previously. Legislation in many instances were developed without supporting policy documents (the green and white papers) resulting in weak legislative proposals and the potential for legal challenges.

Public policy is important in that it is the statement of intent and an expression of political mandate, and must include a clear vision statement. Legislation is an instrument through which policy vision gets to be implemented.

The SEIAS Unit is aware of a number of laws that were overturned by the courts because of technical deficiencies in their Constitutionality and the process of consultation. This policy framework seeks to outline a clear guideline to be followed in consulting the affected stakeholders and will do so by recommending innovative tools to utilise to ensure an inclusive public participatory process. In the SEIAS process, stakeholder consultation is a non-negotiable which strives for genuine stakeholder involvement rather than simple malicious compliance with the Constitution and other laws.

In February 2015, Cabinet approved the SEIAS in line with the Medium Term Strategic Framework (MTSF) to improve policy development and create a more efficient and robust legislation and regulations. Cabinet adopted a resolution on the establishment of the SEIAS Unit in The Presidency to facilitate and provide guidance to national departments on the application of SEIAS to the design of policies, legislation and regulations.

According to Cabinet Resolution, all policies, bills and regulations were to be subjected to SEIAS, to assess their impacts and contribution to the National Development Plan priorities before their approval.

The objectives of SEIAS are to:
a) Ensure that departments analyse risks and costs associated with the development of policy, legislation and regulation and propose ways to mitigate them;
b) Contribute to improving policies, rather than simply helping to decide whether they are worthwhile;
c) Address the lack of consistent implementation of the public participatory process to date and point to ways to improve the effectiveness and efficiency of implementation; and to,
d) Take into consideration how government actions impact

on and relate to transformation, environment and inclusive growth of the economy.

By virtue of SEIAS reports and associated proposals submitted to the SEIAS Unit by national departments for analyses and quality assurance, a repository of government policies was systematically established. This platform created an opportunity to understand various practices on policy and legislation development, coordination, implementation, capacity, best practices and cross cutting challenges.

Based on these experiences and practices, this Framework has been developed to provide guidance on how robust public policies should be developed, coordinated and managed for effective implementation of the national priorities.

2. PROBLEM STATEMENT

The National Development Plan (NDP), 2030, identified the following policy instability concern, namely that "A capable and developmental state requires leadership, sound policies, skilled managers and workers, clear lines of accountability, appropriate systems as well as consistent and fair applications of rules". Policy incoherence is widely cited by government as a concern. The NDP further proposes a need to improve policy coordination and implementation as well as policy certainty to attract investment, lower the cost of livelihood, reduce the cost of doing business and minimize unnecessary burden, complexity and duplication.

Through the implementation of SEIAS since 2015 and consultations with departments that took place in 2017 and 2018, the following issues emerged with regard to policy development and coordination:

a) **Policy coordination issues**- These issues arise due to the fact that policy-making in national government departments is de-centralised. By implication it means that there is no central policy-coordinating mechanism within departments to oversee development and implementation of departmental policies and therefore each branch or directorate have a policy making function. This situation leads to poor policy coordination and oversight, as well as contradictions. Another problem relates to the appointment of specialists and experts in government, who often do not have prior exposure and or an adequate orientation on public policy and therefore lack experience in policy formulation and implementation.

Other challenges include the following:

i. Sub-optimal policy coordination and policy incoherence (due, in part, to weak inter-governmental relations structures);
ii. A proliferation of policies and laws with no clear rationale, where the policy or law is treated as outputs in itself with no follow-through on implementation and or proper consideration of their impact on the national priorities;
iii. Instances where bills are crafted without first developing discussion documents (green papers) and policies;
iv. Limited stakeholder engagement during policy making process;
v. Few departments have developed their own policy development frameworks; and,
vi. The need to strengthen coordination of policy development within departments, from planning to approval, to implementation and the monitoring thereof.

b) **Content related Issues**- A pronounced confusion exists regarding policy terminology. For instance, there is no clear differentiation between green papers, white papers, policy discussion documents, policies, legislation, regulations, frameworks, and strategy. Similarly, different types of policies are often conflated, be they regulatory, distributive, redistribute, transversal, department specific, branch level, sectoral or policy directives.

Currently, each department formulates public policies on the basis of its own standards, procedures and principles, without reference to any standardised framework on best practices on policy-making. In addition to the problems pertaining to policy-making and implementation identified above, this framework identifies key problems as follows:

i. Lack of data driven policy decision-making and a slow transition from opinion-based policy making into evidence-based policy making;
ii. A tendency to separate initial impact assessment (SEIAS) from the policy making process meaning that there is a lack of critical due-diligence in devising alternative policy options during the impact assessment phase;
iii. Insufficient and ineffective stakeholder involvement in the policy-making process;
iv. Fragile monitoring and evaluation (M&E) systems coupled with less viable implementation plans;
v. Lack of competence to complete the policy-making cycle resulting in poor practice of ex-post impact assessment (inadequate utilization of evaluation findings to improve policy processes, programmes and inform new policies and plans);
vi. Policy development is not properly planned, often being a rushed process that compromises the quality and consultations with stakeholders;
vii. The evident lack of knowledge as demonstrated by the constant requests received by the SEIAS Unit from departments seeking guidance on how to develop policies;

viii. The lack of a standardised format for policy development as well as a national framework to guide and provide practices on policy development.

c) Leadership changes in political heads often leads to policy uncertainty and discontinuity. This view is supported by the many officials who reported that policy proposals at advanced stage were halted by new political heads who might have had a different perspective and approach.

Against this background it was determined that there was a need for a standardised policy document which would be responsive, coherent and coordinated to serve as a reference point.

3. PURPOSE OF THE NATIONAL POLICY DEVELOPMENT FRAMEWORK

The intended outcome of this framework is a coherent, evidence-based and implementable policies in government that will effectively address socio-economic challenges of unemployment, poverty and inequality.

This framework aims to:

a) Regulate the policy management processes in the public service;
b) Encourage, promote and ensure a common and integrated approach to policy development, and mutually reinforcing policy actions within the public sector;
c) Codify and institutionalise policy-making principles and practices in national, provincial and local governments, and organs of state;
d) Entrench the practice of evidence-based policy-making;
e) Guide officials on policy analysis, policy development, policy authorisation, policy implementation and policy reviews;
f) Set standards and guiding principles for the entire policy-making cycle;
g) Clarify approaches to intra/inter departmental consultation (policy coordination) and external stakeholder consultations during policy-making processes;
h) Embed the Socio-Economic Impact Assessment System (SEIAS) in the policy-making process;
i) Clarify policy terminology and distinctions in the roles and responsibilities in the policy making process;
j) Introduce mechanisms for policy monitoring and evaluation which are in alignment with the Government Wide-Monitoring and Evaluation System and National Evaluation Policy Framework.

4. LEGAL BASIS FOR THE FRAMEWORK

The Constitution (Section 195) stipulates that public administration must be governed by the following democratic values and principles:

a) Efficient, economic and effective use of resources must be promoted;
b) Public administration must be development-oriented;
c) People's needs must be responded to, and the public must be encouraged to participate in policy-making; and
d) Public administration must be accountable.

The following legislative architecture and policy frameworks are pertinent and intrinsically linked to this policy framework:

a) The Constitution, Act 108 of 1996;
b) The Intergovernmental Relations Framework Act 13 of 2005;
c) Public Service Act (1994 as amended by Act 30 of 2007);
d) Public Management Act, 2014
e) Public Finance Management Act (PFMA, 1999);
f) The Municipal Finance Management Act (MFMA, 2000);
g) The National Economic Development and Labour Council, Act (No.35 of 1994);
h) Policy Framework for the Government-wide Monitoring and Evaluation System, 2005;
i) Framework for Programme Performance Information;
j) Template for developing public participation guidelines (PSC, 2010);
k) South African Statistics Quality Framework; and
l) The National Evaluation Policy Framework.

5. SCOPE OF APPLICATION OF THE FRAMEWORK

This policy framework applies to national, provincial and local government and organs of state mandated to develop and implement public policies and legislation, including regulations and by-laws.

> *Note: This framework does not apply to the development of the following:*
> *a) Strategies and strategic frameworks*
> *b) Plans and planning frameworks*
> *c) Administrative and operational policies that are internal to government departments and local government structures. Such policies pertain to, inter alia, Finance, Human resource, Information and Communications Technology.*
> *d) Guidelines and/or Guides*
> *e) Standard Operating Procedures*
> *f) Circulars*
> *g) Practice Notes*
> *h) Protocols*

6. DEFINITIONS

For the purpose of this framework, the following policy related definitions are explained:

a) **Act of Parliament** - refers to a final legislation which originally assumed a status of a Bill (e.g. Health Practitioners Bill) and was subsequently passed by Parliament to become a law. The Act of Parliament will have a force of law once the President has assented to it and published a date for its implementation through a proclamation. The other term synonymous with an Act of Parliament is statute.

b) **Bill** - refers to a draft law or legislation (e.g. Health Practitioners Bill) that is subjected to public consultative processes, parliamentary debate, voting and enactment. Once Parliament passes the Bill into law, the piece of legislation is sent to the President for assent and signature.

c) **By-law** - is passed by a Municipal Council since the Constitution bestows both the executive and legislative authority on this body in terms of Section 151(2), read together with Section 156(2) of the Constitution. A by-law serves as an original legislation in the context of a municipality. Municipal Councils are constitutionally empowered to pass and administer by-laws on matters listed in Part B of Schedule 4 and Part B of Schedule 5 of the Constitution.

d) **Evaluations** – are the systematic collection and objective analysis of evidence of public policies, programmes, projects, functions and organisations to assess issues such as relevance, performance (effectiveness and efficiency), value for money, impact and sustainability and recommend ways forward.

e) **Evidence-Based Policy Making** - is the process that assists policy makers to make better decisions and achieve better outcomes. Evidence refers to the knowledge base and body of knowledge that is being drawn on and used to inform policy decisions.

f) **Green Paper** - refers to a draft (i.e. proposed) policy document on a specific government position. For example, a Green Paper on Land Reform will be subjected to public consultative processes, outside input, verbal and written submissions, and consolidated by the responsible Parliamentary Portfolio Committee. In the instance referred to, the Rural Development and Land Affairs Portfolio Committee would be mandated by Parliament to solicit public comments. The Green Paper is introduced by a designated Minister through Cabinet for discussion and input, and finally to Parliament for debate and voting. It is important to bear in mind that a Green Paper is not considered a law since it is merely reflecting an official government policy position on a specific matter of public concern.

g) **Invalidation** – happens when legislation is declared to be legally unacceptable. The legislation may no longer be applied, but remains on the statute book until removed by a competent law-maker. Courts may not and do not repeal legislation. However, they may invalidate legislation. Courts invalidate legislation on constitutional grounds. Tthe legislation is declared unconstitutional because it violates some or other constitutional principle or because the legislation does not comply with administrative law requirements.

h) **Legislature** - is a body of persons who have been elected and who make laws. The collective name for these laws (statutes) is legislation. In South Africa there is the national legislature (Parliament) which makes laws for the whole country on any subject.

