
National Treasury

Guideline for Legislative Oversight through Annual Reports

Research Paper commissioned by the National Treasury for further discussion and debate by Parliament and provincial legislatures, with the aim of improving the process for using annual reports as a key oversight tool.

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Background

The Constitution vests the National Assembly¹ and provincial legislatures with the power of oversight over their respective executives, in addition to their legislative and other powers (eg choosing the President and Premiers). Section 55(2) outlines the oversight powers of the National Assembly, by requiring that it “must provide for mechanisms to ensure that all executive organs of state in the national sphere of government are accountable to it; and to maintain oversight of the exercise by the national executive authority, including the implementation of legislation; and any organ of state.” Provincial legislatures are provided with similar oversight powers as the National Assembly in section 114(2), but over provincial executive organs of state. The National Assembly is also empowered with the power of “scrutinizing and overseeing executive action” by section 42(3) of the Constitution.

In order to facilitate Parliament’s oversight of the national executive organs of state, section 92(3)(b) of the Constitution requires that “Members of Cabinet must provide Parliament with full and regular reports concerning matters under their control.” The parallel section for the provincial sphere of government is section 133(3)(b) of the Constitution, which requires that “Members of the Executive Council of a province must provide the legislature with full and regular reports concerning matters under their control.”

The oversight powers of the National Assembly and provincial legislatures are particularly important for the process of considering annual reports, as they are the ‘regular reports’ referred to above. The processes that legislatures follow in considering annual reports are the subject of this *Guide*.

The Constitution recognises that legislatures have a critical role to play in overseeing better performance by departments and public entities. The challenge facing members of Parliament and provincial legislatures is to improve the capacity of portfolio committees to hold departments and entities to account for their performance, using their strategic plans, budget documents and annual reports.

The Public Finance Management Act (PFMA), 1999 gives effect to financial management reforms that place greater implementation responsibility on managers in the public service, and makes them more accountable for their performance. In the first instance, it is left to the Minister/MEC or the Executive (Cabinet/EXCO) to resolve any management failures – however, thereafter, the National Assembly and provincial legislatures are vested with the power to oversee both the administration and the executive.

Annual reports allow Parliament to evaluate the performance of a department after the end of the financial year. To date the end-year or *ex post* oversight mechanisms in legislatures have been relatively weak, as legislatures have focused on narrow financial oversight only, through the public accounts committee process. Before 2000, there was no oversight over non-financial service delivery performance, and departments only tabled their financial statements and Audit Report, rather than an annual report.

Reforms since 2000, enacted through the PFMA and Public Service Act, now require accounting officers to table performance targets for each main division of the Vote before the start of the financial year:

¹ Note that section 68 of the Constitution which sets out the powers of the NCOP does not have a parallel to section 55(2). The Constitution does not empower the NCOP to exercise oversight of the national or provincial executive. Unlike the National Assembly which is “elected to represent the people and to ensure government by the people” the NCOP “represents the provinces to ensure that provincial interests are taken into account in the national sphere of government” (section 48 of Constitution). The NCOP plays its role by participating in the national legislative process and providing a national forum for provincial issues.

- For the national sphere these performance targets are presented in the Estimates of National Expenditure (ENE) and in departmental strategic plans.
- For the provincial sphere these performance targets are presented in Budget Statement Two and in departmental strategic plans
- For the local sphere, the Municipal Finance Management Act has similar provisions. A separate but similar guide is being prepared for the role of a municipal council.

Section 65 of the PFMA requires the Minister/MEC of each department (and public entity) to table an annual report in the legislature within 6 months of the end of each financial year.

Oversight of annual reports

Annual reports are the key reporting instruments for departments to report against the performance targets and budgets outlined in their strategic plans, read together with the ENE (for the national sphere) and Budget Statement Two (for the provincial sphere). Annual reports are therefore required to contain information on service delivery, in addition to financial statements and the audit report. It is meant to be a backward-looking document, focusing on performance in the financial year that has just ended. It reports on how the budget for that financial year was implemented.

Given this new practice of tabling annual reports, the National Assembly and provincial legislatures have yet to develop a formal, systematic process (and rules) to consider such reports, similar to their processes for considering national and provincial budgets.

It is envisaged that legislatures will develop a process for overseeing annual reports similar to the process for considering the budget, particularly the second reading process. Ideally all portfolio committees should consider the respective departments' annual reports soon after their tabling so to assess the performance of departments in the past financial year. Portfolio committees should aim to complete the oversight process on annual reports by mid-November, so that their recommendations can also be taken into account for the following year's budget allocation process.

The challenge facing portfolio committees is that they need to ensure that departments provide good quality service delivery information in their strategic plans with tight performance targets and then to ensure that departments report against those targets in their annual reports.

Structure of this Guide

This *Guide* is structured as follows:

- Part One:** Summarises the timelines for the proposed tabling and legislative oversight processes for annual reports
- Part Two:** Discusses mechanisms that Parliament and the provincial legislatures can develop to monitor the tabling of annual reports, and to deal with late tabling
- Part Three:** Discusses the roles of Portfolio Committees, Public Accounts Committees and other stakeholders in overseeing annual reports

The *Guide* includes two Annexes that expand upon the processes Portfolio Committees may follow in exercising oversight of annual reports.

- Annex One:** Suggests a process Portfolio Committees may follow when exercising oversight of annual reports
- Annex Two:** Provides guidance to members of Portfolio Committees in the interrogation and evaluation of annual reports.

Part One

1 Overview of tabling and oversight processes for annual reports

The most important documents tabled for any department every year are its strategic plan, budget and annual report. The strategic plan and budget of a department are *forward-looking*. They set out what the department intends to do and the funds it will spend in the coming financial year. The annual report, on the other hand is *backward-looking*, as it reports on actual performance at the end of the financial year, reporting on how its strategic plan and budget were implemented. The following figure gives an overview of the tabling and oversight processes for annual reports as discussed in this *Guide*.

Annual Report Tabling Processes	Annual Report Oversight Process		Timeline
	Public Accounts Committee process	Portfolio Committee process	
Timely tabling process			
Day of Delivery			30 September
Tabling of a weekly update of outstanding Annual Reports	Referral to Public Accounts Committee	Referral to Portfolio Committees	
	Review of AG's General Report	Preparation Phase	First two weeks in October
	Preparation Phase	Joint Workshops (provincial concurrent functions)	Third week in October
		Hearings Phase	Last week in October
	Ongoing Oversight Processes	Report Writing Phase	First week in November
Tabling of Oversight Reports		Second week of November	
Announcement of completion of tabling process	Recommendations for the preparation of the Finance Bill	Follow-up Phase	Before 31 March

Section 65 of the PFMA requires that Ministers/MECs table the annual reports for the departments and public entities for which they are responsible by 30 September. It is proposed that 30 September be designated the 'Day of Delivery'. Obviously if Ministers/MECs are able to table annual reports earlier, they should be encouraged to do so, as this will enable the Portfolio Committees and Public Accounts Committees to start their oversight processes sooner.

A detailed description of the different processes of the Portfolio Committee Process is to be found in Annex One.

Part Two

2 Tabling processes for annual reports

In terms of section 65 of PFMA the Minister/MEC responsible for a department or public entity must table in the National Assembly or the relevant provincial legislature the annual report, financial statements and audit report thereon, within one month after the accounting officer or accounting authority for the department or public entity received the Audit Report.

Section 65(2)(a) of the PFMA requires that a Minister/MEC who fails to table an annual report for an entity within six months after the end of the financial year must table a written explanation in the legislature setting out the reasons why the report was not tabled.

In effect, this translates to the Minister/MEC being required to table the annual reports, financial statements and audit reports of departments and public entities under her or his control no later than **30 September** each year².

To date the annual reports of most national and provincial departments have been tabled in the relevant legislatures within the prescribed time periods. However, there has been a lower level of compliance by public entities. Parliament and the legislatures need to monitor and manage compliance with this tabling requirement in order to ensure they have access to the annual reports so that they can exercise oversight of the entities.

This section proposes a set of processes that Parliament and the provincial legislatures can consider putting in place to manage the timely and late tabling processes of annual reports.

2.1 Timely tabling processes

To ensure that Parliament and the provincial legislatures can perform their oversight functions properly and in a timely manner, Ministers/MECs need to table their annual reports by 30 September, in accordance with section 65 of the PFMA. Compliance with this provision needs to be brought to a level where a delay in the tabling of annual reports is a rare occurrence, and due to exceptional circumstances.

It is suggested that Parliament and provincial legislatures should adopt the following processes for managing the timely tabling of annual reports:

1. The Clerks of Papers for Parliament and of the provincial legislatures must maintain databases listing all the entities that are required to submit annual reports in terms of the PFMA. These databases must be able to track the timely tabling, late tabling and non-tabling of annual reports.
2. The Minister/MEC (usually the department acting on her or his behalf) must inform the Clerk of Papers by letter when tabling the annual report and send the required number of copies of the report to the Clerk of Papers.
3. The Clerk of Papers must record receipt of the relevant annual report on the database and issue a form letter (possibly signed by the Speaker or other appropriate person) acknowledging receipt of the reports.

