



Deciding water services provider institutional arrangements

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IN TERMS OF the Constitution of the Republic of South Africa, (Act 108 of 1996) and the Water Services Act, (Act 108 of 1997), municipalities have the executive authority over the provision of water services (defined as water supply and sanitation services) within their areas of jurisdiction. The Water Services Act sets out the institutional framework which outlines the roles and responsibilities of local government as a Water Services Authority. One of these responsibilities is to ensure effective and efficient Water Services Provider (WSP) institutional arrangements.

The institutional decision making challenge

A key challenge facing local government is how to operationalise the institutional framework as set out in the Water Services Act within its jurisdictional area. This requires *informed decision-making* concerning Water Services Provider arrangements.

In many cases rural local government does not have the capacity to fulfil the functions of a Water Services Provider. Consequently they are required to investigate options where they enter into municipal service partnerships (MSP) with service providers. The service providers may be another public authority (for example another municipal-

ity or a Water Board), a private company, a non-governmental organisation (NGO), or community based organisation (CBO).

The Water Services Provider Decision Tree below summarises some of the issues that local government needs to address when making decisions concerning Water Services Provider institutional arrangements. These issues are often complex and require thorough and careful processes to ensure that the most appropriate Water Services Provider institutional arrangements are developed and established for sustainable water services.

The Bushbuckridge institutional arrangements experience

Towards providing support to local government councillors in the Bushbuckridge Water Board Service Area, the Retail Water Distribution and Capacity Building Project (RWD)¹ initiated a process "to help local government determine an appropriate model for Water Services Provision". The areas that are serviced by the seven Councils in the Bushbuckridge area are predominantly rural and peri-urban areas with economically disadvantaged communities.

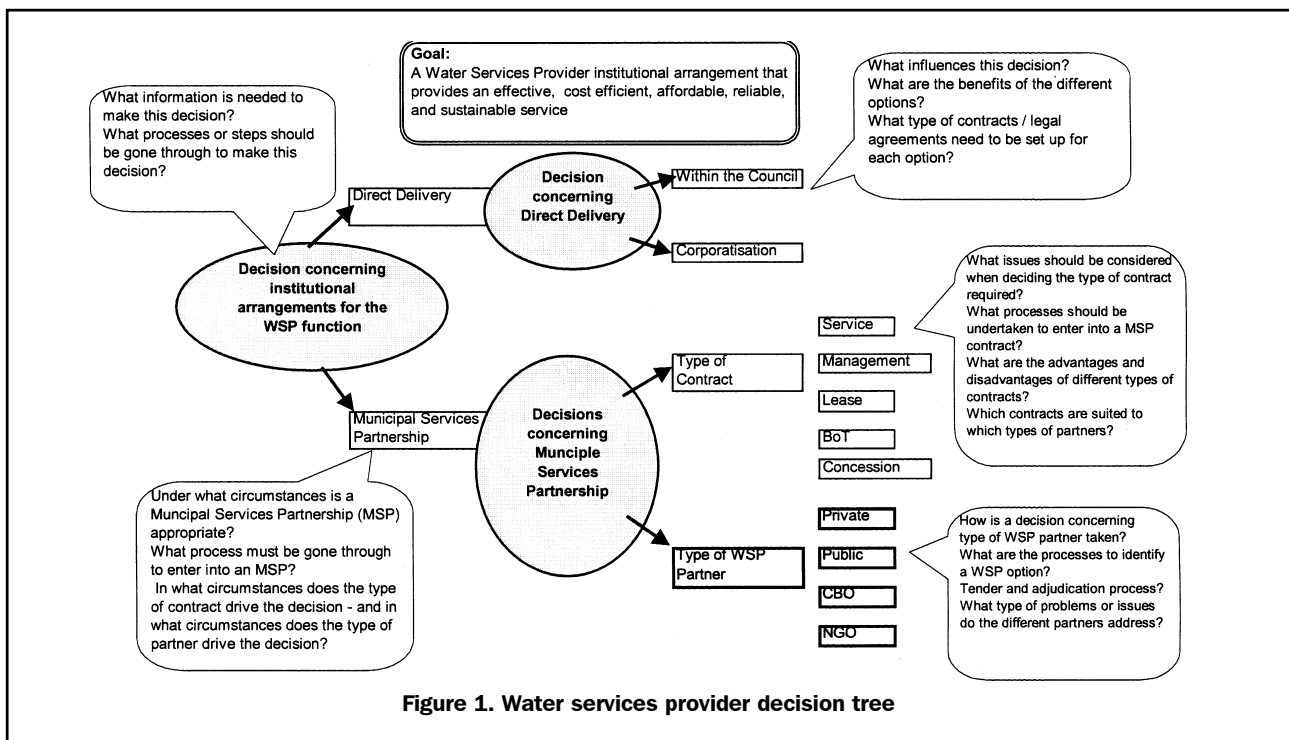
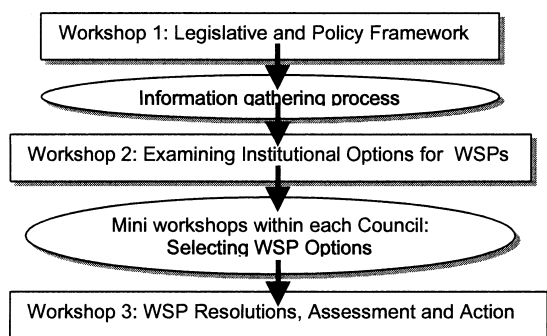