There are also Provincial Legislatures which make laws for the provinces on certain subjects only, as well as local government legislatures (called Municipal Councils) which make by-laws for their areas also on certain subjects only.

i) **Monitoring** - involves continuous collecting, analysing and reporting data on inputs, activities, outputs, outcomes and impacts as well as external factors in a way that supports effective management. It aims to provide managers, decision makers and other stakeholders with regular feedback on progress in implementation, results and early indicators of problems that need to be corrected. Monitoring usually reports on actual performance against what was planned or expected.

j) **Notice** - is usually issued to ensure that there is compliance with laws operating under the auspices of a government department, for example, the Environmental Affairs, Water and Sanitation, Mineral Resources and Energy departments. The overall aim of a compliance notice is to bring non-compliant actors into compliance with environmental legislation or with the conditions of permits, authorisations or other regulatory instruments.

k) **Policy** - can be defined as the organisation's stated position on internal or external issues. It provides the written basis for an organisation's operations and informs legislation, regulations and the organisation's governing document. A policy is typically based on a government's political priorities, usually contained in the governing party manifesto and part of its programme of action.

l) **Policy development** – is the activity of developing policy generally involves research, analysis, consultation and synthesis of information to produce recommendations. The end product of this process is a policy document reflecting on the policy issue to be addressed, procedures and mechanisms aimed at achieving the strategic thrust of the policy.

m) **Policy framework** - is an overarching structure tabulating a set of steps, procedures, principles, values and standards that officials ought to comply with to ensure the realisation of an organisation's adopted policy. It provides broad and detailed guidelines that are crucial to proper implementation of a policy. An example is the DPME's National Evaluation Policy Framework (2011) which provides the basis for a minimum system of evaluation across government.

n) **Private Members' Bills** – are Bills introduced by individual Members of Parliament, as opposed to the introduction of Bills by the governing party. For example, the Labour Laws Amendment Bill introduced by the African Christian Democratic Party (ACDP) to among others, give fathers the opportunity to take paternity leave.

o) **Proclamation** - refers to when the President makes a public announcement in the Government Gazette about the commencement date of an Act or legal action.

p) **Programme** - refer to actual policy or implementation programmes.

q) **Promulgation** - refers to the publication of regulations as final step of implementation. This is usually done by Executive Authorities

r) **Provincial legislation** - (referred to as provincial Acts, is passed by any of the nine Provincial Legislature on areas within the provincial sphere of government, in terms of Section 104, read with Schedules 4 and 5, of the Constitution.

s) **Public Policy** - is an authoritative statement by policy makers in response to a societal problem, opportunities and changing circumstances the population is faced with at any given time. Policy contains goals to be pursued and the course of action needed to achieve the goals. Public policy becomes implementable provided the elected policy makers and senior government officials have authorised and legitimised it through a formalised policy development process

t) **Regulation(s)** - flows and derives from an Act of legislatures It is intended to amplify the content of the original legislation for the purpose of implementation on the part of the policy implementers (i.e. bureaucrats). A designated Minister would be responsible for developing a regulation or regulations based on the content of a piece of legislation. For example, the Minister for Health may decide to develop a regulation based on the Health Practitioners Act.

u) **Repeal** - refers to the process whereby legislation is deleted, in other words, removed from the statute book. Elected legislatures and persons or other bodies so enabled by primary legislation, are competent law-makers, and they may repeal legislation.

v) **Socio-Economic Impact Assessment System** – refers to an ex ante policy analysis tool for assessing impacts and likely costs and benefits of the proposed regulatory propositions including, public policies, legislation, regulations and other highly impactful regulatory instruments.

w) **Statutory law** – refers to law written down in statutes, parliamentary and provincial Acts, by-laws, proclamations, regulations and other subordinate legislation.

x) **Tagging** – refers to a process of classifying a Bill into one of the four categories, namely, Bills amending the Constitution; ordinary Bills not affecting the provinces; ordinary Bills affecting provinces; and money Bills (that is Bills that deal with appropriation of taxes, levies or duties). This process determines the procedures the bill must follow in order to become a law.

Bills are tagged by a Joint Tagging Mechanism (JTM) advised by the Parliamentary Legal Adviser. JTM decides on the classification of the bill by consensus. JTM consists of the Speaker and Deputy Speaker, and the Chairperson and permanent Deputy Chairperson of the Council. These office-bearers are assisted by the parliamentary legal advisors.

y) **Theory of Change** – A tool that describes a process of planned change, from the assumptions that guide its design, the planned outputs and outcomes, to the long-term impacts it seeks to achieve.

z) **White Paper-** represents a final comprehensive government policy position on a specific matter. A White Paper flows from a Green Paper endorsed by Parliament following a debate and voting. The White Paper does not have any force of law since it merely reflects a government official policy position on a specific matter of public concern. Forn example, a Green Paper on Land Reform will assume the status of a White Paper once Parliament has approved it for implementation purposes. A Minister may at later stage decide to regulate certain aspects contained in the White Paper through a piece(s) of legislation.

Note: The Relationship between strategy and policy is highly iterative. Thus it is crucial that this relationship is clearly understood. For instance, once a policy is approved, the policy maker may develop a strategy as a tool to carry out the policy implementation. Similarly, once a strategy has been adopted, the policy makers may decide to develop a policy as an implementation mechanism. There prevails no rule that is indicative on which one comes first.

7.   WHY DO WE NEED PUBLIC POLICIES?

Public policies are needed to inform the public of the vision and intention of government, this to ensure that the intentions respond to societal challenges as well as that the rule of law and democratic values are respected and maintained. Public policies also:

a) Direct and guide the actions of role-players;
b) Provide a mandate to role-players;
c) Clarify roles and responsibilities of the different players;
d) Ensure consistency in the actions of persons expected to implement policy;
e) Facilitate uniformity in the application of rules and in decision-making;
f) Clarify the meanings of terms used in the process of undertaking the mandate of the Minister, in order to avoid confusion among policy implementers, and to ensure uniformity in the application of rules;
g) Improve the accountability of persons and organisations;
h) Protect the public against the improper utilisation/exploitation of people and resources; and
i) Reduce unnecessary conflict among role-players.

8.   TEN THESES OF EFFECTIVE PUBLIC POLICY

Ngcaweni (2019) argues that from praxis and theory emerges what he regards as ten theses of effective policy. He elaborates thus:

a) **A policy as a course of action must have a vision that set out its ultimate intention:** A vision set out in a policy should be aligned with the Constitution, Manifesto, national/provincial/municipal and departmental priorities There should be a clear logic from the policy vision, objectives and problem statements.

b) **It should be evidence driven, not emotional and be credible:** Evidence is critical in the entire policy-making cycle: from diagnosis of a problem or opportunity to monitoring and evaluation and back to policy development or review. It separates facts from opinions.

c) **Policy must be targeted, not omnibus with many objectives that can often contradict each other:** Must be targeted with few objectives that are realistic and easy to measure- (what gets measured gets done, one cannot manage what one cannot measure). It must be responsive to the country's socio-economic challenges- poverty, unemployment and inequality. Policy has to be direct, simple and easy to implement - ambiguous policies lead to different interpretations, burden to those who have to comply and can be open for manipulation.

d) **Requires effective and well-functioning government institutions:** Policy-making and implementation require institutions that are effective, innovative and have a strong culture of performance.

e) **A cadre with energy and foresight – the mandarins who can effectively execute policies:** Require stable political and administrative interface. Quick change of leadership creates policy uncertainty, interrupted implementation or even delays on policy and legislative development. Require effective leadership, necessary expertise, experience and work ethic. Expertise and experience to interpret evidence, to forecast and propose feasible policy assumptions, monitor implementation and the ability to tell if the policy is working or not and to proactively address blockages.

f) **Need social compact – build partnership:** The NDP emphasises that in accelerating development, the country needs active support of all citizens, leadership in all sectors that puts the country's collective interests ahead of narrow, short-term goals and radically improved government performance. Durable partnerships need to be forged between government, business, labour, communities and civil society.

Partnership is key for policy development and Implementation-Academia and other research institutions play an important role such as provision of credible evidence to inform policy making.

g) **Coherence and well-coordinated:** Policy does not exist in isolation, policy making must follow the Constitution's Principles of Cooperative Government and the Intergovernmental Relations Act, 13 (Act no. 13 of 2005). Coherent and integrated policy making reduces duplication, greater policy impact is realised, gives effect to streamlined processes and reduce regulatory and administrative burden. Well-coordinated policies result in buy in, clearer assigned roles and responsibilities and a better system of holding people accountable.

h) **Regular reviews – change when you must:** Policies are not static- must be regularly reviewed to adapt to changing circumstances. Policies are influenced by PESTEL- Political (e.g. a new political manifesto), Economic (e.g. the impact of US and China Trade war), Social (e.g. responding to increasing Gender-based violence), Technological (e.g. the evolution of 4IR, cybercrime and cybersecurity), Environment (e.g. responce to climate change) and Legal (e.g. imlications of International Agreements, Court Judgements, etc.). Outcomes on implementation of existing policies can inform interventions in a form of review. There should be early warning indicators that will quickly highlight policy performance and necessity to improve or continue with the status quo. Too quick changes that are not evidence based can lead to policy uncertainty, low staff morale and high cost of implementation to cater for ongoing changes.

i) **Adequately funded:** Policy is a course of action and must be adequately funded- otherwise it will be a good policy that is shelved and gathers dust. It has to be costed prior to approval, consulted on with stakeholders, while the SEIAS should assist in minimising costs through innovation and establishing partnerships.

j) **Good communication – the people must know!** Communication within government is for buy in, clarity on assigned roles and responsibilities and implementation mechanisms. Externally, the public must participate in policy making as stipulated in the Constitution. The public will know of services which will be implemented through the policy, partner with and hold government accountable as well as providing feedback on policy experience as it gets implemented.

9. TYPES OF GENERIC POLICIES

Public policy can be divided into six broad categories:

a) **Regulatory policies:** They exert control over individuals and corporations. These policies are formulated to control or put limitations on the options available for individual or collective human behaviour. Typical regulatory policies would cover the protection of consumer rights (for example, the National Consumer Protection Act.) and the environment.