² This date may vary depending on when the financial year of the entity ends, especially since a few major public entities and government business enterprises have different financial years to national and provincial government departments.

4. Ministers/MECs may table their annual reports at any time prior to or on 30 September, which is the final deadline for timely tabling. After this date the Minister/MEC must comply with the late tabling process described below. Ministers/MECs who are aware that they are not going to table any annual report timeously by 25 September should provide a written report to this effect to the Speaker providing reasons for the delay and the date on which they expect the annual report to be tabled;
5. The Clerk of Papers must record the tabling of each annual report in the *Order Paper* (or ATC at the national sphere) at the earliest opportunity following the tabling, and the Speaker should immediately refer the report to the relevant portfolio committee and to the public accounts committee.
6. On 1 October (or the first working day after 30 September) the Clerk of Papers must prepare a special *Order Paper* dealing solely with the tabling of annual reports. This order paper should:
 - List the entities by responsible Ministers/MECs for which annual reports have been tabled prior to the deadline.
 - List the entities by responsible Minister/MEC for which annual reports have not been tabled prior to the deadline, but where the Minister/MEC has submitted a written explanation setting out reasons for the delay, and the date by when the report may be expected.
 - List the entities by responsible Minister/MEC for which annual reports have not been tabled prior to the deadline, and for which the Minister/MEC has not submitted a written explanation citing reasons for the delay.
7. On 2 October (or the second working day after 30 September) the Speaker should table the abovementioned special *Order Paper* in the House, thus effectively concluding the timely tabling process, and also placing on record which entities' annual reports are still outstanding, and which Ministers/MECs have tabled a written explanation and which have not.
8. It is suggested that Parliament and the provincial legislatures should consider hosting a 'Day of Delivery' on 30 September (or the first working day after if 30 September falls on a weekend). The aim would be that departments and entities should table their annual reports prior to this date, and then on the 'Day of Delivery' Parliament and the legislatures would host public education events highlighting the fact that annual reports are public documents and important instruments of accountability – and also give departments and entities an opportunity to showcase their achievements over the past year. The event would also draw attention to those institutions whose annual reports were delivered on time, as well as those that still need to be tabled – in fact participation in the event should be made conditional to the early tabling of annual reports.

2.2 Late tabling processes

If a department or public entity's annual report is not tabled by 30 September, every effort needs to be made to ensure Ministers/MECs table the relevant annual report as soon as possible after this date. This means proactively managing the late tabling of annual reports. It is suggested that Parliament and the provincial legislatures should adopt the following processes for managing the late tabling of annual reports:

1. Each Friday, during October and November, the Clerk of Papers should submit a report to the Speaker (for tabling in the House) that:

- Lists the entities by responsible Minister/MEC for which annual reports were tabled during the preceding week.
- Lists by responsible Minister/MEC for which annual reports are outstanding, but where the Minister/MEC has submitted a written explanation setting out reasons for the delay.
- Lists the entities by responsible Minister/MEC for which annual reports are outstanding, and for which the Minister/MEC has not submitted a written explanation as required by section 65 of the PFMA.

The purpose of this measure is to emphasise the importance of annual reports as an accountability mechanism and to exert pressure on the relevant Ministers/MECs to table the reports.

2. The Clerk of Papers should continue to table this report monthly on the first Friday of every month from December until the last entity required to table an annual report has done so.
3. In the first week of October, the Speaker or another suitable person should formally communicate with Ministers/MECs regarding the late tabling of annual reports and the required written explanations. Standard letters should be developed for the following circumstances:
 - (i) A letter noting a Minister/MEC's failure to timeously table an annual report and the required written explanation and thereby requesting that the situation be rectified within a specified period by either tabling a written explanation or tabling the outstanding report with a written explanation.
 - (ii) A letter noting the failure to timeously table an annual report, but acknowledging receipt of the required written explanation, and indicating that the legislature is expecting the annual report to be tabled on or before the date specified by the Minister/MEC in her or his written explanation.
 - (iii) A letter noting the failure to table an annual report on the date specified by the Minister/MEC in his or her written explanation, and requiring a further written explanation or immediate tabling of the outstanding annual report.

Copies of these letters should also be sent to the President or Premier and Auditor-General for their information.

A mechanism should be put in place to follow-up on these letters if necessary. This may involve further correspondence between the Speaker and the relevant Minister/MEC, correspondence between the Speaker and the President or Premier, and possibly a resolution by the House regarding the late tabling of annual reports – calling on the relevant Ministers/MECs to comply with the prescribed legislation and the Constitution.

4. Once all annual reports have been tabled, the Speaker could consider making a special announcement in the House to record completion of the tabling of annual reports due from the executive.

Part Three

3 Roles in the oversight of annual reports

For the National Assembly and the provincial legislatures to give proper effect to the constitutional requirement that they exercise oversight of their respective executives is an enormous task. It would be impossible for, say, the National Assembly sitting in plenary to review all performance aspects of the 35 national departments and approximately 200 national public entities. Legislatures therefore establish committees to facilitate their oversight work. This division of labour enables the committee members to become experts in different fields, spend more time gathering information and doing actual oversight work.

Currently, the division of labour between the different portfolio committees works very well in relation to the budget process. Either the finance or budget committee deals with the *Budget* as a whole, while each portfolio committee deals with a *Vote*³. The portfolio committees debate and hold hearings on the content of each *Vote*, and may write a report to the House commenting on the *Vote*, possibly proposing that specific resolutions should be taken and, finally, recommending to the House whether the *Vote* should be passed or not.

However, in the National Assembly and provincial legislatures, the division of labour principle does not function quite as well when it comes to exercising oversight of how the executive has performed in using the finances appropriated through the *Budget* to deliver services. In most legislatures the bulk of the work falls on the public accounts committee – which has traditionally been responsible for exercising end-year or *ex post* oversight of the use of finances by government. While the annual reports are generally also referred to the relevant portfolio committees there is no systematic, standardised process of oversight by these committees. Certain of them are proactive and exercise robust oversight of these reports, whilst others do not.

Given portfolio committees' involvement in legislative, budget and in-year monitoring processes, they are ideally placed to play a greater and more structured role in the oversight of annual reports. In addition the portfolio committees have special expertise in specific functional areas. They are therefore well-placed to exercise oversight of government's performance in these areas. Such a focus on service delivery performance would complement the current financial focus of the public accounts committees.

This section explores how legislatures can maximise their oversight effectiveness by developing an appropriate division of labour between portfolio committees and public accounts committees in relation to exercising oversight of annual reports. It also discusses the roles of other stakeholders in the oversight of annual reports. In order to orient the discussion, a brief overview of the contents of annual reports is presented below.

3.1 Overview of annual reports

In terms of sections 40 and 55 of the PFMA, all national and provincial departments and public entities are required to prepare annual reports for tabling in the relevant legislature. The annual report of departments and public entities must include their annual financial statements and the audit report on those financial statements.

³ One of the problems with the current practice is that the budgets of public entities are not included in the relevant department's *Vote*. Forthcoming budget reforms will deal with how public entity budgets can also be considered during the portfolio committees' processes to deal with departmental *Votes* – this will ensure that a more consolidated approach is taken.

Annual reports are prepared in accordance with a detailed guide and format issued annually by the National Treasury. The *Guide for the Preparation of Annual Reports by National and Provincial Departments* is supplemented by other guides which focus on non-financial performance and human resource information to be presented in the annual report.

The guidelines provided by National Treasury (working with relevant sector national departments) also provide standardised sector formats for annual reports, in order to ensure that information for the same function is comparable between provinces (e.g. information on school education is comparable between the nine provincial education departments). Such standardised sector formats for annual reports are available for education, health, social development, housing, roads etc. Note that whilst a provincial EXCO or legislature is free to request further information from any department in a province, care must be taken to ensure that the format of such additional information does not undermine nationally-determined formats, nor duplicates reporting provisions.

Financial Statements

The annual financial statements are structured as follows:

- (i) Management Report
- (ii) Report of the Auditor-General
- (iii) Statement of Accounting Policies and related matters
- (iv) Appropriation Statement
- (v) Notes to the Appropriation Statement
- (vi) Income Statement (Statement of Financial Performance)
- (vii) Balance Sheet (Statement of Financial Position)
- (viii) Statement of Changes in Net Assets
- (ix) Cash Flow Statement
- (x) Notes to the Annual Financial Statements
- (xi) Disclosure Notes to the Annual Financial Statements
- (xii) Annexes on Transfers (including all transfers in terms of Division of Revenue Act)

The primary aim of the annual financial statements is to report on the department's use of funds that the relevant legislature appropriated from the relevant revenue fund by means of an Appropriation Act or as a direct charge. In terms of sections 213 and 226 of the Constitution, money may only be withdrawn from the national and provincial revenue funds in terms of an Appropriation Act or Direct Charge Act. Any overspending of a Vote or the main divisions within a Vote is defined as 'unauthorised expenditure' by the PFMA. The Minister/MEC is required to investigate whether charges of financial misconduct in terms of section 81 of the PFMA should be instituted against the accounting officer or what other disciplinary steps should be taken. Similar actions are required against accounting officers responsible for irregular or fruitless and wasteful expenditure.