Figure 1. Water services provider decision tree

The process which involved workshops, information collection, and mini decision making workshops within each Council, was carefully planned to ensure that:

- councillors had access to the necessary information
- real decision making processes could take place
- application of new knowledge and skills took place



The table below outlines the overall support process to local government in deciding Water Services Providers.

Participatory methodologies were used throughout the workshop sessions, including plenary brainstorm sessions, small group and dyadic sessions, role plays, individual and group exercises. In addition content input was provided through slide presentations with plenary interaction.

Successes

Addressing real decision-making needs

The proposed objectives of the support process were ambitious in that they required councillors to reach a point where they are able to make *informed decisions* concerning Water Services Provider arrangements. This required a good understanding of:

- a whole range of policies and legislation related to both water services and local government;

- what is entailed in ensuring *sustainable water services*,
- different types of institutional arrangements for water services,

Table 1. Workshops, objectives and content

	Objectives	Content
Information Collection	<ul style="list-style-type: none"> • To ensure that participants have the necessary information required to evaluate and make informed, appropriate and sustainable decisions about Water Services Provider/s 	Participants with the support of the RWD were requested to provide the following information about their Council area: <ul style="list-style-type: none"> - Demographic information of the communities to be served - Existing infrastructure and technologies - Levels of service - Topography of the service areas - Existing institutional profile and capacity - Issues relating to cost recovery - Legal and land issues
Workshop 2: Examining institutional options for WSPs	<ul style="list-style-type: none"> • Examine and explore the key roles, structures and functions of a Water Services Provider • Explore factors to consider when deciding Water Services Provider options • Examine various Water Services Provider options and models against sustainability criteria and information gathered by participants • Explore the advantages and disadvantages of different Water Services Provider institutional options 	<ul style="list-style-type: none"> - Role and functions of a Water Services Provider - WSP management options - Factors that influence WSP decisions - Critical sustainability factors and criteria - Advantages and disadvantages of various models - Assessing different WSP options for each Council area of jurisdiction, within the specific contexts and given existing institutional capacity - Rating different WSP options against sustainability criteria
Mini Workshops: Selecting WSP Options	<ul style="list-style-type: none"> • To identify Water Services Provider options for various communities within each Council area • To identify issues that need to be addressed when selecting a Water Services Provider option • To provide facilitators with 'preferred' WSP institutional arrangements that can be interrogated in Workshop 3 	<ul style="list-style-type: none"> - A mini workshop to be held with each Council to identify and debate potential WSP options and to select preferred options, providing reasons for preferred options - What issues need to be considered when selecting a WSP option for your particular area? - What institutional capacity exists to fulfil the WSP role? - What support does your Council require in selecting a WSP option?

