

ENABLING PARTICIPATING THROUGH ACCESS TO INFORMATION




One of the aims of local government is to encourage involvement of communities and community organisations in the matters of local government.

Section 152 of the Constitution

In order for meaningful and informed participation to take place, the **“matters of local government”** must be recorded, and the existence and accessibility of these records must be communicated so that communities can be informed, can provide input, can monitor performance and can hold local government to account.

INDICATORS OF PARTICIPATION

What are some of the ways your municipality can show that participation is taking place?

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1. Records of voting
 2. Records of views expressed on policy development
 3. Records of participation in ward committees and Integrated Development Plan Forums

RECORDING PARTICIPATION

Creating records of participation in local government – there are general obligations in:

- The National Archives and Record Service Act, 1996 (NARSA) and in the Regulations to NARSA
- Section 44(3)(g) and (h) of the Municipal Structures Act, 1998

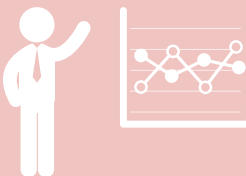
COMMUNICATING PARTICIPATION


Communicating records of participation in local government – there are general obligations in:

- The Promotion of Access to Information Act, 2000 (PAIA)
- Section 21A of the Municipal Systems Act, 2003 (MSA) – which says information must be displayed at head and satellite offices as well as on the website

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LEGAL FRAMEWORK FOR PARTICIPATION	RELATED RECORD CREATION AND DISSEMINATION OBLIGATIONS	
Legislation with participation duties	Records that must be created / made accessible to ensure informed participation	Records to be created after and / or as a result of the participation
<p>S195 The Constitution The public must be encouraged to participate in policy making</p>	<ul style="list-style-type: none"> • Draft policy document • Summary of reasons • Summary of benefits / risks (minutes of discussions about) • Records with information that informed formulation 	<ul style="list-style-type: none"> • Minutes • Final / second draft of policy
<p>S16 MSA A municipality must encourage and create conditions for participation including in: (i) preparation, implementation and review of the Integrated Development Plan (IDP); (ii) establishment, implementation and review of its performance management system; (iii) the monitoring and review of its performance, including the outcomes and impact of such performance; (iv) the preparation of its budget; and (v) strategic decisions relating to the provision of municipal services</p> 	<p>PREPARATION – IDP</p> <ul style="list-style-type: none"> • Information on what the IDP is, and how it should work • Records reflecting what is understood to be key issues (e.g. statistics) • Internal records (e.g. memos) on key issues 	<p>PREPARATION – IDP</p> <ul style="list-style-type: none"> • Minutes • Draft IDP
	<p>IMPLEMENTATION – IDP</p> <ul style="list-style-type: none"> • Records reflecting progress • Records reflecting reasons for failures 	<p>IMPLEMENTATION – IDP</p> <ul style="list-style-type: none"> • Minutes • Revised record of performance review
	<p>REVIEW – IDP</p> <ul style="list-style-type: none"> • Existing IDP • Records of past performance monitoring • Relevant statistics 	<p>REVIEW – IDP</p> <ul style="list-style-type: none"> • Minutes • Revised IDP

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<p>S42 MSA Communities must participate in the:</p> <ul style="list-style-type: none"> • Development • Implementation and • Review <p>of a municipality's performance management system, particularly with respect to setting:</p> <ul style="list-style-type: none"> • Key performance indicators (KPIs); and • Targets <p>S19 MSA The community must be consulted on the municipality's:</p> <ul style="list-style-type: none"> • Performance of its functions; and • Exercise of its powers 	<ul style="list-style-type: none"> • Draft KPIs and targets • Supporting documents (e.g. records reflecting statistics informing targets) 	<ul style="list-style-type: none"> • Minutes • Record of final decision • Finalised KPIs and targets 
<p>S22(a) Municipal Finance Management Act, 2003 (MFMA) and S16(1)(a)(iv) MSA Annually, immediately after tabling the annual budget, the local community needs to be invited to submit representations thereon</p>	<ul style="list-style-type: none"> • The budget • All supporting documents 	<ul style="list-style-type: none"> • Minutes • Revised budget
<p>S33(1)(a)(i)(bb) MFMA Prior to entering into a contract that will impose obligations exceeding the 3 year budget of the Municipality the community needs to be invited to make comments and representations on the proposed contract</p>	<ul style="list-style-type: none"> • Draft contract • Information statement summarising the Municipality's obligations under the contract (to be published at least 60 days prior to the meeting of the council that will approve the contract) 	<ul style="list-style-type: none"> • Minutes • Record of final decision • Final contract (if relevant) • Records reflecting monitoring of compliance

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<p>S46(3)(a)(ii) MFMA Prior to incurring long-term debt the accounting officer must invite the public to submit written comments or representations in respect of the debt</p>	<ul style="list-style-type: none"> • Information statement setting out particulars of the debt, including amount, purpose, and detail of any security to be provided (to be published at least 21 days prior to council considering the debt make public) • Supporting documents • Records of consideration of alternatives 	<ul style="list-style-type: none"> • Minutes • Record of final decision • Final contract (if relevant)
<p>S84(2)(a)(i) MFMA Prior to participation in or establishment of a municipal entity (at least 90 days prior to the council's approval thereof) the municipal manager must invite the local community to submit comments or representations thereon</p>	<ul style="list-style-type: none"> • Information statement setting out the plans for the entity • All records related to the assessment conducted, in accordance with s84(1) of the MFMA, in relation to the entity 	<ul style="list-style-type: none"> • Minutes • Records of submissions • Records of final decision • Records reflecting monitoring of compliance
<p>S127(2)(a)(ii) MFMA The community must be invited to make representations about the annual report</p> <p>S129(4)(a) MFMA National Treasury may issue guidelines regarding the conduct of such hearings</p>	<ul style="list-style-type: none"> • The annual report • Any guidelines applicable to the hearing 	<ul style="list-style-type: none"> • Minutes • Records of submissions • Finalised report