Further aims of the annual financial statements are to report on the department's management of income, expenditure, transfers, cash and assets, as well as the state of its financial management systems. From an oversight perspective the various sets of 'Notes' to the different sections of the financial statements are particularly important, as they give more detailed information relating to the numbers contained in the financial statements themselves. The notes also contain important annexes on all transfers, including all intergovernmental transfers.

The notes are also subject to the audit process, and provide an opportunity to audit some non-financial information, like the number of beneficiaries paid per month for each type of social grant, no of employees paid per month, number of houses completed, etc. This area of information is still at an early stage of development.

Audit Report

The audit report is the most important, and only, independent assessment of the quality of financial statements, including all its disclosures. It is therefore one of the most important reports to consider when reviewing a department's annual report. The role of the auditor is to comment to the legislature on the reasonableness and fairness of the annual financial statements submitted by departments and entities. The following table outlines the range of opinions used by the external auditors in terms of international standards of auditing and gives an explanation of the different opinions:

Classification of audit opinions used by the external auditor	
AUDIT OPINION	Explanation
a. Unqualified audit opinion	Good opinion – the financial statements may be regarded as fairly reflecting the financial status of the department or entity.
b. Unqualified audit opinion with emphasis of matter	Least severe opinion – the financial statements may be regarded as fairly representing the financial status of the department or entity, but there are a number of issues that are cause for concern which are raised in the emphasis of matter.
c. Qualified opinion (look for the words “except for”)	Severe opinion – when the auditor concludes that an unqualified opinion cannot be expressed, but that the effect of any disagreement with management, or limitation on the scope of the audit is not so material ⁴ or fundamental as to require an adverse opinion or a disclaimer of opinion.
d. Adverse opinion (look for the words “do not fairly present”)	Most severe opinion - expressed when the effect of a disagreement is so material and fundamental to the financial statements that the auditor concludes that a qualification of the report is not adequate to disclose the misleading or incomplete nature of the financial statements.
e. Disclaimer (look for the words “I do not express an opinion”)	No opinion expressed (also very severe) – when the auditor concludes that the possible effect of a limitation on the scope of the audit is so material and fundamental that the auditor has not been able to obtain sufficient appropriate audit evidence, and accordingly is unable to express an opinion on the financial statements.

Qualified, adverse or disclaimed audit opinions are cause for great concern as they could point to serious financial mismanagement. It should be noted that the scope of such audit opinions is narrow, and may not cover many serious financial management transgressions like over-spending (which is a transgression of sections 213(2) and 226(2) of the Constitution). For this and other reasons, the auditor also issues an “emphasis of matter”, which focuses on critical risk areas or weaknesses in financial management systems that the accounting officer or accounting authority should address. Even when the audit opinion is ‘unqualified’ committees should pay close attention to the ‘emphasis of matter’ (and any over-spending) and examine whether there are any issues that it needs to take-up with the Minister/MEC or the accounting officer, including exploring what remedial steps are being put in place.

Report of the Audit Committee

The ‘report of the audit committee’ must not be confused with the audit report of the external auditor – the report of the audit committee (which is established by a department, and reports to the accounting officer) normally deals with the findings of the department's internal audit unit, and highlights areas of risk that require attention. All departments must prepare a risk management plan, which the audit committee uses to assess whether the department's internal

⁴ *Materiality*. Facts are material if users of financial statements are misguided owing to an omission or misstatement of information in the financial statements.

operations deal adequately with the risks identified in the risk management plan, and also whether the risk management plan itself deals with the key risks that any department faces. The successful functioning of the audit committee assists the external auditor with the audit process.

Non-financial performance report

One of the biggest weaknesses in many annual reports is the poor quality of non-financial performance and service delivery information. Key non-financial performance information is required on 'programme performance', which includes reports on the extent to which the department (or entity) has delivered on its strategic plans and budget, focussing on:

- the achievement of desired outcomes (i.e. progress made in achieving stated goals and objectives),
- the delivery of planned outputs (i.e. delivery against each and every performance measure and target specified in the department's strategic plan, as well as in the ENE (for national departments) and Budget Statement Two (for provincial departments).
- reports on all capital projects completed, started or still in progress, per municipality.
- the use of inputs (i.e. the expenditure related to each programme focussing on issues of efficiency and economy, and relating actual expenditure to actual delivery. The analysis should also focus on specific types of expenditure (for instance the use of consultants), the departments revenue gathering activities, asset management and maintenance plans and progress it is making with developing sound financial management systems.
- information on the purchase of goods and services, and other supply chain management objectives.
- other relevant data collected by the department.

It is also important that key service delivery departments report per municipality (for school education, primary health care, municipal services etc) and per major cost centres (hospitals, prisons, higher education institutions etc).

Response of the Minister/MEC or Executive

Though not part of the annual report, a portfolio or public accounts committee should bear in mind that the Minister/MEC or Executive also responds to the information presented in the annual reports, and more particularly to the audit report.

3.2 House rules to govern the oversight of annual reports

It is strongly recommended that legislatures develop formal House rules governing the oversight of annual reports by both portfolio committees and public accounts committees.

These rules should spell out:

- The Speaker's responsibilities regarding managing the timely tabling and late tabling processes (see description in Part Two above);
- The procedure for referring the annual reports to the relevant portfolio committee and the public accounts committee – it should be explicitly stated that the Speaker *must* refer all annual reports of departments, constitutional institutions and public entities to the relevant portfolio committee *and* to the public accounts committee as soon as they are tabled;

- The respective roles of the portfolio committees and the public accounts committee in exercising oversight of annual reports;
- The processes that both the portfolio committees and the public accounts committee may follow in exercising oversight of the annual reports (see description in Annex One below);
- The expected outputs of the oversight process, e.g. an Oversight Report in the case of portfolio committees and recommendations regarding unauthorised expenditure and other resolutions in the case of the public accounts committee.
- The time periods within which the different oversight processes should take place and when the different oversight outputs must be tabled in the House (see description in Annex One below).

While it is desirable that the oversight process of annual reports should be regulated by House rules, the lack of such rules should not be seen as an obstacle to implementing the oversight processes proposed in this *Guide*. For most legislatures, the current House rules can facilitate all the basic processes envisaged in this *Guide*, and there is nothing in the existing rules that prevents these oversight processes.

3.3 Roles of the different committees

The aim of the proposals set out in this *Guide* is to strengthen the current end-year or *ex post* oversight processes in which the public accounts committees currently play a lead role. To do this it is necessary to ensure that the public accounts committee and the portfolio committees have complementary roles. These roles should emphasise the current division of labour between the committees, as well as their different strengths.

While each legislature will need to arrive at a division of labour between its committees that suits its particular objectives and circumstances, it is proposed that the different committees consider playing the following roles in the oversight of annual reports.

(a) Public accounts committee

The public accounts committee should continue to fulfil its very important and specialised role of 'protector of the public purse'. To give effect to this role it is proposed that the committee should consider the annual reports focussing on:

- (i) Issues raised in the General Report of the Auditor-General on Audit Outcomes;
- (ii) Issues of financial probity (e.g. fraud), as highlighted in the audit report or disclosed in the management report or in notes to the financial statements, or that come to the committee's attention in any other way;
- (iii) Compliance with the PFMA and associated Treasury Regulations, the Audit Committee and the accounting officer in his or her management report in the annual report, taking into account matters that the Auditor-General may have reported on in this regard;
- (iv) The interrogation and evaluation of instances of over-expenditure (relative to appropriations), and other instances of unauthorised expenditures and the authorisation or non-authorisation of these expenditures for purposes of drawing up the Finance Bill, or initiating processes to recover the funds;
- (v) The interrogation of instances relating to irregular and fruitless and wasteful expenditure.

- (vi) The functioning of risk management systems, including fraud prevention, financial management systems, personnel management systems (e.g. leave management and disciplinary processes) and other transversal systems in government. The Auditor-General reports on many of these issues in his *General Reports*. It is also the task of the Audit Committees to report on the state of these systems.
- (vii) Supply chain management and procurement, particularly large tenders, large capital projects and Public Private Partnership deals;
- (viii) The disposal of significant state assets, and any major financial or related losses suffered by government;
- (ix) Corporate governance of departments, public entities and constitutional institutions;
- (x) The consolidated financial statements of government, and the National Treasury's adherence to its deficit targets.

It is envisaged that the public accounts committee would consider the entire annual report of a department or entity in the process of focussing on the above issues. The information on service delivery performance and other non-financial information can provide important contextual information to these issues. Indeed, in order to further facilitate the public accounts committee's understanding of the policy context and the service delivery environment in which the particular department or entity has been operating, it is proposed that legislatures should put in place a formal mechanism to ensure that the oversight work of portfolio committees feeds into the public accounts committee (see section 3.4 below).

At the national sphere, it is proposed that the public accounts committee, working together with the Portfolio Committee on Public Enterprises, should play a key role in overseeing the financial statements and audit reports of the large government business enterprises, i.e. the major public entities currently listed in Schedule Two of the PFMA. Consideration could also be given as to how the Portfolio Committee on Public Enterprises can enable participation from the relevant sectoral portfolio committees in this oversight process – e.g. the Portfolio Committee responsible for transport when considering annual reports of TRANSNET, ESKOM or ACSA. Similarly, the committees responsible for minerals and energy or water, together with the Portfolio Committee responsible for local government, should be involved when considering the annual reports of ESKOM and the water boards.