Regulatory policies usually focus on business regulatory policies, such as those pertaining to the control of pollution or regulation of transportation industry. Some deal with such topics as affirmative action and gun control. Some set standards for quality that drug manufacturers must comply with. Other examples include the National Traffic Regulations, Health Regulations, and export and import regulations.

b) **Distributive policies:** These policies involve direct government benefits to individuals, groups, and the private sector. Distributive policies involve using public funds to assist particular groups, communities and industries. Distributive policies serve to benefit the constituencies of elected officials; this can be seen during election manifestos where different political parties seek voters' approval with the promise of resources and services they can provide for them if they are voted into power or kept into power. Examples include subsidies to farmers, infrastructure such as schools, public health care facilities and the National Student Financial Aid Scheme.

c) **Redistributive policies:** Such policies confer social benefits, such as jobs or money to specific groups and these policies are often aimed at redistributing wealth and resources among different societal groups.

Typically, these policies refer to social security schemes/grants to the elderly, children and vulnerable groups within the society. Other examples include the Broad-based Black Economic Empowerment Act.

d) **Transversal policies:** These are departmental policies which derive their mandate directly from transversal legislation or policies that are developed by other government departments and applicable throughout the entire government, for example, policies related to the Public Service and the Public Finance Management Acts.

e) **Department specific policies:** These are institutional or operational policies, which may include, standard operating procedures, guidelines, protocols that must be observed by departmental employees.

These policies may not necessarily emanate directly from national policy or legislation but are introduced by the Department concerned for operational efficiency and effectiveness. An example, being the Schools Admission Policies developed by the School Governing Bodies developed in line with the Admission Policy for Ordinary Public Schools, National Education Policy Act, 1996 and South African Schools Act, 1996.

f) **Policy directives:** Directives are formal instructions that must be executed by all affected policy implementers. A directive usually encapsulates instructions of a technical nature that do not require changes to higher level policies or to legislation. Other directives may reflect significant strategic or policy decisions. A policy directive communicates changes to the interpretation or application of policies and legislation. They can come in different forms, such as prescripts that interpret and clarify legislation regarding procedures, processes and practices that must be followed.

10. THE PROCESS OF POLICY MAKING IN SOUTH AFRICA

Policy making in SA follows the process set out below:

a) **Political Level:** A political manifesto of the Governing Party is a public declaration of policy and programmes aimed at improving the lives of citizens. These priorities are further processed through government for implementation.

b) **Government Level:** The Manifesto of the Governing Party is processed for implementation through the Medium Term Strategic Framework (MTSF). The MTSF is government's strategic plan which reflects commitments made in the election manifesto of the governing party, well as priorities of the NDP.

The MTSF sets out actions Government will take and targets to be achieved in an electoral term and provides a

framework for the other plans of national, provincial and local government. Detailed actions of the MTSF are deliberated in Cabinet and Provincial Makgotla, and announced to the public through State of the Nation/Provincial/Municipal addresses.

c) **Sector Policies:** These are policies departments and municipalities must strive to execute, which are derived from their respective mandate, for example, basic services, industrial, education, health, environment, immigration, labour, agricultural or information technology policies. These policies find expression for implementation through Strategic Plans, Municipal Integrated Development Plans (IDPs), Annual Performance Plans (APPs) and Municipal Service Delivery Budget and Implementation Plans (SDBIPs).

d) **Administrative Policies:** Administrative policies are intended to give practical effect to the broader political and government policies adopted by political office-bearers within the national executive authority. These policies provide guidance on the day-to-day running of the department and relates to personnel, financial, organisational, procedural and control policies.

Figure 1: Generic Policy making and implementation in South Africa
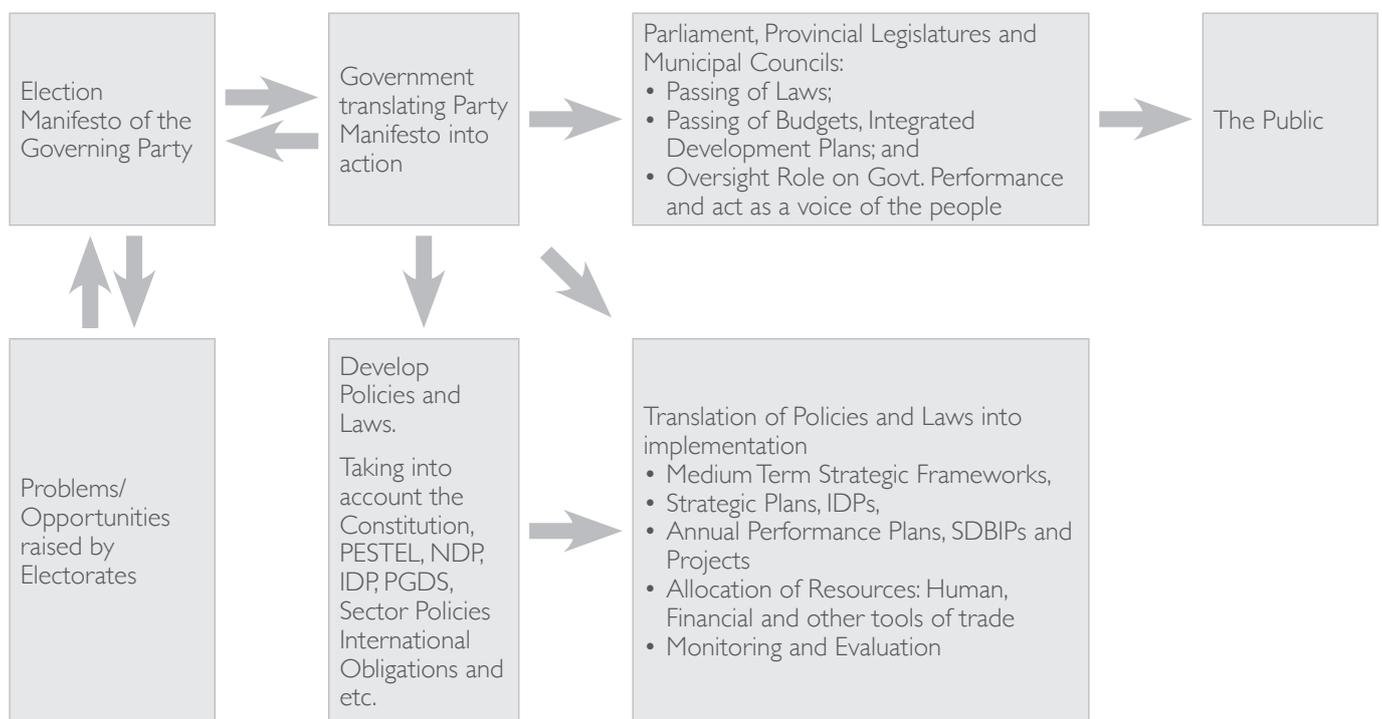
Note: Since policy making and legislative development are inextricably intertwined and interrelated, it must be a principle that no legislation (bills and amendment bills) should be developed in absence of a policy document (green and white papers). In cases where legislation prescribe the development of a policy e.g. School Admission Policy or the National Policy Framework on Child Justice policy, drafters should do so in collaboration with legal drafters and the Office of the Chief State Law Advisors.

11. THE POLICY MAKING CYCLE

Figure 2: The Policy Making Cycle
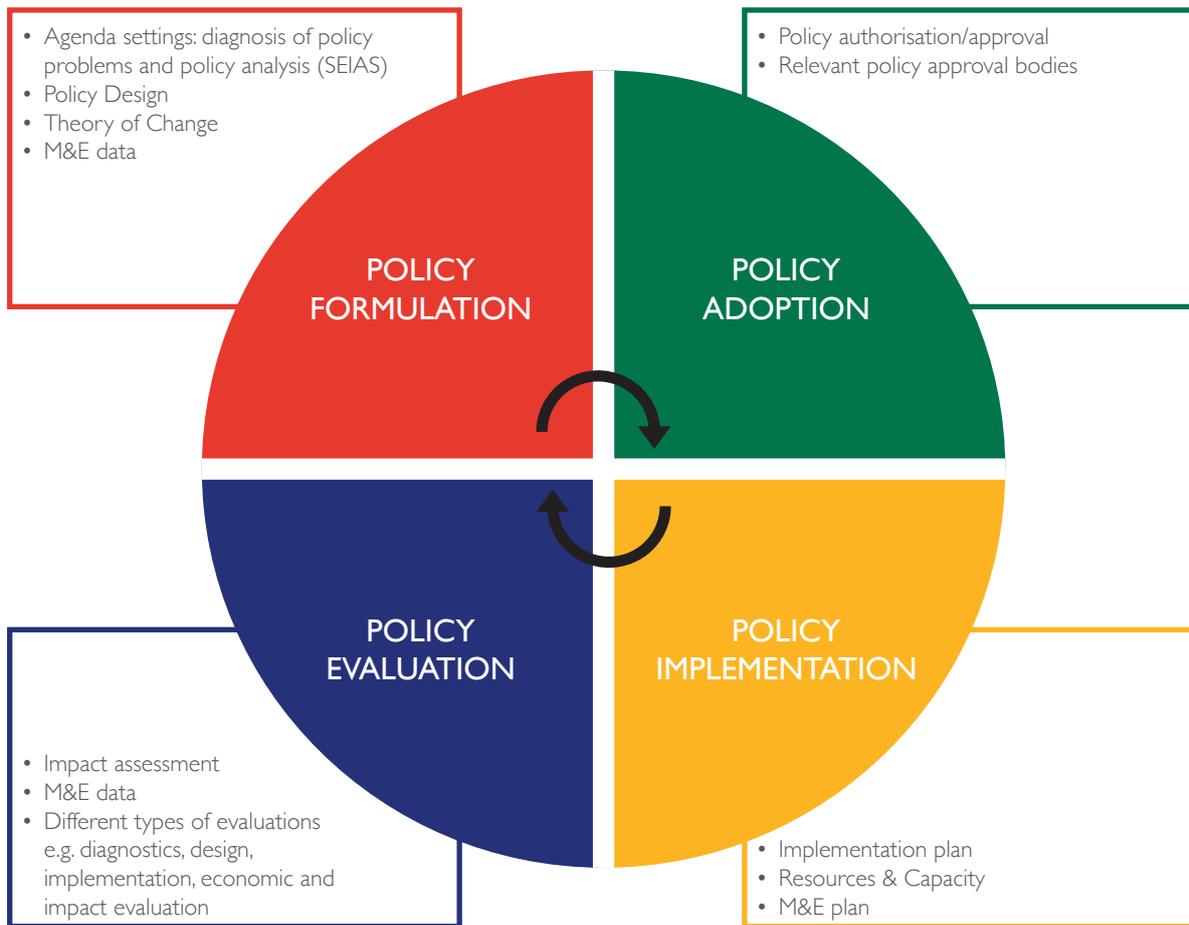
Policy making follows the above main cyclical stages namely policy development, policy adoption, policy implementation and policy evaluation, which are explained in detail below:

a) **Policy Formulation (or Diagnosis Phase):** This stage involves research problems that require government intervention and exploring various options of addressing them. The Policy Formulation phase includes the following areas:

i. **Problem and root cause analysis:**
This is about understanding problems, their origin (root causes) and associated behaviours through use of evidence. Clearly articulated problems assist in better formulating relevant interventions.