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	Objectives	Content
Workshop 1 : The legislative and policy framework	<ul style="list-style-type: none"> • Gain an understanding of key aspects of the Water Services Act and other related legislation • Gain clarity on the roles, structures and functions of a WSP • Explore the Department of Water Affairs and Forestry's (DWA) transfer policy • Gain an understanding of setting tariffs and explore the implications of non-payment for services 	<ul style="list-style-type: none"> - Key objectives of the Water Services Act - Roles & responsibilities of different tiers of government - Relationship between the Water Services Act, the Constitution, and other relevant legislation - Development principles and local government policy and legislation - Local government responsibilities in terms of water services - DWA's transfer policy and implications thereof - Issues concerning tariffs

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	Objectives	Content
Workshop 3: WSP Resolutions, Assessments and Action	<ul style="list-style-type: none"> • Gain an understanding of partnerships and contracts • Examine the implications of each WSP resolution in terms of: <ul style="list-style-type: none"> - capacity required for sustainable water services provision - type of contract, lines of accountability, and monitoring required - the advantages, disadvantages, benefits, and costs • Explore the WSP decision-making process for each proposed WSP option • Develop action plans to address the gaps identified in each option 	<ul style="list-style-type: none"> - The following issues were covered: Different types of contracts (service, management, lease, Bot, concession) and how these contracts address different needs and problems; different types of municipal service partnerships (public, private, NGO, CBO); direct delivery options (within the Council, corporatisation options: Section 21; Pty. Ltd., etc.) - Presentation of Council WSP resolutions - Interrogation of WSP options - Detailed sustainability assessment of WSP options - Identification of actions to be taken for each option

- different types of contracts.

In addition, councillors needed a comprehensive understanding and knowledge of the communities to be served, including demographic, technical, financial, legal, geographic, institutional and other information relevant to ensuring sustainable water services provision. Given these challenges, and the fact that water services is a specialised area of work (which is the portfolio of only a few of the 80 or so councillors that participated in the process), the level of commitment to and understanding of water services that was illustrated in the workshops was very high. One of the key reasons for the high level of commitment was that the councillors were already faced with institutional decisions for water services. This was brought about by the need to take transfer of both new and existing infrastructure as well as the need to identify Water Services Providers in their Water Services Development Plans. Thus one of the key success factors was that the workshop process was addressing existing issues and needs of the Council, rather than simply providing ‘knowledge’ or ‘education’ that may be useful sometime in the future.

Shifting the basis on which decisions are made

Councillors’ understanding of the content and objectives of the workshops was illustrated in their application of the knowledge to both workshop exercises and to the realities of their jurisdictional areas. At the beginning of the workshop strong views were expressed as to the preferred type of Water Services Provider, which were limited to public options, namely municipalities or water boards.

Some councillors indicated that their Councils had taken resolutions not to enter into partnerships with the private sector because of ideological differences with the private sector, “who is only interested in profit and cannot be trusted”². In addition councillors expressed the view that they did not have confidence in community based WSP options as “these structures do not have the resources or expertise to run water services”³. These comments and viewpoints illustrated that decisions concerning institutional arrangements are in many instances primarily *political decisions* which reflect the dominant political and ideological perspectives of the councillors. However, a fundamental shift in thinking took place during the workshops whereby institutional decisions became based on *sustainability criteria* (good governance, community acceptance and participation, customer relations, efficient management, access to specialist support, optimised employment arrangements, affordability, cost efficient, accountability and transparency, addressing customer needs, location in relation to community, and so on.) and, *institutional capacity issues*, rather than on ideological or political perspectives. This was achieved through constantly focussing on *what is required to ensure sustainability* rather than on ‘who should fulfil the functions’. WSP options thus broadened to include CBO and private sector models for certain areas.

Understanding WSP challenges

Another shift that took place during the workshops was the realisation that in certain circumstances (particularly remote rural villages) it may be extremely difficult to find a partner willing to fulfil the Water Services Provider role. At the beginning of the workshop process, some councillors viewed the ‘WSP role’ as something that “everyone will be competing to get” because “water is a source of income”. However, once councillors realised the challenges related to cost recovery and the costs and resources required to provide services to remote and economically disadvantaged communities, they recognised that in order to attract potential WSPs, their municipalities may need to carry some of the risks associated with water services delivery. Thus the WSP function was no longer viewed as the “big prize with vast income producing potential” that is allocated to one or other partner, but rather as an institutional challenge in terms of ensuring sustainable water services.