(b) Portfolio committees

Given their involvement in the legislative, budget and in-year monitoring processes, portfolio committees are ideally placed to exercise oversight of the service delivery performance of departments and public entities that fall within the same portfolios. Indeed portfolio committees' role in overseeing annual reports is crucial to closing the accountability loop of planning, budgeting, implementation, reporting, auditing and, finally, oversight.

In essence, the portfolio committees should exercise oversight as to whether departments, public entities and constitutional institutions have delivered on the service delivery promises they made in their strategic plans and which the legislature agreed to finance by appropriating public funds through the *Budget*.

To give effect to this role, it is proposed that portfolio committees should consider the annual reports focussing on:

- (i) The technical quality of the annual reports produced by the department and public entities that fall within its portfolio (see discussion in Annex Two);

- (ii) Whether entities report on each and every performance target specified in their strategic plans and budget (ENE for national government, Budget Statement Two for provinces);
- (iii) The quality of the performance information as highlighted by any audit of performance information which the Auditor-General may perform, or in the light of any other information that comes to the committee's attention;
- (iv) The economy, efficiency and effectiveness of service delivery as measured by the performance indicators presented in the annual report, or as measured by the Auditor-General in a performance audit, or by way of other information that comes to the committee's attention;
- (v) The equity of service delivery;
- (vi) The implementation of the entity's service delivery improvement programme;
- (vii) Evaluating management's explanations as to why the entity's service delivery performance did not attain the targets set in the strategic plans and budgets;
- (viii) Investigating the circumstances that led to under- or over-expenditure of the entity's budget, the impact this had on service delivery and the measures taken by management to comply with the *Budget*.
- (ix) Commenting on the Minister's or MEC's evaluation of the accounting officer's performance and the appropriateness of the proposed performance bonus or sanction.

Though portfolio committees will focus primarily on service delivery, they must also consider entities' financial performance. This is to ensure that the portfolio committee develops a holistic understanding of the department or public entity's performance in the exercise of its oversight responsibility.

Annex Two to this *Guide* provides a far more detailed list of issues that portfolio committees can explore when exercising oversight of annual reports. The portfolio committees' mandate should allow them to consider any issue that relates to entities' service delivery performance, including financial issues.

It is more than likely that in carrying out their oversight functions portfolio committees will deal with issues that fall within the ambit of public accounts committee's mandate, as described above. This should not pose a problem so long as it is clearly understood that the views of the portfolio committees on these issues serve as inputs into the oversight processes of the public accounts committee – hence the need to build links between the committees for the consideration of annual reports.

(c) *Portfolio committees of concurrent functions*

The National Assembly portfolio committees responsible for concurrent provincial functions (e.g. education, health, social development, housing, agriculture etc) are responsible for overseeing the relevant national department, while the provincial portfolio committees are responsible for overseeing the relevant provincial department in each province. However, in addition to exercising the role of a portfolio committee as outlined above in (b), these portfolio committees need to have a comprehensive national perspective when considering their own department's annual report. The national portfolio committee should also consider the annual reports of the nine provincial departments within that sector in order to assess the full impact of national policy implementation in that sector, and to assess the department's role in its dealings with provincial departments. In this regard the national portfolio committees should focus on the systems

and strategies that the national department should have in place to monitor and support the performance of provincial departments. In addition, the national portfolio committee should pay particular attention to the national department's management of the conditional grants for which it is responsible.

Key documents to take into account include the annual Division of Revenue Act and the Intergovernmental Fiscal Review.

In exercising this role, it may be useful for the national portfolio committee to initiate the process by convening a workshop with all nine provincial portfolio committees before it formally considers the annual report of the national department. The following could be presented for discussion:

- a) Consider an assessment of the nine provincial annual reports comparing the quality of non-financial service delivery information and financial management between the nine provinces. (This assessment should be commissioned by the relevant national portfolio committee);
- b) Consider any report from the Auditor-General on whether all grants in terms of the Division of Revenue Act (other than equitable share grant) were transferred, and how such funds were utilised by each province, including compliance with the conditions for any grant;
- c) Request the national department to make an input on its assessment of the outcome in each province;
- d) Request each provincial department and national department to make an input on its annual report;
- e) Request reputable subject experts to make an input.

It is envisaged that such a workshop would lay the foundation for the portfolio committee oversight processes in Parliament and the nine provincial legislatures.

The provincial portfolio committees should also be informed of the annual reports of the other provincial departments so as to enable a committee to compare the performance of their province's department with similar departments in other provinces with a view to assessing relative performance and to learn from other provinces' positive (and negative) experiences.

In due course the national and provincial portfolio committees of concurrent functions may explore ways of exchanging information in a structured way – for instance holding an annual oversight workshop that focuses on cross-cutting service delivery issues within a particular concurrent function.

For concurrent local government functions like water or electricity, the process will be much more complex, given that this affects 284 municipalities (and which also have a different financial year, and whose annual reports will only be available four months later in January), and where a province does not have any service delivery role. For example, for water, this process will involve not only the annual reports of the national department of water affairs (DWAF) and municipalities, but also of key public entities like water boards. Similarly, for electricity, it will involve the national department of minerals and energy, municipalities (including any municipal public entities responsible for electricity, such as City Power), ESKOM and the National Electricity Regulator (NER). It should be noted that in this instance more than one national portfolio committee will also be involved – that of the function (e.g. water, electricity), as well as of local government, and public enterprises (in the case of ESKOM). Parliament will have to explore options to develop an effective process in these instances.

(d) Oversight of the annual reports of Parliament and the legislatures

Currently there does not appear to be consistency in how Parliament and the different legislatures exercise oversight over their own budgets (Vote 1) and annual reports.

At the national sphere the public accounts committee has exercised oversight of the audit report on Parliament's finances and called the Secretary of Parliament to appear before it. This practice does not appear to be followed in the provinces.

It is suggested that:

- The public accounts committee of each legislature should be mandated in their House Rules to exercise oversight of the legislature's own annual report and audit report taking the same factors into account as it does when exercising oversight of a department's annual report and audit report; and
- The House Rules of each legislature should identify an appropriate portfolio committee or create an *ad hoc* committee to exercise oversight of the performance aspects of the legislature's own annual report.

It is further suggested that the process followed by the relevant committee overseeing the legislature's annual report should be the same as that described in Annex One.

3.4 Links between portfolio committees and the public accounts committee

Ideally, the oversight process should give a complete picture of an entity's performance, encompassing its finances, its systems, its human resources and its service delivery performance. However, due to the complexities of these different issues it is unrealistic to expect a single committee to deal with them all. Therefore legislatures have established different committees with different mandates. Section 3.3 above proposes a division of labour between the portfolio committees and the public accounts committee. However, in fulfilling their respective oversight roles these portfolio committees should not work in silos but also consider linkages with other portfolio committees.

Firstly, the portfolio committees within the different clusters should explore mechanisms to share relevant information given the important links between the functions of the departments within these clusters. One option may be to hold joint hearings or workshops when reviewing their annual reports so that, for instance, the committees can explore the extent to which the departments of Safety and Security, Justice and Correctional Services are working together. These joint hearings cannot, and should not, replace the individual hearings still required by each committee over each department.

Secondly, it is proposed that the public accounts committee should consider the *General Report of the Auditor-General on Audit Outcomes*⁵ in the first week of October and bring key issues to the attention of the portfolio committees, which they should investigate further in their oversight processes.

Thirdly, legislatures should consider putting in place formal mechanisms to ensure that information from the portfolio committees feeds into the work of the public accounts committee. It is suggested that the most effective way of doing this would be for each portfolio committee to

⁵ See discussion in section 3.5.1

⁶ Important to note that in the case of certain public entities and Constitutional Institutions external audits are performed by auditors other than the Auditor-General.

appoint a rapporteur who is responsible for briefing the public accounts committee on the specific issues that the portfolio committee would like it to take into consideration when exercising oversight of a particular department or entity.

Note that it is proposed that the primary linkage should run from the portfolio committee to the public accounts committee and not the other way round. The reason for this is very practical: on the one hand there is only one public accounts committee which exercises oversight of all reporting institutions (e.g. national SCOPA has oversight of some 280 departments and entities), while on the other hand each portfolio committee oversees one or two departments and a few public entities. The workload of the public accounts committee is thus far greater than that of any one of the portfolio committees (under normal circumstances), and should not be a cause of delay for other committees' oversight processes. Portfolio committees should begin the oversight process soon after the tabling of annual reports, and not wait for any report from the public accounts committee. They should also aim to complete their oversight by the end of October, before Parliament and legislatures rises at the end of the year. Public accounts committees will generally not complete their work before the end of the year, but should aim to do so by the end of March the following year, so that their recommendations on unauthorised expenditure and the legislature's recommendations in this regard can be forwarded to the Minister of Finance for the preparation and tabling of a Finance Bill before May in the year following tabling of the annual reports.