The use of Initial Impact Assessment (IIA) (of the SEIAS process) facilitates an understanding of groups in society (e.g. poor households, rural communities and the vulnerable) which are negatively affected by the problems, taking into consideration high levels of inequality.

The IIA enables officials to synthesise on how the problems negatively affect the national priorities, that is,

how identified problems perpetuate inequality, poverty and unemployment.

ii. **Use of evidence in the Diagnosis Phase:**
Types of evidence to assist in analysing a problem that requires intervention:

- **Research based evidence** such as evidence produced by scientists, academics, professional groups through formal, rigorous and comprehensive process
- **Practice informed evidence**: this is the evidence derived from experience with policy and practice such as the administrative data that is sourced from monitoring of existing policies and programme and etc.
- **Citizen (Participatory) evidence:** this is the evidence that is based on the day-to-day experiences of citizens or groups of citizens, such as customer satisfaction surveys, and consultations with communities etc.
- **Evidence from conducting evaluations:** this is evidence about what worked in the past, for whom, how and why. Types of evaluations that are used are Diagnostic, Implementation, Impact and Economic.

iii. **Option analysis for addressing identified problems**:
Practitioners are to explore various options of addressing identified problems. This involves use of evidence such as performance of existing policy interventions, from key stakeholders, evaluations and benchmarking. The IIA tests proposed options in terms of how will each option benefit groups of the society negatively affected by the identified problems, by the implementation, compliance costs to various groups, contribution to the NDP priorities, as well as risks and mitigation plans.

This stage allows practitioners using Theory of Change (ToC) to think through desired impact (what we aim to change) and outcomes (what we wish to achieve). Evidence supports practitioners to outline proposed intervention design, how implementation will be monitored and resources allocated for implementation. The SEIAS Final Impact Assessment (FIA) requires practitioners to understand the intended outcomes of an option, comments from stakeholders and cost implications to various groups. It is important that policy practitioners proactively provide for mechanisms to address possible disputes coming from stakeholders.

During the policy formulation stage, the Minister (Political Head) and the Director-General (the Accounting Officer) should be kept updated on developments, where necessary allow them to provide inputs and direction.

iv. **Early consultation and policy co-creation**
Stakeholder involvement early during policy formulation (diagnosis phase) is crucial as it allows for functional consultation and policy co-creation. Consultation is not a once-off linear process, but rather a continuous and mutual learning process. Some departments develop policies fully in-house, whereas others contract the entire process to experts in academia and consultants. Neither one of these approaches is ideal and therefore a context-specific blending of the two approaches is required, with departments leading on setting out the vision and rules of the game, and experts being consulted to ensure policies are based on high-quality data, and solid policy advice. This approach has been used before in the development of environmental legislation, the housing policy review process, as well as by the Department of Science and Innovation.

The policy co-creation unfolds as follows, the broad policy issue is shared and discussed with key stakeholders. Thereafter, a policy development plan is agreed that includes elements of how evidence (evidence mapping) will be collected to inform the policy, including through stakeholder engagements, focussed research questions, research synthesis and/or other forms of science-policy engagements. The process is facilitative, providing a two-way dialogue between stakeholders and policy makers to not only inform policy, but also to focus on research, making the research findings more policy-relevant.

At the end of this stage, policy practitioners should be able to develop a Green paper or Discussion/ Concept document for further consultation with stakeholders.

> **Note:** *In most cases, options are already being determined by Political Heads. Where there are concerning divergence, policy practitioners, through the use of evidence should guide Political Heads on cost effective and efficient options that will address identified problems. In line with the Explanatory Manual on the Code of Conduct for the Public Service (PSC, 2002: 9-18), technical advice and support offered by policy practitioners to Principals should:*
> * *Not be based on personal interests, but be supportive to the Government of the day;*
> * *Has to be within the ambit of the Constitution and other guiding legislation;*
> * *Be biased to serving the public; and*
> * *Be cost effective without compromising its greater benefits.*

b) **Policy Adoption:** This stage involves taking the draft policy through the relevant approval structures. Usually approval should first be sought internally in the department from the Minister or Premier or Mayor prior to interaction with Inter-Governmental Structures (IGR) such as Ministerial Clusters, MinMECs and District Mayor's Forum. Other national sectoral policies such as in education and health sector are only approved by the Minister, however it remains important that Cabinet is informed of such policies.

Notwithstanding that this stage involves policy adoption which in essence implies a policy approval for the next stage (implementation), it is also fundamentally a consultative process through the IGR structures.

The critical policy approval structures (or recommending) include the following:

* Ministerial Clusters
* MinMECs- for concurrent functions
* Premier's Coordinating Forums
* District Mayors' Forum
* Forum of Director-Generals South Africa (FOSAD)
* President's Coordinating Council (PCC)
* Cabinet Committees
* Executive Councils of Provinces
* Forum for Heads of Department
* Cabinet
* Council (in case of the by-laws at local government)
* Member of Executive Council for Local Government and Executive Mayors Forum

c) **Policy Implementation:** This stage has to do with translating a policy into implementation such as designing a programme which outlines activities to be undertaken, resources and institutional arrangements. At this stage, the application of FIA on assessing availability of resources (human, financial, infrastructure and etc.) for implementation of an option,

would have provided its results. Policy owners have to build in a detailed implementation plan with responsibilities that ranges from policy owners, implementers and oversight mechanisms. There should be an estimate of how and when progress will be measured through proper monitoring systems. Information gathered from progress monitoring has to feed into policy owners and decision makers so as to swiftly intervene and address bottlenecks that emerge during the course of policy implementation. It should not take an unreasonable time for policy owners to realise that a policy is not achieving its intended objectives.

Where national policy cut across various institutions e.g. policies for concurrent functions such as Health, Education, Social Development, Environment, Transport and etc., stakeholders (provinces and municipalities) have to be part of policy development and agree on a set of deliverables, resources and reporting requirements. Overlapping policy formulation and implementation should not pose administrative burden nor delays in advancing the NDP priorities.

Policy development and implementation come with its own risks, practitioners should be able to anticipate associated risks and proactively develop mitigation plans for effective implementation. Evaluation questions are to be thought through upfront, in line with identified problems and intended outcomes of a policy option or intervention.

d) **Policy Monitoring and Evaluation:** this has to do with the appraisal of the policy content, its implementation and impact to determine the policy's value and effectiveness. Performance information of programmes that are designed to implement a policy should determine whether to continue with a policy as an option or establish ways in which can be modified.

Policy evaluation assist the policy makers in systematically evaluating the design and implementation of public policies, against the predetermined policy objectives. This process assist in identifying areas for improvement and also with accountability by communicating progress to policy beneficiaries, policy makers and oversight authorities such as the Auditor-General and Parliament.

In order to effectively evaluate a policy, the prerequisites are to have data and information about the policy design, implementation and results from policy monitoring (monitoring data). This includes input (resources committed to policy implementation); process (requirements for good public policy); output (actual implementation of good practices; intermediate outcomes (improvements to regulations due to implementation of good practices) and outcomes (achievements of strategic objectives). If policy makers have data and information on every step from the

design through to the implementation, it will become easy to identify policy performance deficit and make adjustments and improvements in subsequent programme and policy planning design.

Most policy documents have sunset clauses clearly indicating by when it will be revised to ensure that it remains on course in achieving its intended outcomes and impacts. In 2005, the South African Government adopted the Ministerial Reviews approach wherein responsible line ministers receive expert inputs and empirical evidence to support strategic shifts in policy and programmatic interventions.

Ministerial Reviews are government-led sector evaluation processes that bring different stakeholders together to engage in dialogue, review status, and monitor expenditure, progress, and performance in the implementation of national sector policies, plans and programmes[3]. These policy reviews produce credible evidence about the actual performance and impact of policies and government programmes, which often results in policy changes and subsequent improvement on public policies and government programmes.

For detailed guidance on how to undertake programme and policy evaluations, policy makers are advised to re-visit the National Evaluation Policy Framework (2011). Below are key requirements which policy officials must consider when undertaking policy evaluations.

Table 1: Requirements for policy evaluation

Requirements for effective policy evaluation:
Relevance: the evaluation should be relevant for the purpose of resolving an existing policy issue or problem
Significance: it must make a difference to an existing situation
Originality: it must generate new information that was not available before the evaluation was undertaken
Legitimacy: it must enjoy the support of the major stakeholders involved in the policy issue area (e.g. participants, target groups or funders)
Reliability: the data-collection process must be stable and exist across time and space to ensure the accuracy of the data
Validity: the findings and conclusions of the evaluation must have effective causal linkages with the descriptive, factual component of the evaluation. Evaluation techniques and indicators must clearly and directly measure the performance intended to be measured
Objectivity: the evaluation should be undertaken in an impartial and unbiased way and any value or normative judgments should be minimised and openly declared
Timeliness: the evaluation findings should be based on recent performance and should be available in time to influence future policy decisions about a specific project or programme

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[3] DPME (Department of Planning and Monitoring). 2020. Draft Report on the Synthesis of Evaluation of Ministerial Reviews.

Note: *The policy or programme evaluation findings must be utilised by policy officials/makers in the process of continuously improving public policy. Policy officials/makers should also adopted the policy change model. In some instances, evaluation findings may recommend policy termination or dismantling. The policy change model encompasses policy maintenance, policy succession and policy dismantling.*

12. POLICY MAKING STANDARDS

Policy-making is a complex exercise which impacts the society differentially. For example, there are groups that bear compliance costs, those that benefit and those that are not affected. Policy=-making thus requires a fair amount of time and proper planning. Often policies that are rushed end up being deferred, usually as a result of poor consultation with stakeholders. The table below provides activities and estimates of time to be secured for each phase of the policy-making cycle.