Weaknesses

Insufficient information

The workshop process provided for activities to take place between the three major workshops, namely (i) information gathering and, (ii) mini-workshops within each Council to select WSP options. These activities were not sufficiently addressed, and this impacted on the outcomes of the process. Since the workshop designers and facilitators did not receive the necessary information required for workshop 2, they were unable to prepare exercises based on the

realities of each community where Water Services Provider decisions were required. In addition, without critical technological, demographic, economic, social and institutional information it was difficult to assess the proposed WSP options against sustainability criteria. For example, without knowing the capacity of certain institutions, it is difficult to determine whether they can feasibly extend their activities to provide water services to remote communities.

Problems in decision making processes

The mini-workshops to select WSP options were intended to provide the workshop designers and facilitators with the various preferred WSP options selected by each Council. These options would form the basis of Workshop 3 whereby participants would assess the options in detail and identify actions to be taken in addressing any gaps in the chosen options. Since the mini-workshops did not take place, councillors did not have the benefit of a comprehensive decision making process, however in order to fulfil the requirements for workshop 3, each Council submitted resolutions or letters indicating their preferred WSP options. It transpired that in some cases the option had been chosen by the Chief Executive Officer without consultation, and in other cases options were chosen by councillors who had not been present at the RWP workshops.

Decisions (resolutions) seen as cast in stone

Since some of the options were presented as Council resolutions, councillors were reluctant to go through a process of evaluation a decision that had resolution status. This resulted in debates and time delays until it was agreed that the WSP options should be viewed as learning examples.

At the end of the options assessment process, many councillors indicated that the resolutions would have to be reviewed, as it was clear that the options would not meet all the requirements necessary for sustainability. This recognition of the need to review their WSP decisions, was viewed by the workshop facilitators as an indicator of success of the workshop process, since councillors were now in a position to identify feasible, effective and efficient institutional arrangements for water services provision.

Some key lessons

- The learning processes in the three workshops are iterative and incremental and thus maximum benefit was gained by those participants who attended all three workshops.
- The participatory sessions within the workshops were the sessions where the most learning took place, particularly those sessions where participants were provided with tools to assess their own decisions (these tools included checklists and questionnaires).

- Building and developing understanding of institutional issues for water services provision requires more than 'workshop' processes. It requires access to information (technical, socio-economic, financial, demographic, institutional, etc.) as well as ongoing support to councillors so that they are able to make informed decisions.
- Institutional decision making for water services cannot be addressed as a *political or ideological* decision. The decision must be based on sustainability criteria and capacity to fulfil the necessary Water Services Provider functions.

Replicability

The workshop process and the objectives it aimed to achieve were unique and experimental in the South African context. Based on the Bushbuckridge experience, a Water Services Provider institutional arrangements *presentation pack* has been developed for the Department of Water Affairs and Forestry which consists of a workshop design, a facilitators manual, a set of overhead transparencies with speaker notes, a participants manual and various workshop aids and materials. Detailed reports of the Bushbuckridge experience are available from the Retail Water Distribution Capacity Building Project: trwd@mweb.co.za

References

- Department of Water Affairs and Forestry, 1997: Water Services Act, Act 108 of 1997, South Africa
 Department of Provincial and Local Government, 1999: Municipal Services Partnerships Policy, South Africa
 Retail Water Distribution Capacity Building Project, The Mvula Trust, 1999 - 2000: Water Services Provider Workshop Reports (1-3), Hazyview, South Africa
 South African Government, 1996: Constitution of the Republic of South Africa, Act 108 of 1996, South Africa

¹ Under the direction of the Nzikasi Bushbuckridge Water Forum, the Retail Water Distribution (RWD) project is designed to assist local government in determining and establishing appropriate Water Services Providers.

² Notes taken at Workshop 2: Water Services Providers Institutional Options, 17 September 1999, Protea Hotel, Hazyview, Mpumalanga

³ Notes taken at Workshop 2

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