3.5 Input by other role-players

Part of the success of the proposed oversight process will depend on the extent to which portfolio committees and the public accounts committee are able to leverage inputs by other role-players.

3.5.1 Auditor-General's role⁶

The Auditor-General is a state institution established by Chapter Nine of the Constitution. As such the Auditor-General is independent, subject only to the Constitution and the law, is accountable to the National Assembly, and it is incumbent on all other organs of state to ensure the independence, impartiality, dignity and effectiveness of the Auditor-General. In terms of section 188 of the Constitution the Auditor-General must audit and report on the accounts, financial statements and financial management of all national and provincial departments, all municipalities and any other institution or accounting entity required by national and provincial legislation. The Auditor-General must submit audit reports to any legislature that has a direct interest in the audit and any other authority prescribed by national legislation.

The objective of an audit of financial statements is to enable the auditor to express an opinion as to whether or not the financial statements fairly present, in all material respects, the financial position of the entity at a specific date, and the results of its operations and cash flow information for the period ended on that date, in accordance with an identified financial reporting framework and/or statutory requirements. The auditor's opinion enhances the credibility of financial statements by providing a high, but not absolute, level of assurance to the users of the financial statements.

In addition, the Office of the Auditor-General provides extensive support to the public accounts committees in the form of briefings, report writing and training, as well as acting as an expert witness during hearings.

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The Auditor-General has indicated that he will be producing a *General Report of the Auditor-General on Audit Outcomes* for all legislatures, and while it will be tabled eight to ten months after financial year-end, the salient information to be included in these reports will be made available to legislatures at the start of their oversight cycle, i.e. at the beginning of October.

The Auditor-General is also required to reasonably satisfy himself that receipts, payments and other transactions made by the departments, authorities or public entities take place in accordance with the relevant laws and regulations. The audit therefore includes an examination of evidence supporting compliance in all material respects with the relevant laws and regulations, which came to the auditor's attention and are applicable to financial matters. One of the focus areas for the year to come is compliance with the annual Division of Revenue Act at both the transferring and receiving parties. The Auditor-General does not express an opinion on legal compliance but report material matters of non-compliance with laws and regulations as an emphasis of matter in the audit report.

In terms of section 20 of the Division of Revenue Act, 2004, the Auditor-General may, in the audit of financial statements on the allocations set out in Chapter 3 or in a special report to be submitted to Parliament, report on the extent of compliance with this Act by transferring national officers, transferring provincial officers and receiving officers.

Given the importance of implementing the Division of Revenue Act and the need for co-operative government in the budget implementation process, it is envisaged that this report should be considered by the portfolio committees responsible for finance in the National Assembly and provincial legislatures, as well as the select committee of finance, even though the NCOP does not have an oversight role.

The Auditor-General has indicated that his Office is in the process of developing the capacity to audit some non-financial information, and will begin to audit such information in the not too distant future. It is envisaged that the aim of such audits would be similar to the financial and compliance audits, i.e. to verify the robustness of the systems used to collect the information being reported and therefore the reliability of the reported performance information as a record of the entity's performance over the past year. Once these audits of non-financial information become available, they will be particularly useful to the oversight work of the portfolio committees.

However, though such audits of non-financial information will represent a major step forward, they will still be limited, as the audit process cannot assess all dimensions of performance information. For example, the audit will comment on the reliability of the systems the housing department uses to record the number of houses built, but it will not specifically audit the actual number of houses built, nor assess the quality of such houses, or whether the building of houses was co-ordinated with the provision of other critical infrastructure. Consequently, each department will have to ensure that its non-financial information systems improve to capture more relevant management and – output information for such an audit process to become more meaningful. In addition, portfolio committees should explore other mechanisms to obtain critical and independent evaluations of departments and entities' performance – for instance getting outside experts to present at the oversight hearings. The Auditor-General currently undertakes a limited number of performance audits. A performance audit is an independent audit process to evaluate the measures or the lack thereof instituted by management to ensure that resources have been procured economically and are utilised effectively and efficiently and if necessary, report to the legislative body concerned in the prescribed manner. Currently, the reports emanating from these performance audits are considered by either the national or relevant provincial public accounts committee. It is proposed that given the respective roles of the different committees described in section 3.3, these reports should be considered by the relevant portfolio committee, since they focus primarily on service delivery issues.

As greater emphasis is placed on inter-provincial comparisons, one of the critical challenges faced by the Auditor-General is to find ways to ensure that audits conducted in departments within a particular functional area are comparable, in the sense that the scope and focus of the audits are the same or at least similar. So for example, the audits of the nine provincial departments of health should be comparable, so that when the nine reports are considered together, they present a comprehensive picture of the state of, say, supply chain management within the health sector.

3.5.2 Role of the accounting officers

An accounting officer's responsibilities with regards to end-year reporting do not end with the production and tabling of their department's annual report in the relevant legislature. Indeed once a department's annual financial statements have been audited, and its annual report has been drawn-up, there are a number of things that both the accounting officer and Minister/MEC should do prior to and after the tabling of the annual report in the relevant legislature.

Audit outcomes

The accounting officer should discuss with the Minister/MEC, any management letter received from the Auditor-General. The accounting officer should also discuss the audit outcome with the Minister/MEC as soon as the audit report is received from the Auditor-General. The accounting officer should (in writing) propose the corrective steps to be taken to deal with any matters arising from the audit. In addition, all accounting officers should be required to provide a written explanation to the Minister/MEC should they receive a poor audit outcome. A poor audit outcome is an audit opinion that is qualified, adverse or disclaimed and includes matters of emphasis noted in the audit report. Irrespective of the audit outcome, the accounting officer must explain specific serious transgressions, which may include, amongst others, the incurring of overspending, unauthorised, irregular and fruitless and wasteful expenditure. In this instance, the accounting officer should therefore indicate:

- what correctives steps have been or are being taken;
- what is being done to recover the funds where this is possible;
- what disciplinary steps have been taken against the erring officials; and
- whether any criminal investigations have been instituted against the erring officials.

It should be noted that the relevant treasury should also submit reports to Cabinet/Exco during October of each year on the audit outcomes of departments and entities. Such a process will highlight whether or not departments and entities are taking corrective steps when there are serious problems associated with financial management.

Annual reports and processes to evaluate performance

The accounting officer must ensure that the process to prepare the annual report is part of a broader annual performance evaluation process involving all senior managers. Currently, most departments separate the processes for preparing the annual report and annual financial statements, with the process to prepare annual reports only commencing after the audit report has been received (or after they have submitted their financial statements for audit). As a result the quality of non-financial performance information is often of a poor quality. The key problem is that many accounting officers currently regard the preparation of their annual report as merely a compliance exercise to satisfy the legislature, and hence effectively delegate this responsibility to their finance section (for the annual financial statements) and to their communications section (for the non-financial reports).

The process to prepare annual reports should therefore begin at the same time as the process to prepare the annual financial statements and both should be part of an annual performance evaluation process. This evaluation process should begin soon after the end of the financial year and be completed as soon as possible thereafter but not later than three months after the end of the financial year.

The accounting officer should therefore develop an annual programme to evaluate performance. Such a review should involve all top managers and should begin immediately after the financial year ends and be completed before the annual financial statements are submitted for audit. The process could begin early in April with all top managers using the predetermined performance targets to conduct a non-financial performance evaluation. This should culminate in a report to the accounting officer by the end of April. The CFO should also submit draft annual statements to all senior managers no later than the end of April and seek their comments before finalising the annual financial statements.

Once all these non-financial and financial reports are submitted, the accounting officer and all senior managers should meet at the beginning of May to prepare a comprehensive performance evaluation report that should include proposals for taking corrective steps. Such a report, together with the annual financial statements, should be submitted to the Minister/MEC as a comprehensive performance evaluation report before the end of May. The results of the performance evaluation exercise can also be used as a parallel process to assess the performance of all senior managers and their respective personnel.

Such a performance evaluation report will probably be more detailed than for an annual report, as it will include management matters. The results of the performance evaluation should be used to draft the annual report, which should be completed by the end of June, and made available internally within government to key stakeholder departments (e.g. Office of the President or Premier, the relevant treasuries, DPISA, concurrent national department, etc), and if requested, to the Executive. The draft annual report and performance assessment of the accounting officer can only be finalised once the audit report is received from the Auditor-General.

3.5.3 Role of the Minister/MEC and Executive (Cabinet/EXCO)

Once the financial year is over, the Minister/MEC should ensure that the accounting officer immediately begins an annual performance evaluation exercise and submits a comprehensive performance evaluation report to the Minister/MEC before the end of May. More importantly, the Minister/MEC should approve the corrective steps proposed by the accounting officer in the performance evaluation report. The Minister/MEC should also ensure that the corrective steps are incorporated into the current performance agreement of the accounting officer, as well as those of senior managers in the department.

The Minister/MEC should also receive a draft annual report by the end of June and, after granting approval of its contents, should ensure that this draft annual report is submitted to key stakeholders for their information. Cabinet or a provincial Exco may also want to consider how it can use annual reports as part of their own monitoring and evaluation system.