Table 2: Policy-making stages, Policy-making activities, expected standards and standard duration

POLICY-MAKING STAGES	POLICY-MAKING ACTIVITIES	EXPECTED STANDARD	STANDARD DURATION
Problem diagnosis and option analysis	• Identification of problem/opportunity • Causal analysis • Policy research, early consultation, policy objectives, alternative policy options (initial impact assessment)	• Discussion document (green paper) that outlines the nature of a problem, its root causes and tested options • Initial Impact Assessment Report	3-5 Months
Policy Design	Designing: • Theory of Change and Log frame • Policy Objectives and expected outcomes • Policy options and key focus areas • Subjecting the draft policy to SEIAS Final Impact Assessment	Draft Policy with the following content: • Foreword and Executive Summary • Definitions • Introduction & Background (Why the policy and process followed on its development) • Vision and Principles • Policy linkages and its relevance • Evidence based problem statement • Theory of Change and Log frame • Clear objectives and expected outcomes • Policy Focus Areas (Outputs) linked to each problem statement • Implementation: Resources, Roles and responsibilities and Governance issues • Monitoring and Evaluation Framework, and • Conclusion A Preliminary (before broader public consultations) Final Impact Assessment Report	1-2 Months
Policy adoption	Tabling the policy at Government Cluster, FOSAD, MinMECs, Cabinet Committees and Cabinet (policy authorisation structures)	Well-structured and evidenced-based public policies supported by Cabinet Memorandum, briefing notes and SEIAS report	3 months
Policy Implementation	• Translating the policy into implementation. • Identifying resources for implementation, clarifying roles and responsibilities and communication strategy	• A costed implementation plan for the policy as well as the communication strategy	1-2 Months
Policy Monitoring	• Developing set of outputs, indicators targets in line with the objectives and focus areas of the Policy • Collecting data indicators on policy inputs, activities, outputs & outcomes	• SMART Indicators and targets aligned to the policy objectives • A system that will be used to collect performance data and the frequency from various authors • The system should have a form of verification and early warnings to assist in decision making and addressing policy related bottlenecks • In the system information collected should be synthesized and used to guide decision making.	1-2 Months Monitoring should be ongoing and applied throughout the Policy cycle
Policy Evaluation	Systematic evaluation of policy design and implementation against the set policy objectives	Developing an evaluation processes and plan and decide on the type of evaluation e.g. design, implementation or impact evaluation. This should be done in line with DPME National Evaluation Policy Framework	3-6 months
A minimal period taken for evidence-based policy to be developed and approved by Cabinet/EXCo's/ Municipal Council/ MinMEC/MuniMEC takes approximately 12-21 Months			

Principles for Effective Policy making

The following are key principles for effective regulation as prescribed by National Treasury (2016: 1-2):

a) **Necessity:** Regulation should be outcomes based and promulgated when necessary. They should be focused or targeted on the problem they seek to address, in a manner that minimizes unintended consequences. In some instances, policies may not be the best solution to a specific problem. Thus, alternatives to regulation must be considered first, in order to choose the best option. In order to ensure necessity and relevance, regulations should be reviewed on a regular basis to test whether they are still necessary and effective. If not, they should be modified or repealed. In certain instances, regulations could be built on existing regulations and influenced by available databases e.g. JSE data.

b) **Simplicity:** Policies should contain a clear statement of purpose, expressed in clear and plain language, to guarantee unequivocal understanding of the regulations and aid effective compliance. The complexity of some regulations can undermine their effectiveness. Regulations must be user-friendly. The relationship between regulator and regulated persons should be enabling. A choice of methods of interaction with the regulator should be available.

c) **Proportionality:** Government should only intervene where necessary and such intervention should be commensurate with the potential risk/harm posed, while the cost of regulation should be identified and kept to a minimum. In order to achieve this, socio-economic impact assessments become important. The costs and benefits of each alternative must be evaluated and the benefits must outweigh the costs. In instances of particular effects on certain subjects or cases, e.g. effect on smaller entities, accurately adapted regimes should be considered.

d) **Predictability:** Regulation should be predictable in order to give stability and certainty to the regulated. Wherever possible, a requirement should be rule rather than judgment based. This will create a context of predictability, and will facilitate effective compliance. Though rules may require mechanisms to deal with exceptions, they reduce uncertainty and help ensure fairness. Requirements and expectations from applicants must be stated upfront.

e) **Accessibility:** Regulation must be accessible to anyone for whom it may be important. Authorities should strive to provide one location to access all necessary documentation and requirements. This will reduce the administrative burdens for regulated people and entities. Technology becomes useful in this respect.

f) **Timeframes:** Approval processes must be expeditious and efficient, and operate within appropriate and specified timelines. All regulatory processes must allow applicants to track progress of applications. Reasons should be provided to the regulated party when the specified time line cannot be achieved. Where regulatory approval for an activity is required from more than one regulator, wherever possible, provision should be made for regulatory processes to proceed in parallel in both time and process, so that a reasonable turnaround time can be maintained for the effective approval of the activity.

g) **Coordination and consistency:** Government rules, standards and their intended objectives should not contradict each other. Harmonization of regulations with regional and international trading partners should be achieved wherever possible. The harmonisation of regulation is necessary for consistent legislation. Good regulation in itself, or juxtaposed with other regulations, does not result in redundancies and conflicts and is part of a consistent whole.

Mechanisms to achieve coordination are needed both horizontally between regulators operating in different institutions and within a single institution where regulatory steps are required at different vertical levels, for example from regional or provincial levels of the regulator.

h) **Competitiveness:** Regulations need to be competitive in respect of other countries. It will be important to establish if other countries regulate for a similar purpose. If they do, a question needs to be posed as to whether our system is comparable and harmonised. If not internationally comparable, a justification for the non-comparability should be provided, for example, a regulation could be for domestic reasons only e.g. BBBEE which is aimed at redressing past injustices.

13. FACTORS INFLUENCING POLICY-MAKING

Policies are not static and are influenced by various factors stated below. The country is influenced by international and regional developments and need to quickly adapt to these changing circumstances to remain competitive.

Figure 3: Factors triggering policy changes and agenda setting

Below is a brief description of factors depicted in figure 3 above and how they must be considered:

a) **Political factors:** Public policy takes place within a political terrain and it is formed by political ideas, philosophy and ideology espoused by political parties and the society at large. There are variables that are crucial in this environment including the system of government, the Constitution and political culture.

b) **Economic factors:** The economic environment entails the way in which society creates and distributes wealth and allocates scarce resources to competing groups or individuals.

c) **Social factors:** The social environment covers issues such as the population size (demographic profile), language, ethnic and cultural practices, values and beliefs, socio-economic needs such as access to food, water, land, housing, health, employment, safety and protection, migration and immigration patterns. Social change is inevitable and invariably will influence policy-making. For example, measures adopted by Government in March 2020, through numerous regulations and guidelines emanating from the National Disaster Management Act, were a direct response to combat a threatening human health emergency crisis caused by the spread of the coronavirus (Covid-19).

d) **Technological factors:** The advent of the Fourth Industrial Revolution (4IR) and the participation of South Africa in the World Economic Forum (WEF) has necessitated the national government to proactively respond through the setting up of the Presidential Commission on the Fourth Industrial Revolution. The Commission will be chaired by the President of the Republic of South Africa to, inter alia, guide government's approach to a national data policy on e-commerce platforms and taxing electronic platforms, digital skills development and ways to reduce communication costs, digital literacy and innovations in school curriculums. Furthermore, the policy would encompass government's approach to making sure small and medium-sized businesses have a culture of entrepreneurship and access to funding and the building of confidence in government's systems and infrastructure. The technological developments of 4IR clearly have far-reaching implications in the information and communication technology domain and other spheres of life and may warrant policy interventions in the short term or long term. This was clearly shown by the adverse impact of Covid-19 whereby social distancing was adopted and people were encouraged to work from home, shop online (e-commerce) and schools encouraged to offer online classes. Unfortunately, access and lack of ICT infrastructure made some of these interventions practically impossible and challenging for the majority of the citizens due to deprivation, requiring government to immediately re-examine its ICT policies and infrastructure in order to urgently address the digital divide in the country.

e) **Environmental factors:** Environmental factors include issues of climate change (increasing depletion of ozone layers, greenhouse gas emissions, etc.), biodiversity, protection of endangered species, waste and chemical management, marine resource protection and general environmental (ecosystem) management.

f) **Legal Factors:** The findings of courts of law have a bearing on policy changes. Various court cases have clarified the role of the State in the progressive realisation of socio-economic rights, specifically related to access to adequate housing. Subsequently, courts judgements have compelled many government departments to amend their laws and review policies in order to protect the socio-economic rights of the majority of South Africans.

g) **International treaties and conventions (international obligations):** Domestic policies are influenced by international treaties and conventions. A treaty is a written agreement between states. Some treaties are bilateral, creating relations between two states only, others are multilateral, creating relations between many states.

The most commonly used names other than a treaty are international agreement, convention, declaration, charter, covenant, pact, protocol, act, statute, exchange of notes and memorandum of agreement. In order to give publicity to

treaties, and to avoid dangers of secret treaties, both the Charter of the United Nations and the Vienna Convention require treaties to be registered with the secretariat of the United Nations. They are duly published in the United Nations Treaty Series.

In terms of Section 231 of the Constitution, the national executive has the responsibility of negotiating and signing international agreements. Where an agreement is of "technical, administrative or executive nature" it binds the Republic on signature without parliamentary approval, but must be tabled in the National Assembly and the National Council of Provinces within a reasonable time. Where, however, the agreement does not fall into one of the above categories it binds the Republic only after it has been approved by resolution in both the National Assembly and National Council of Provinces.

The 1996 Constitution is premised on the Vienna Convention, which allows final consent to be bound by a treaty to be given by ratification, accession or signature. Although a state is not bound by a treaty that it has signed but not ratified, it is obliged to refrain from acts which would defeat the object and purpose of such a treaty until it has made clear its intention not to be bound by the treaty. A state may apply a treaty provisionally during the interim period between signature and ratification.

Section 231(5) of the Constitution stipulates that the Republic is bound by international agreements which were binding on the Republic when the Constitution took effect. A treaty enacted into law by national legislation in accordance with Section 231(4) of the Constitution will enjoy the status accorded to it by the act of incorporation; a treaty enacted into law by Act of Parliament will be treated as an Act of Parliament, whereas a treaty enacted into law by subordinate legislation will be treated as subordinate legislation.

There are international treaties especially in the field of national security (defence), home affairs, human rights, environment, trade and finance that should be crucially considered with a view to ensure their incorporation into South African policy and law making process. Department must contact the Office of Chief State Law Advisor (OCSLA) during the negotiation process to assist with International agreements.

h) **Public opinion, personal experiences and M&E feedback:** Public opinion shape and influences public policy. Changing values and perceptions, belief systems and/or patterns of behaviour, on the other hand, shape public opinion. The media is a very dominant force in shaping public opinion. There is no denying that the mass media is a crucial link between the State and society, a position that allows for significant influence on the preferences of government

and society regarding the identification of public problems and their solutions. The role of the media in the policy process originates in the fact that in reporting problems they function as reporters and as active analysts, as well as advocates of policy solutions.

i) **Decision-makers may be influenced by their own personal values**, that is, what they personally value such as religion, ideology, party loyalty or by the urge to protect or promote their own physical, or financial well-being, reputation or historical position.