Once the audit report is received from the Auditor-General around the end of July, the Minister/MEC must ensure that the accounting officer discusses the contents of the Auditor-General's audit opinion with her or him. Discussions should also be held on the contents of the Auditor-General's management letter. Further corrective steps may be considered and should be incorporated into the performance agreement of the accounting officer.

It is important that if the audit report contains emphases of matter or where the audit outcome is poor, the Minister/MEC must ensure that the accounting officer provide a written explanation in this regard. This approach of seeking written explanations is in line with the recent approach

adopted by Cabinet in seeking written explanations from accounting officers who overspent their budgets. Where the Vote of a department has been overspent or where unauthorised, irregular or fruitless and wasteful expenditure has been incurred, the Minister/MEC is also required to investigate appropriate disciplinary steps against the accounting officer, including financial misconduct in terms of section 81 of the PFMA.

The draft annual report may be revised after receiving the audit report, with further explanations and corrective steps to be possibly included through such revision.

The Minister/MEC can also use the revised annual report, the audit report, the performance evaluation report (received at the end of May) together with any other relevant information (such as the recommendations of the performance evaluation panels) to assess the performance of the accounting officer. Such an assessment of the accounting officer should commence after the Minister/MEC receives the audit report so this will take place around August or September. Where there are serious problems of poor performance, the Minister or MEC may choose to delay finalisation of the performance assessment until after receiving the oversight report of the portfolio or public accounts committees. This approach (and delay) on performance bonuses should only apply to the accounting officer and perhaps to other top managers (DDGs) reporting directly to the accounting officer. This approach (and delay) should, however, not apply to managers below the level of DDG or to other officials to ensure that the accounting officer and top management do not shift responsibility for their non-performance to officials below them.

The Minister/MEC must ensure that the annual report is submitted to Parliament or to the relevant legislature by no later than 30 September.

It may be useful for a portfolio or public accounts committee to seek the view of the Minister/MEC when considering the annual report of a department or entity reporting to that Minister/MEC. This is particularly important when there is evidence of poor performance or poor audit outcomes and the Minister/MEC is required to take appropriate steps or to ensure that the accounting officer commits to implementing such appropriate steps. After the annual report has been tabled, the Minister/MEC and accounting officer (as well as other department officials) should be available to answer any questions that the relevant portfolio committee may raise with regards to the annual report. The Minister/MEC and/or accounting officer should, as with all other portfolio committee meetings, be available to appear before the portfolio committee as and when requested.

The oversight role of the legislature is different to that of the executive, with the focus more on accountability for performance rather than to resolve management problems. It is the last point of accountability and should in general only check that the Executive has acted appropriately when there are problems. It would therefore help if the Minister/MEC indicates to the relevant portfolio committee and public accounts committee as to what corrective steps have been taken by the Minister/MEC and whether such steps have been considered or approved by Cabinet/EXCO. To the extent that the portfolio or public accounts committee feel that steps taken are not sufficient, it can then recommend further steps to be taken by the Executive or Minister/MEC. To the extent that the portfolio or public accounts committee is satisfied that the Minister/MEC or Executive has taken appropriate steps, it need not recommend further steps, but simply support the corrective steps proposed by the accounting officer or Minister/MEC.

3.5.4 Treasuries' role

The National Treasury and the provincial treasuries' are often expected to play a role in assisting all committees in Parliament and provincial legislatures to play their oversight role. Such a broad role is not possible; as such treasuries are themselves part of the executive and administration, and also not feasible as such support activities tend to shift treasuries away from

their core responsibilities. Treasuries do however, play five key roles to support the oversight process:

Firstly, the National Treasury issues the Treasury Regulations (in accordance with the PFMA) that specify certain requirements for the production of annual financial statements and annual reports. The National Treasury elaborates on these requirements in the *Guide for the Preparation of Annual Reports by National and Provincial Departments*. Generally the provincial legislatures also follow this guide, but can add their own requirements as long as these do not conflict or duplicate what is required by Treasury Regulations issued in terms of the PFMA. The National Treasury will prepare an annual *Summary Guide to the technical requirements for annual reports* for members of Parliament and the provincial legislatures, so as to minimise any possibility for confusion around which provisions apply to which year.

Secondly, the National Treasury works closely with other national departments and the Auditor-General's Office to develop a framework for non-financial information that will specify how such information should be gathered and reported so that the Auditor-General can audit it.

Thirdly, at the end of October, the National and provincial treasuries are encouraged to prepare a consolidated report for Cabinet, provincial Excos and the President's Co-ordination Council on audit outcomes for all national and provincial departments and entities. This report provides a type of scorecard on which sphere of government has the best audit outcomes and expenditure controls in place and also indicates in which sectors or sphere of government there are major problems related to financial management. This report will complement the General Report of the Auditor-General on Audit Outcomes, which is tabled annually in Parliament.

Fourthly, the respective treasuries are encouraged to perform and submit to the legislatures an evaluation of the extent to which the departments' annual reports comply with the regulations and guidelines. Treasuries can also assist in providing relevant financial information and comment on compliance with the PFMA. Portfolio committees must request this information from treasuries if such is not being made available.

Fifthly, the portfolio committees can request that the programme officers from the relevant treasuries participate in the oversight process of annual reports. Their participation could take the form of:

- attending the oversight hearings so as to be available to check, correct and supply information pertinent to the committee's work,
- submitting a report commenting on the department's annual report (i.e. giving the treasury's view of the department's performance), or
- making a presentation to the portfolio committee giving the treasury's view of the issues arising from department's annual reports.

3.5.5 Role of national departments in concurrent functions

National departments in each of the concurrent functions should be requested to produce a comparative analysis of the service delivery and financial performance of the nine provincial departments in the functional area. These reports should highlight:

- Challenges facing provinces in implementing nationally-enacted (or approved) policies;
- Differences in resource allocations and expenditure levels of the provincial departments (with possible reference to the Intergovernmental Fiscal Review);
- Differences in performance between provincial departments and what the national department is doing to help the weaker provincial departments;

- Good practices that have been developed by a provincial department, and what the national department is doing to promote the adoption of the practice by other provincial departments; and
- Overall co-ordination challenges and what the national department is doing to address these.

The national departments should present this information at the workshops for the portfolio committees in concurrent functions mentioned above, as well as at the oversight hearing of the portfolio committee of Parliament.

Cross-cutting departments like public service and administration can also assist portfolio committees on human resource issues in that sector or function, and could also be invited by portfolio committees when such specific hearings are taking place.

3.5.6 Role of departments with regard to public entities

All departments should be required to produce an overview of the performance of the various public entities within the Ministers/MECs portfolio. As indicated in Annex One, this should be presented to the relevant portfolio committee at the start of the oversight hearing. Forthcoming financial reforms may include the requirement that all departments also provide a consolidated financial statement incorporating the activities of the department and all entities reporting to that department (or its Minister/MEC). The National Treasury is considering making the preparation of such consolidated financial statements compulsory for all departments.

3.5.7 Constitutional institutions

Certain of the institutions established by Chapter Nine and other sections of the Constitution have key roles to play in monitoring and evaluating the service delivery performance of government. The portfolio committees should consider any reports issued by these institutions, especially those sections relevant to the sectors and functions they oversee. In particular, portfolio committees should consider any reports from the Public Service Commission on the extent to which departments and public entities have implemented performance management systems and other good practice systems to manage their personnel.

It may also be useful to consider the range and nature of complaints against that department received from the Public Protector, and similar institutions.

3.5.8 Role of committee researchers

The committee researchers can make a critical contribution to the quality of the committees' oversight processes. However in order to do so the researchers:

- Need to become specialists in a particular functional area. They need to be fully familiar with the challenges, current policies and policy developments in that area, as well as the department and other entities delivering services in the area;
- Need to be fully familiar with the strategic plans, budgets, in-year reports and previous annual reports of the department and public entities in their area of focus;
- Need to talk (informally and formally) to the relevant treasuries, auditors and any other stakeholders when preparing research for their portfolio committees;
- Need to monitor developments in their area of focus on an ongoing basis;
- Need to be trained on the measurement of performance within their area of focus;

- Need to be trained on how to critically evaluate the different kinds of information presented in annual reports, and
- They need to be trained on how to write briefing documents, oversight reports, and resolutions so that they can support the oversight work of the portfolio committees to the maximum extent.

Annex Two of this *Guide* is primarily aimed at assisting MPs and MPLs with their oversight responsibilities, nevertheless it also provides guidance that will assist committee researchers with their work.

3.5.9 Stakeholders and the public

It is proposed that portfolio committees should hold public hearings as part of the oversight process of annual reports. While the primary purpose of these hearings should be to clarify issues or obtain further information from the relevant Minister/MEC, in the first instance, or from the relevant accounting officer and officials, in the second instance, a further aim should be to solicit input from key stakeholders in the particular sector and from the general public.

Portfolio committees may consider a range of strategies to increase the usefulness of these public hearings. Some suggestions in this regard include:

- Committees may require all contributors to restrict themselves to commenting on the information contained in the annual reports that are under discussion;
- Committees may focus the debate by asking contributors to address specific issues related to the activities of the entity under discussion or raised in the annual report;
- Committees may approach specific organisations, institutions or subject experts to participate in the hearings.
- Committees may release an initial set of issues that its own research has identified and ask for the public to give further input on these issues.