Evidence is essential in policy-making and may take the form of expert knowledge, published research, commissioned research, existing statistics, stakeholder consultations, the Internet, previous policy evaluations, outcomes from consultations, costing of policy options and outputs from economic and statistical modelling. Evidence-based policy-making helps policy makers to properly diagnose a problem and understand its cause-effect thereof. In this context, evidence from M&E is absolutely imperative to trigger a policy change and ultimately inform the agenda setting.

14. STAKEHOLDER ENGAGEMENT IN POLICY-MAKING

Chapter 10 of the Constitution prescribes that people's needs must be responded to, and the public must be encouraged to participate in policy-making. Therefore, the involvement of the public in policy-making is a constitutional obligation that government institutions must respect and institutionalise. Consultation with stakeholders should commence as early as possible prior to a decision taken on policy direction, including when identifying and conceptualising a policy issue.

Policy-making is complex and affect stakeholders differently. It is thus important for policy makers to conduct stakeholder analysis for stakeholders to have meaningful contribution to policy-making. The use of SEIAS IIA provides guidance on the types of stakeholders to be consulted e.g. those that are affected by identified problems, those who will benefit when the problems are addressed, and those who will bear the cost for implementation of proposed intervention.

To have better coverage and strategies on consultations, stakeholders can be categorised according to below Mendelow's matrix.

Figure 4: Stakeholder analysis- adapted from the Mendelow's Matrix

Power	High	*Stakeholders have high power and low interest*	*Stakeholders have high power and high interest*
	Low	*Stakeholders have low power and low interest*	*Stakeholders have low power and high interest*
		Low	High
		Interest	

a) **Stakeholders with high power and high interest:** this group needs to be fully engaged and brought on board;

b) **Stakeholders with high power and low interest:** they should be kept satisfied and ideally brought around as supporters of the proposed policy intervention;

c) **Low power and high interest:** These stakeholders may form the basis for an interest group to lobby for change; and

d) **Low power and low interest:** This group require little active engagement

It is important that during planning, policy makers develop a detailed communication and stakeholder strategy that will consider vulnerable groups, rural conditions, timing for consultation and other factors that might be barriers to active participation. Indeed, consultation should be infused in all aspects of the policy-making cycle. Moreover, a robust early consultation with affected stakeholders provides an opportunity to inform analysis and policy solutions, including:

a) Which policy solutions would best achieve the public policy objectives;
b) Exploring issues of self-regulation versus co-regulation and alignment;
c) How best to implement the proposed policy solution approach;

When undertaking consultation, policy officials must:

i. Conduct a stakeholder mapping whereby those who will be affected by the proposal are identified; and,

ii .Inform and engage stakeholders on the nature and magnitude of a policy issue, impacts and risks and these must be informed by the best available evidence, data or knowledge.

At the outset, it is important that stakeholders both internal and external are briefed about the mandate and legitimacy of policy makers during the consultation process.

Furthermore, policy makers should consider setting the rules of the game, agenda and agree on the process that will shape policy making.

Policy makers must not impose their preconceived ideas and disposition and pre-empt the outcome of the policy consultation process. They need to be willing to be persuaded and acknowledge the input of stakeholders with a view to create a win-win policy outcome.

Policy makers should avoid creating an impression that the consultation process is staged managed, cosmetic, token and a mere compliance issue. Where there are conflictual policy positions or views, it is incumbent upon policy makers and stakeholders to agree on setting up a Mediation Committee that would bring all the parties together and strive to produce an outcome based on bargaining, negotiation and compromise.

In addition, a debriefing meeting should be initiated by policy makers to communicate the final policy outcome and this may involve public meetings, press briefings, radio shows and discussion forums. This feedback process should allow the Policy Development Team (lead policy officials) to explain submissions and comments which were not consolidated into the final policy document and provide rational reasons as well.

The concept of sufficient consultation is elusive given the urgency, impact and entrenched views of stakeholders. What is important is the method employed during the consultation process and whether stakeholders showed keen interest on a matter at hand.

Policy makers must provide to stakeholders who submitted their comments, timely feedback on:
i. The outcome of the consultation, and,
ii. Key issues considered during the decision-making

Policy makers must report in the SEIAS (final impact assessment: Consultation Section):
i. The results of their early engagement with stakeholders;
ii. What stakeholders viewed as possible solutions, benefits and costs and how these influenced the selection of the proposed policy solution; and,
iii. Mechanisms for managing potential policy disputes.

The use of social media tools as part of e-governance should be explored as well as online surveys, and virtual meetings to enable faster solicitation of public inputs on public policy and service delivery matters.

Effective stakeholder engagement also involves being prompt and responsive to comments raised via social media platforms. Stakeholder engagement could serve various purposes, including to inform, promote, test and consult on government policy proposals. For purpose of this framework, stakeholder engagement must largely be about policy co-creation, where external stakeholders, especially experts are deeply involved in the entire policy management process. Officials must follow the right channels within their departments when engaging stakeholders and work closely with officials in communication and marketing directorates.

15. INSTITUTIONAL ARRANGEMENTS FOR EFFECTIVE POLICY MANAGEMENT

Policy-making involves various stakeholders both internally within institutions, within government and outside government. This section articulates different roles and responsibilities for effective policy-making and implementation. Policy-making and implementation are hampered by changes of the Executive Authority, conflicts and different policy views between the Executive Authority and Accounting Officers, and security of tenure of Accounting Officers.

The following are key drivers to effective policy-making, coordination and implementation:

a) **Executive Authority of the Republic:** Section 85 of the Constitution stipulates that the executive authority of the Republic is vested in the President. Section 85 (2) (a)-(c) further outlines that the President exercises his or her executive authority together with other members of the Cabinet in implementing national legislation, developing and implementing national policy and preparing and initiating legislation.

b) **Executive Authority of Provinces:** Section 125 of the Constitution stipulates that the executive authority of the province is vested in the Premier of that province. Section 125 (2) (a)-(c) further outlines that the Premier exercises his or her executive authority together with other members of the Executive Council in implementing provincial legislation in the province, implementing all national legislation within the functional areas stated in Schedule 4 or 5 of the Constitution. The executive authority is also responsible for developing and implementing provincial policy and preparing and initiating provincial legislation.

c) **Executive Authority of Municipalities:** In terms of Section 151 (2) of the Constitution, the executive and legislative authority of a municipality is vested in its Municipal Council. A municipality may make and administer by-laws for the effective administration of the matters which it has the right to administer. In terms of the Constitution, Section 156 (3), these by-laws must not contradict national or provincial legislation.

d) **The Intergovernmental Relations Framework Act No. 13 (Act No. 13 of 2005):** The Act, in line with Section 41 of the Constitution, makes provision for Intergovernmental Structures such as the President's Coordinating Council, Premier's Intergovernmental Forum and District Intergovernmental Forums. These structures provide for the discussion of functional areas, development of national policy and legislation, implementation of national policy and legislation, coordination and alignment of functional areas and other matters of strategic importance.

e) **Roles of Executive Authority and Accounting Officers:** The Public Service Act and the Public Finance Management Act and in the case of Local Government, the Municipal Structures Act, the Municipal Systems Act and the Municipal Finance Management Act are the guiding prescripts for the allocation of human and financial resources for implementation of policies and laws. These laws further demarcates roles of Executive Authority and those of Accounting Officers.

Table 3: Roles of Executive Authority and Accounting Officers at the Political and Administrative Interface

EXECUTIVE AUTHORITY	ACCOUNTING OFFICER
Provides political leadership, vision and policy direction	Informs and advises elected political officials accurately, completely and on time
Oversees and monitors the implementation of policy	Implements policy and ministerial decisions efficiently and effectively, and in particular in ways that provide value for money
Secures from colleagues support in the form of necessary resources for their ministries and departments to carry out policies effectively	Is fully accountable to ministers and parliament
Represents the ministry in cabinet and parliament	Utilises in the carrying out of these functions all relevant sources of data and advice, whether within or without the machinery of governance, so as to give ministers the broadest basis for policy consideration and determination
Accounts publicly for the performance of the ministry	
Takes collective responsibility for cabinet decisions	Coordinates, controls, manages, and communicates within their departments
Accounts to te legislature for their actions	

Source: Presidential Review Commission Report of 1998

The following are critical in harnessing this relationship:

i.   A mutual relationship of trust must be established to ensure seamless development, authorisation and implementation of policies and laws;

ii. The administration should, through the use of evidence and ethical conduct, guide and support executive authority on effective ways of addressing service delivery problems;

iii. Accounting Officers should provide progress on implementation of policies and laws through credible monitoring systems. Data collected on implementation should be synthesised to assist the Executive Authority in decision-making and swiftly address bottlenecks that hamper policy implementation; and

iv. The Executive Authority has to play an oversight role in ensuring implementation of policies and laws and report to Parliament, Provincial Legislature and Municipal Council as stipulated in the Constitution.

The NDP emphasises that in accelerating development, the country needs the active support of all citizens, leadership in all sectors that put the country's collective interests ahead of narrow, short-term goals, and, radically improved government performance. It further reflects that to achieve this, in some instances policy change may be necessary, though in most areas, it is about getting the basics right, implementing government programmes, holding people accountable for their actions and finding innovative solutions to complex challenges.

f) **The Role of Policy and Research Services (PRS) in The Presidency:** The Presidency serves as the centre for strategic coordination, leadership and supervision of government in implementing national policy and the government programme as guided by the Constitution and the Electoral mandate. The PRS is responsible for coherent and evidence-based policy formulation and implementation to achieve the national priorities and the National Development Plan. The PRS provides capacity and better collaboration through an established Policy and Research Network that comprise national departments, policy experts from Offices of the Premiers and representatives of the organised local government association (SALGA).

g) **The Role of Macro Policy Units in Offices of the Premier:** These units among others coordinate provincial macro policy in alignment with national priorities, spatial planning, implementation of Provincial Apex projects, research and monitoring and evaluation of provincial priorities including those of its municipalities.

h) **The role of Policy Coordination Units within Institutions:** It is critical that policy makers engage with each other internally within departments when formulating policies. This will minimise costs of implementation and costs to those who have to conform to policy or regulatory requirements. In most departments, policy-making and law-making is decentralised and resides in various units according to mandated functions and expertise. So much so that they often lose sight of central coordination and oversight. The role of Policy Coordinating Units is to:

i.   To offer various units with strategic and technical support on policy development;

ii. Scrutinise early intentions of developing policies to test whether they are worthwhile or not or to review or amend;

iii. Ensure that draft policies are aligned with a department-wide policy and the national policy;

iv. Ensure that policy and legislative development processes are inclusive of SEIAS;

v.   Ensure that policies and legislation development is according to the planned schedule and legislative programme;

vi. Work with the departmental Monitoring and Evaluation Units, and play an oversight role on the implementation of approved policies and legislation;

vii. Ensure that Municipal policies and by-laws are aligned with the national and provincial priorities and legislation. The Policy Coordinating Units have to coordinate the participation of the various business units of the Municipality in IGR structures dealing with national and provincial policy and legislation to ensure alignment and deal with contradictions that might emerge.

It will be proper for a Policy Coordinating Unit to be placed in the Office of the Accounting Officer i.e. either the Director General, or the Chief Executive Officer, or the Head of the Department and Municipal Manager, as the case may be.

As best practice, other departments have established a **Policy Authorisation Committee** that require policy makers to share or defend their rationale for introducing new policies or amending the existing policy. This process requires evidence and use of the IIA to justify the necessity of a policy. The Committee in turn offers guidance and advice to policy practitioners on other existing interventions that may need to be explored.

The use of management structures is pivotal in ensuring that there is synergy in policy development, efficient use of resources, authorisation and the oversight role over implementation. Policy implementation and reporting should be a standard item in management meetings.

Although government established a Cluster System, policy makers should engage at a technical level to address detailed policy matters. The Cluster System should be used as part of decision making for authorisation of policies and bills and oversight role for implementation and reporting.

i) **Role of Policy Practitioners:** These are officials involved in the actual development of policies. Policy practitioners in relation to policy making are to:

i.   Develop a schedule for activities of drafting a policy;

ii. Ensure that the development of a policy includes the two phases of SEIAS;

iii. Ensure that sound policies are developed and are informed by credible evidence;

iv. That policies are constitutional and support the national priorities;

v.   That the policies are well resourced and easy to implement;

vi. Define roles for implementing the policies- such as policy owners, implementers, beneficiaries and accountability mechanisms;

vii. Work closely with M&E, Planning, Research, Legal Services and Policy Coordination Units; and

viii. Engage with key stakeholders within institutions and outside.

j) With emerging developments in policy making, policy practitioners should be capacitated and be skilled in the following areas:

i.   **Monitoring and Evaluation:** Be able to develop theory of change for a policy and implementation plans, drive programme design, understand types of evaluations to be applied to policies and laws;

ii. **Evidence Based Policy Making:** Sourcing and synthesising evidence for policy development and monitoring, analysing and summarising data from stakeholders during public consultations;

iii. **Facilitation skills:** for designing Theory of Change, Policy programmes and Stakeholder engagement; and

iv. **Stakeholder Management:** Be able to address stakeholders with different needs on proposed policies and bills, be able to mediate and handle complex critics and difficult stakeholders.

k) Policy Coordination and Institutional Architecture

Figure 4: Policy coordination structures and functions

| MINISTERIAL CLUSTERS	CABINET COMMITTEES	CABINET	FOSAD	PCC	PREMIER'S INTER-GOVERNMENTAL STRUCTURES MINMECS	SALGA AND DISTRICT INTER-GOVERNMENTAL FORUMS
The Government established clusters in 1999/2000 to foster an integrated approach to its work and so improve the quality of planning, decision-making and service delivery. Ministerial Clusters coordinate the work between Cabinet Committees and the Technical Clusters of Directors-General (DG). Currently, there are five Ministerial Clusters for the five Cabinet Committees.	The Cabinet Committees are established around sectoral areas of priority for the Executive. The current Cabinet Committees are:- (a) Cabinet Committee for the Economic Sectors, Employment and Infrastructure Development (b) Cabinet Committee for Social Protection, Community and Human Development (c) Cabinet Committee on Governance and Administration (d) Cabinet Committee for Justice, Crime Prevention and Security (e) Cabinet Committee on International Cooperation, Trade and Security.	Only Ministers attend Cabinet meetings. Deputy Ministers may be invited to attend certain discussions from time-to-time. A Deputy Minister may not act on behalf a Minister at Cabinet meetings if a Minister cannot attend a Cabinet meeting. The President chairs the meetings of the Cabinet as the head of the National Executive. The Deputy President or a Minister may also chair the meetings in the absence of the President, provided they have been sworn in as Acting President. The President exercises the executive authority, together with the other members of the Cabinet.	FOSAD was established to improve coordination in the implementation of the Government's agenda and strategic priorities. FOSAD consists of Technical Clusters that support the Ministerial Clusters. Central coordinating departments, FOSAD Cluster coordinating departments and those departments responsible for facilitating the Implementation Forums for the Outcomes of Government serve on the FOSAD Manco, which meets once a month.	The Presidents Coordinating Council (PCC) comprises the President, the Deputy President, the Minister in the Presidency, the Minister of Cooperative Government and Traditional Affairs, the Ministers of Finance and of Public Administration and Provincial Premiers. SALGA has also attended on invitation. The PCC is the senior consultative body that deals with cross-sectoral issues and presents an opportunity for provinces to impact on national policy and to ensure the coordinated and integrated implementation of national policies and programmes at provincial level.	The IGRF Act revitalised provincial-municipal IGR by prompting the creation of new provincial IGR forums called Provincial Coordinating Forums (PCFs), which must report at least annually to the PCC. National sector departments with concurrent competencies have established IG forums (MinMECs), All provincial governments have established their Premier Coordinating Forums.	The manner of local government participation varies. First, local government politicians are represented through the provincial associations of local government on the basis that they represent the voice of municipalities in IG forums. District-Mayoral Forums, or the DIGFs, constitute themselves as an entry point for any inter-sphere and sectoral support to the District Municipalities. District Mayors assume more responsibility in ensuring that there is a district wide development vision informed by IDPs of local municipalities.

Figure 4 depicts policy coordination and inter-governmental relations structures as well as their distinctive functions and responsibilities in the policy decision making and strategic priorities of government. First and foremost, the key challenge on IGR may be summarised as follows: all spheres of government must comply with and align to priority development goals, policies, standards and programmes. Whilst at the same time the constitutional principles of spheres of government that are 'distinctive, interdependent and interrelated' must be recognised and respected. Thus, each sphere has its own unique role to play in managing vertical and horizontal structural tensions, and yet must therein define its role in providing for inter-governmental mutual interest and support[4].

At national level, the Ministerial Cluster System is used as a coordination mechanism and integrative approach to quality planning, decision-making and service delivery. For instance, they play the vital role of coordinating and discussing policy issues before those are presented at Cabinet.

Implementation Forums coordinate and monitor the Delivery Agreements for top national priorities, some of which are based on Clusters and others on the national-provincial MinMEC structures. Similarly, at provincial level, there exists Premier Coordinating Forums which report to President's Coordinating Council (thus it is the point where national consult with provinces on cross sectoral policies and allows provinces to influence and shape national policy). MinMECs are sectoral forums of Ministers and Provincial Members of Executive Committees (MECs) around concurrent functions. MinMECs are mirrored by MinTECHs at the level of Directors General (DGs) and Provincial Heads of Departments (HoDs) where applicable.

The IGR structures have been established to ensure effective coordination and integrative implementation of national policies and programmes at provincial level. In the locus of local government, IGR is coordinated through district-mayoral forums. These forums will be enhanced by the District-Based Model for service delivery which was adopted in 2019.

The IGR structures were created to ensure that public policy is responsive to departmental mandates and the needs of communities. Moreover, public policies are developed coherently, at a rapid pace through coordination by the structures of cooperative governance and inter-governmental relations. In addition to the mentioned IGR structures, there is a non-statutory structure known as Inter-Ministerial Committees (IMCs), which are often created by the President and Cabinet to deal with strategic cross-cutting priorities and policy matters on an ad hoc basis.

It was found that there has been a proliferation of IMCs leading to forty-one in 2018, with varying levels of activity. This prompted the Office of the Cabinet Secretariat to motivate for the disbandment of sixteen IMCson the basis that they were inactive. From this motivation, Cabinet approved the disbandment of fourteen IMCs, merged one with another existing IMC, and approved the creation of one new IMC.

In the 2019 evaluation report, specific recommendations were made on how to strengthen the effectiveness of IMCs and consequently, improve coordination and avoid duplications. One of the most critical recommendations which stood out was the need to inculcate among Ministers the practise of collaboration, collegiality, mutual support and respect and encourage Ministers to reach out to one another on their own accord to resolve problems thereby reserving the formation of IMCs to instances where IMCs are absolutely necessary. The same must apply to officials in all spheres of government to strive to work as one government - particularly on common strategic and service delivery functions - and avoid competing with one another as if in a federalism form of state given that South Africa is a unitary state, albeit with federalism features.

All three spheres should continue to work to improve the quality of intergovernmental planning. Methods for public sector collaboration are needed that can foster both formal and informal coordination and decision-making mechanisms. Through SEIAS and other channels, active participation of provincial and local government in the commenting on national sectoral policies must be inculcated and supported. In this way most national policies will find traction at local government.

16. QUALITY ASSURANCE AND VETTING OF POLICY PROPOSALS

The Presidency's Policy and Research Services, as the centre for strategic coordination, leadership and supervision of government in implementing government's programme as guided by the Constitution and electoral mandate will:

a) Advise the President and Members of Cabinet on development and implementation of national policy and legislation;
b) Be a central repository of public policies and ensure that the practice of public policy formulation, implementation, monitoring and evaluation is adequately undertaken;
c) Mediate and advise on areas where there are disagreements and / or conflicts at policy level;
d) Facilitate the development of capacity-building programmes on effective policy development and implementation;
e) Develop and publish best policy-making practices, trends and guidelines for information and knowledge sharing; and
f) Coordinate annual conferences on impact assessments and quality public policies.

The Presidency through the PRS will quality assure the design quality of public policies, and working with DPME, The Presidency will ensure the alignment with the NDP, the undertaking of

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4   Former Department of Provincial and Local Government. The Implementation of the Intergovernmental Relations Framework Act: An Inaugural Report: 2005/06-2006/07

policy evaluations and subsequent policy improvement thereof. It will regularly report on the findings to Cabinet.

17.   CONCLUSION

This framework will be reviewed in the fifth year of implementation with a proviso that minor amendments to templates may happen regularly depending on discovery of best policy-making practices. Sets of guidelines and policy briefs will be developed by Policy and Research Units as part of comprehensive capacity support to the policy development system.