Conclusion

As noted above, the National Assembly⁷ and the provincial legislatures⁸ are required by the Constitution to provide for mechanisms to ensure that all executive organs of state within their respective spheres are accountable to them, and that they maintain oversight of the executive and any organ of state, including the implementation of legislation.

In addition Ministers/MECs have a constitutional obligation to provide their respective legislatures 'with full and regular reports concerning matters under their control'⁹

The annual reports that Ministers/MECs of departments and public entities are required to table in terms of section 65 of the PFMA are key instruments. They enable Ministers/MECs to fulfil a substantial portion of their reporting responsibilities and they provide the National Assembly and the provincial legislature with a large portion of the information they require to carry out their oversight responsibilities in terms of the Constitution.

The tabling and oversight processes described in this *Guide* aim to provide mechanisms that enable the legislatures to exercise proper oversight of executive organs of state. The oversight hearings are the culmination of the annual reporting and oversight cycle. These hearings provide members with the opportunity to interrogate the executive regarding the exercise of authority particularly in relation to the delivery of services and the implementation of legislation, and to check on the entities' performance in relation to the performance targets set at the beginning of the financial year in question.

The tabling and acceptance of the oversight report in the House would signal the fulfilment and completion of the National Assembly's and provincial legislatures' duty to oversee the executive organs of state for that particular financial year. Obviously where there are outstanding matters, these would need to be followed up.

The oversight reports are also important in that they provide the National Assembly and provincial legislatures with an opportunity to give input into the current planning and budgeting processes. It is therefore crucial that the whole oversight process is managed to ensure that the oversight reports are finalised by the end of November at the very latest.

Most importantly, risk of service delivery failures is minimised with effective oversight and better management. Better oversight is critical for improving the quality of service delivery.

⁷ See section 42(3) and 55(2) of the Constitution

⁸ See section 114(2) of the Constitution

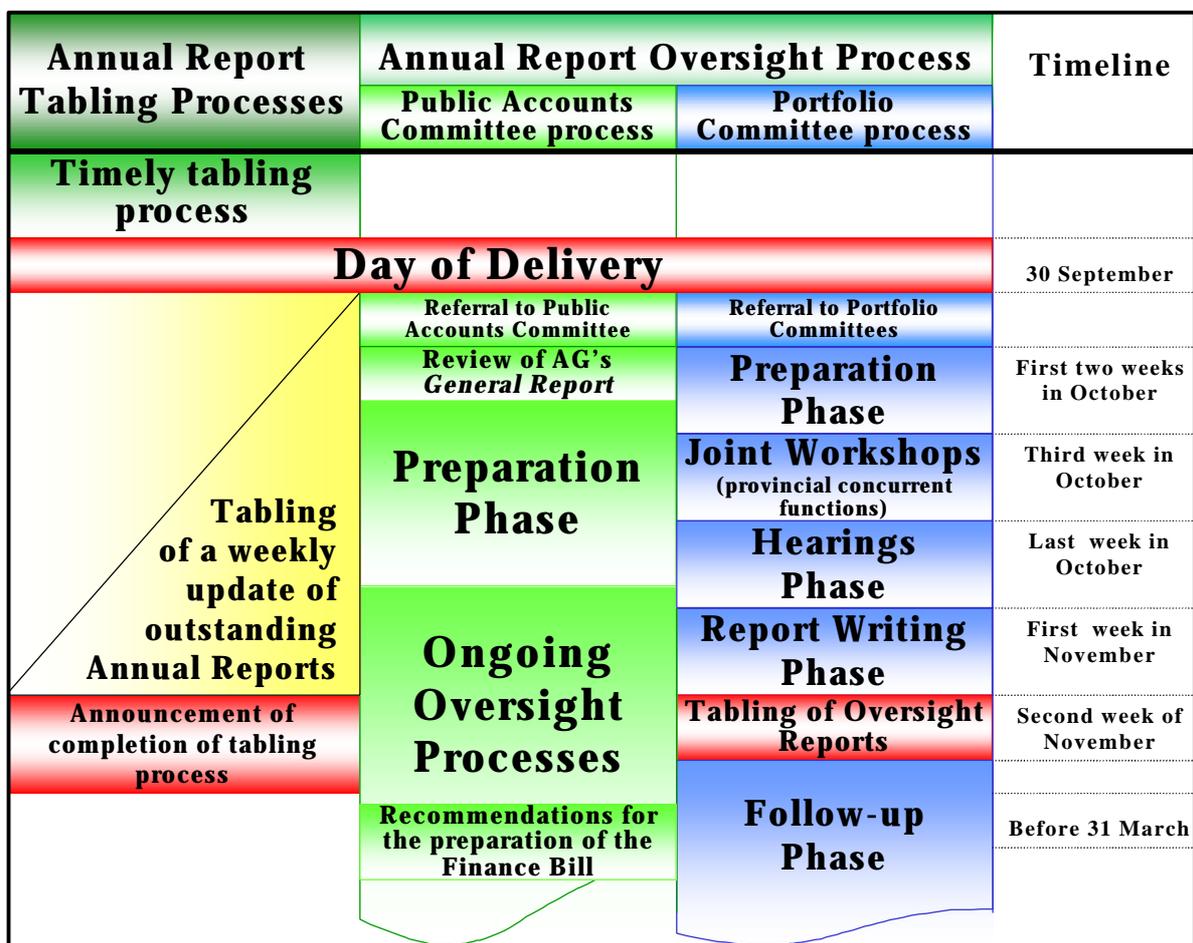
⁹ See section 92(3)(b) and 133(3)(b) of the Constitution

Annex One

The annual report oversight process

The oversight processes of public accounts committees are quite well-established although there may be a need to refocus their mandates to better fulfil the roles described in Part Three. By contrast, the proposed role for portfolio committees is not established, and quite recent or new. The focus of this Annexure is therefore to spell out a methodology for legislatures to consider when mandating their portfolio committees on how to exercise oversight of annual reports.

It is clear from the preceding section that the annual report oversight process consists of two parts, namely the work of the public accounts committee and the work of the different portfolio committees. This is illustrated in the following diagram.



The above diagram shows that while the Speaker refers the annual reports to the public accounts committee and the portfolio committees at the same time, they follow quite different processes in exercising oversight of them.

It is suggested that the relevant public accounts committee should 'start' the annual oversight process of Parliament and the legislatures by reviewing the relevant *General Report* (or the salient information supplied by the Auditor-General) and indicate to each of the portfolio

committees what specific issues they should be aware of when they exercise oversight of the annual reports. It is suggested that public accounts committees should communicate these issues to the various portfolio committees by the end of the second week in October so that they can be explored in the portfolio committee's oversight hearings. Note that if there are any delays in this process around the *General Report*, the portfolio committee process should still proceed with its work and not wait for the report from the public accounts committee beyond the second week of October.

Given the greater workload of the public accounts committee its preparation phase is longer and it is not expected to complete its oversight within a prescribed timeframe. However, it is suggested that the public accounts committee finalise their recommendations on unauthorised expenditure at an early stage, by at latest the end of March, to enable the Minister/MEC of Finance to table a Finance Bill dealing with unauthorised expenditure before May in the year following the tabling of the annual reports.

By contrast, it is proposed that the oversight process for portfolio committees should be quite structured and linked to specific timeframes. Ideally the oversight process should consist of four phases, namely (a) an oversight preparation phase, (b) an oversight hearings phase, (c) an oversight report-writing phase, and (d) a follow-up phase. The aim is to get the portfolio committees to produce an *Oversight Report* by the end of the second week in November, at the very latest, so that these reports can feed into the current planning and budgeting cycle of government. These phases are described in more detail below.

For concurrent provincial functions, the oversight hearings phase is broken up into two parts: the first week for a workshop involving all ten portfolio committees, and the second week for hearings by each portfolio committee on the department for which they are responsible.

1 Oversight preparation phase

Effective oversight requires good preparation. It is therefore vital that both members of portfolio committees and the committee staff prepare properly to exercise oversight of the annual reports. While such preparation should be an ongoing process due to the links between planning, budgeting, implementation and reporting, it is also strongly recommended that portfolio committee support staff, researchers and the committee members should start specific preparations for the oversight process at least six to eight weeks before 30 September.

It is recommended that the committee staff should undertake the following activities in preparing for the oversight process:

- Ensure that members have access to the strategic plans, ENE and Budget Statements Two (as relevant) for the financial year to which the annual reports apply, so that they can compare the entities actual performance against its plans;
- Ensure that members have access to performance agreement of the accounting;
- Ensure that members have access to the previous year's annual report for the entity, so that they can make comparisons with the entity's previous performance;
- Check the section 32 and 40(4) reports published and generated each month respectively, especially those covering each quarter. These reports should highlight any problems the accounting officer identified in the course of implementing the departmental budget;
- Ensure that members have access to the previous year's *Oversight Report* and any resolutions taken by the House in relation to the particular function, and any responses received from the Minister/MEC;

- Compile any reports from other oversight bodies like the Public Service Commission, the Public Protector, regulatory agencies and any other agencies monitoring complaints against a department or entity;
- Ensure that members have access to the latest *Treasury Regulations* and National Treasury's latest *Guide for the preparation of Annual Reports*, so that members can check that the annual report complies;
- Compile a list of outside subject experts and organisations with knowledge of the particular function that the members can contact should they wish to get an outside view on the entity's performance in the past year;
- Depending on the nature of the oversight hearings, the committee staff may contact subject experts or organisations to make submissions and presentations;
- For concurrent provincial functions, prepare for the workshop involving provincial departments and portfolio committees;
- Prepare the oversight hearings.