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Office of the Premier, Free State Province, 2017

APPENDIX A: TEMPLATE FOR A POLICY DOCUMENT

TEMPLATE FOR A POLICY DOCUMENT

TITLE

Foreword and Executive Summary

Definitions

Table of contents

1. Introduction and background
    1.1. Policy issue identification
    1.2. Background
    1.3. Policy context and environment, links to other policies
    1.4. Brief overview of the policy process followed

2. Problem Statement
    2.1. Underlying policy statement
    2.2. Nature, history and scope of the problem (including trend identification and assessment-use of evidence)

3. Policy vision and objectives
    3.1. Vision
    3.2. The rationale for a policy intervention and why policy options
    3.3. Strategic linkages
    3.4. Theory of Change, Policy Objectives and expected outcomes

4. Implementation
    4.1. Policy Focus Areas per problem statement
    4.2. Target beneficiaries and stakeholders
    4.3. Resource Allocations-Human, Financial, Equipment, Systems and etc.
    4.4. Roles and Responsibilities
    4.5. Communication

5. Governance
    5.1. Performance Reporting and Accountability
    5.2. Transparency and Information dissemination
    5.3. Risk assessment and mitigation strategy

6. Policy monitoring, evaluation and review
    6.1. Programme performance measurement indicators
    6.2. Monitoring processes
    6.3. Evaluation of the policy
    6.4. Policy review schedule

7. Conclusion

8. References

9. **Annexure:** Theory of Change and Logframe, Costed Implementation Plan with responsible implementers and quality assured SEIAS reports

APPENDIX B: AN EXAMPLE OF FLOW CHART OF POLICY MAKING IN A DEPARTMENT OR MUNICIPALITY

1.   Problem diagnosis and option analysis

Administration providing evidence based progress on implementation of policies and legislation and provide evidence based recommendations to Political Principals	Oversight role of policy and legislation development and implementation in a Portfolio or Municipality by Executive Authority/Member of Executive Council/ Executive Mayor	Oversight Role over ministries/ portfolio and municipality: Parliament, Provincial Legislature and Municipal Council

Issue a policy intervention e.g. to develop/ amend or review policy or legislation based on electoral mandate, performance and PESTEL factors

Further work to research identified problems/opportunities and option analysis based on new mandate by Political Principals by Policy Owners, supported by Research Units

- Use of SEIAS Initial Impact Assessment
- Engagement with internal business units, officials from other departments and municipalities and key stakeholders (more of internal consultation to understand nature of problem and proposing policy alternatives

Policy Drafters engage the Policy Authorisation Committee or Policy Coordinating Unit and other business units for scrutiny and inputs to the concept paper

Concept paper and Initial Impact Assessment report shared with Management Structures/ DG and Minister

- Concept paper and Initial Impact Assessment report submitted to The Presidency PRS for analysis-policy alignment with national priorities, policy coherence and other factors,
- Feedback on analyses send to authors, after improvement done and PRS issue QA sign off form

Depending on the nature of the policy, Minister/MEC or Mayor discuss in MinMEC and other IGR Structures and can publish a discussion document for further comments by the public

2. Policy Design and Implementation Phases

- Policy Drafters consolidate and synthesise inputs
- Draft a policy
- Develop Theory of Change and Logframe
- Conduct SEIAS Final Impact Assessment
- Policy drafted with assigned team of experts
- Implementation plan and resource allocation and communication strategy developed

→ M&E in Departments support Policy Units to develop ToC and Logframe as well as M&E Framework

→ Preliminary SEIAS submitted to The Presidency-PRS for analysis, feedback and QA

- Draft Policy shared with Management Structures/Policy Coordinating Units/Policy Authorisation Committee before submission to Political Head
- Draft Policy approved by Minister /MEC/Mayor for broader consultations with MinMEC/Clusters, Mayoral Committees and the Public
- Draft Policy gazetted for public comments

→
- Public comments collated and used to improve the Policy
- SEIAS Final Impact Assessment updated and submitted to PRS for analysis and Final Sign Off
- Final Policy taken to Clusters/MinMEC/Mayoral Committee for authorisations
- Cabinet/EXCO/Council/MinMEC/MuniMEC approve the Policy for implementation
- Promulgation of the Policy for implementation

- Depending on the nature of the policy, work with Legal Services for drafting of a bill/ by laws to give effect to enforcement aspects of the policy
- Policy unit prepares the policy for implementation e.g. programme design and reporting
- Policy unit provide regular reporting on policy implementation to authorities
- Policy unit supported by M&E and DPME prepares for policy evaluation e.g. implementation or impact evaluation
- Outcomes of monitoring and evaluation informs policy reviews

APPENDIX C: PRIMARY LEGISLATION

| Societal demands | → | Policy process | ← | International standards |

1. Decision to initiate or review policy

2.a: Initial department process

2.b: Consultation with stakeholders

2.c: Socio-economic impact assessment (initial impact assessment)

3. First draft bill produced

4a: Further departmental process

4.b: Consultation with stakeholders

4.C: Socio-economic impact assessment (final impact assessment)

5. Subsequent drafts

6. Ministerial approval

7. Cabinet approval to gazette bill for public comments

8. Amendments in response to public comments received

9. Cabinet process

10. Certification by State Law Advisors

11. Publication of full draft bill in Government Gazette

12. Amendments in response to public comments received

13. Publication of explanatory summary of Bill in Government Gazette

14. Introduction of Bill in Parliament – Joint Tagging Mechanism

15. Consideration of Bill by Portfolio Committee

17. Second reading debate in National Assembly

18. Bill considered by NCOP

19. Reconsideration of Bill by National Assembly

20. President's assent or referral of the Bill to the National Assembly for reconsideration or the Constitutional Court for consideration of its constitutionality

APPENDIX D: SECONDARY LEGISLATION

- Subordinate legislation (i.e. regulations) may not be in conflict with original legislation.
- Persons or bodies authorised to issue delegated legislation may do so only within the framework of the authority specifically bestowed on them by the enabling legislation. If not, they have acted *ultra vires* (outside the scope of their powers) and the subordinate legislation in question could be invalidated by a court of law.
- Regulation owes both its existence and its authority to its enabling original legislation.

The development of regulations follows the following steps:
1. Draft regulations are prepared in consultation with the OSLA;
2. They are referred to a Minister for approval to Gazette for public comments;
3. Government Printers is consulted to assist with regulations publication;
4. Comments are processed and a final draft is made;
5. The draft is referred to the State Law Advisors for certification and the State Language Services.
6. It is submitted to the Minister for approval

APPENDIX E: THE PRACTICE OF EVIDENCE BASED POLICY MAKING-HOW TO BOX

Step 1: Defining evidence needs and what constitutes relevant evidence

- Plan and articulate departmental evidence needs and communicate these to the research sector through a research & evidence strategy.

- Develop a departmental definition of what constitutes policy-relevant evidence and take stock of what types of evidence the Department currently has access to.

  – Tip 1: Use the People-Intervention-Comparator-Outcome (PICO) framework to guide your definition of evidence.

  – Tip 2: Definitions of evidence should be guided by what evidence is 'fit-for-purpose' given the policy needs and not by rigid hierarchies of evidence.

  – Tip 3: Ensure that you differentiate between primary research and evidence synthesis in your evidence needs.

Step 2: Finding evidence from different sources

- Invest in regular exhaustive searches for the relevant evidence-base in your policy area.

  – Tip 1: Use departmental libraries and reference software (e.g. EndNote) as a first starting point; build capacity around Information and Data Science.

- Searches for evidence need to cover the whole evidence-base and therefore comprise both searches of indexed academic literature (e.g. Web of Science) and of the Grey literature (e.g. departmental Websites, World Bank).

- Common sources of evidence refer to: (i) academic sources, such as journals; (ii) repositories of research; (iii) Grey literature (e.g. organisational reports); (iv) government's own research and data; (v) data as evidence; (vi) stakeholder evidence; (vii) knowledge translation sources (e.g. policy briefs); and (viii) popular sources of evidence (e.g. blogs, media).

  – Tip 2: Have a look at Appendix 5 for a more exhaustive list of search sources.

- All searches need to emphasise government's own sources and internal knowledge management system including departmental research units.

  – Tip 3: Build relationships across research units, knowledge brokers, evidence champions in different departments to create an informal knowledge and information network that can serve as a source of evidence.

Step 3: Critical appraisal of evidence

- Not all evidence is of equal quality. A critical appraisal of the evidence for its trustworthiness is therefore important in a policy context.

- Methodological rigour is not the only determinant of the quality of a piece of evidence. The relevance of the evidence to the policy context and legitimacy of the evidence in the eyes of policy stakeholders are equally important.

  – Tip 1: Have a look at Appendix 6 for a selection of different critical appraisal tools for evidence.

- Be aware of the dangers of a single study. The combined result of a body of evidence (evidence synthesis) is more reliable and transferable across contexts than the results of single studies.

- Be aware of the difference between the quality of a single piece of evidence (which we assess using critical appraisal) and the quality of a body of evidence (which requires assessment of the strength of the evidence-base as a whole).

Step 4: Organisation and synthesis of evidence

- Where possible, use policy frameworks such as the NDP or the MTSF to organise and structure the available evidence-base.

- Evidence maps are a powerful way to organise a body of knowledge for policy makers in SA.

- The gold standard for a synthesis of evidence is systematic review methodology, which provides a transparent, systematic, and replicable synthesis of the knowledge-base. Other systematic approaches include rapid evidence assessments, rapid reviews, rapid responses, and scoping reviews

– Tip 1: Make sure that your evidence-base and syntheses includes all types of evidence synthesis covering quantitative and qualitative evidence.

- Be aware of traditional literature reviews. These often don't follow a systematic and transparent approach to evidence synthesis and their findings will vary considerably depending on which literature the authors have chosen to include and how much attention they give to certain findings.

Step 5: Integrating evidence into policy decision-making

- Invest and maintain a responsive evidence-base that policy makers can access at their fingertips.

    – Tip 1: Explore with your IT unit what technology and information science options are available to facilitate a rapid and convenient access to relevant evidence for policy makers, which is crucial in high-pressured policy contexts.

- Plan ahead for which policy documents will be required to be based on evidence (e.g. White Paper submission, SEIAS)

- Develop a departmental knowledge management and brokerage system.

    – Tip 2: You are trying to build relationships and trusted networks that can serve as an effective bridge between evidence and policy. Dedicated knowledge brokers and research units are very helpful in this and ensure to consider the soft skills needed for effective brokering and relationship-building.

- Policy-making is a political process and the use of evidence within this should be demand-driven by policy makers agreeing on the appropriate space to give to evidence.

- Aim for an evidence-based policy-making process rather than a narrow focus on the outcome of an evidence-based policy.

- A number of mechanisms and strategies to support evidence use have been evaluated extensively and are summarised in the Science of Using Science report [3].

    – Tip 3: When considering relationships to support evidence use, explore both inter- and intra- relationships between policy makers and researchers as well as wider evidence networks which are crucial to support EBPM.