It is suggested that the members of portfolio committees should undertake the following activities in preparing for the oversight hearings:

- Carefully read the entire annual report;
- Check that the annual report is technically sound, and in line with the official requirements (the respective treasuries may provide useful input in this regard);
- Compare the performance section of the annual report with the performance objectives and targets set out in the relevant section of the ENE or the entity's strategic plan;
- Compare the entity's performance as reported in the current annual report, with that reported in its last annual report;
- For concurrent functions, compare Annexure 1A and 1B in the financial statements on the transfer of grants, and whether such grants comply with the relevant Division of Revenue Act for that year;
- Check all transfers made by the department or public entity, and whether such funds have in fact been spent, and the accountability mechanisms to audit such spending and monitor performance;
- Assess the reasons for any extra funds provided during the adjustments budget process, and whether the additional funds were spent;
- Check that the accounting officer submits a written explanation on any spending that exceeds the appropriated amount, for both the vote and each main division, and that the responsible Minister/MEC also submits a written explanation on what steps were taken against the accounting officer, and if not, the reasons for not taking any action;
- Consider the entity's performance in the light of any comments or recommendations that the committee may have made in its previous *Oversight Report* or to resolutions taken by the House;
- Gather additional information on the entity's performance by speaking to experts or organisations that have knowledge of the function;
- Prepare a list of priority questions that the member would like to pose either to the Minister/MEC or to the accounting officer.

The chairperson of the portfolio committee might consider consulting with colleagues from the public accounts committee or from other committees within the cluster in order to ascertain

whether there are pressing issues relating to the performance of the particular entity that they are aware of and which warrant closer examination.

Before the oversight hearings the portfolio committee should meet privately to identify key issues that need to be explored, to agree in broad terms what they would like to get out of the hearings, and possibly to prioritise certain key questions.

2 Oversight hearings phase

To allow adequate time for preparation, portfolio committees should begin their hearings in the third week of October. Ideally all oversight hearings should take place in the last two weeks of October, but should not be delayed beyond the end of the first week of November. The portfolio committees in the provincial concurrent functions should aim to hold their joint oversight workshops in the third week of October, and should follow this up with the oversight hearings of the individual departments in the fourth week of October.

It is suggested that portfolio committees should request the relevant Minister, MEC or accounting officer to begin the oversight hearing with an overview of the department's annual report, as well as the annual reports of each of the public entities for which the Minister/MEC is responsible. In the case of concurrent functions it is suggested that this overview should also review the performance of the provincial departments. The aim of these overviews is to provide the portfolio committee with a consolidated perspective of performance within the particular functional area before it examines the department's and public entities' annual reports in greater detail.

It is important that the department or entity also provide written reasons if its audit outcome is not unqualified, and also for any emphasis of matter raised by the Audit Report. In this respect, the Minister/MEC or accounting officer must provide a written report on the steps to be taken to deal with any issues raised in the Audit Report.

The oversight hearings can be structured in any number of ways, four options are presented below:

Option One: A presentation by the Minister/MEC and/or the accounting officer and then a page-by-page review of the relevant sections of the annual report.

This approach requires minimal preparation on the part of members. It is very efficient in terms of time. However, it tends to be less effective because larger issues often get lost in the page-by-page process, and because there is no outside input to challenge the information put forward by the entity.

Option Two: A presentation by the Minister/MEC and/or the accounting officer followed by a presentation by a designated member of the committee dealing with key issues as identified by the Committee, followed by a question and answer session.

This approach requires more preparation by the members of the committee, and they need to agree beforehand on the key issues. If the committee works together it can be very effective in focussing attention on specific problem areas. It would also be more useful from the executives' perspective as it would give a clear indication of what the committee's concerns are.

Option Three: A presentation by the Minister/MEC and/or the accounting officer followed by inputs by invited experts or stakeholder organisations, followed by a question and answer session.

This format has the advantage of bringing in outside inputs to the oversight process, which can usefully broaden the committee's information base. Including experts in the process can mitigate the information asymmetry that often exists between entities and committees, and so prove a useful check on the accuracy of the performance information supplied by the entity. Including stakeholder organisations can give the client's perspective on the entity's activities, which can be a very useful check on the entity's performance. However, to avoid accusations of bias, the committee would need to reach consensus on

who to invite to make presentations.

<i>Option Four: A presentation by the Minister/MEC and/or the accounting officer followed by a full-scale public hearing, followed by a question and answer session.</i>
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This format has the advantage of being most transparent and promoting a maximum degree of public participation. It can also be very useful in gathering information from experts and clients that may not otherwise be available to the committee, and which is useful to evaluating the entity's performance. Care would have to be taken to ensure that those making presentations focus on the entity's performance over the past year. The disadvantages of this approach are that it is relatively expensive, and can be very time-consuming.
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It is recommended that committees use the format described in Option Three, or a combination of Option Two and Option Three, as these are likely to be most efficient and effective in terms of use of time, and in terms of outcome. A committee may, however, decide to start with Option One in the first year and then progress to one of the other options in subsequent years. A committee may also decide to use Option Three and Option Four in alternate years. There is no right or wrong format for oversight hearings, though as indicated in the table above some formats are more effective than others.

How long should the oversight hearings last? Again there is no set length. It largely depends on the format of the hearings, the size and budget of the entity being reviewed, the quality of the information in the annual report, whether the department or entity has a broader service delivery role and whether there are any significant problems with an entity's performance. Generally speaking, oversight hearings should take at least half-a-day and a maximum of three days per department and constitutional institution. The length of oversight hearings for public entities really depends on the size of the budget or the entity and the nature of its function, and whether hearings can be grouped for similar public entities. The committee might also consider reviewing public entities along with their parent departments so as to save time.

3 Oversight report-writing phase

After the hearings, portfolio committees must compile an *Oversight Report* for each of the entities the committee reviewed for tabling in the House by the second week in November.

The *Oversight Reports* should deal with the following issues:

- Compliance with tabling deadlines and other processes set out in Section 65 of the PFMA, and recommending appropriate sanctions where Ministers/MECs and/or accounting officers have failed to fulfil their reporting obligations;
- Compliance with the prescribed formats and other official requirements, i.e. comments on the technical quality of the annual report;
- Compliance with the relevant Division of Revenue Act, especially whether all transfers in terms of this Act were fully implemented;
- Comments on all transfers made, and whether these were appropriated for or in terms of the Division of Revenue Act;
- Check on the pattern of spending, and whether payment of funds were delayed for the last quarter or month of the financial year, and whether the department or entity paid amounts due within 30 days of receiving adequate documentation;
- Comments on the functioning of the audit committee and internal controls in the department or entity;

- Comments on the adequacy/usefulness of the General Information section in the annual report;
- Comments on the entity's reported performance as reflected in the Performance Information section in the annual report;
- Comments on the entity's human resource situation and policies with reference to the Human Resource Information section in the annual report;
- Key issues that the committee would like to draw to the entity's attention as regards its performance in the preceding year;
- Recommendations on whether the committee believes the accounting officer deserves the proposed performance bonus, or any sanctions the committee proposes against non-performing accounting officers; and
- Recommendations in relation to any of the issues noted above.

As regards, length – this depends on the quality of the entity's annual report, and the standard of its performance. The *Oversight Report* for entities that perform excellently could be as short as one page, essentially thanking the Minister/MEC, the accounting officer and other officials for their excellent work. The *Oversight Reports* for poorly performing departments or entities could be quite long, but probably not exceeding ten pages as the committee should seek to emphasise the most important issues that need attention, rather than trying to be comprehensive.

4 Tabling of Oversight Reports

All *Oversight Reports* must be tabled in the House, and once they have been accepted copies need to be sent to the Minister/MEC and any other relevant role-players, such as the treasuries.

It is important that the *Oversight Reports* be produced in time to feed into the current planning and budgeting processes, so that the executive can give effect to any recommendations or resolutions contained in the reports.

Portfolio committees should complete their *Oversight Reports*, and table them in the House ideally before the end of the third week in November, but at least before the end-of-year recess.

Note that the public accounts committees have a far greater workload and so would not be expected to meet this deadline.

5 Follow-up phase

If the oversight process is to be effective, Parliament and the provincial legislatures need to put in place systems for tracking resolutions and ensuring that they are brought to the attention of the relevant Ministers, MECs or accounting officers on a regular basis until the matter has been dealt with, or an adequate response has been received.

Annex Two

Interrogating and evaluating annual reports

The information in this section is intended to *assist* the members of portfolio committees with their oversight responsibilities. The section does not provide a detailed methodology for examining a department's or entity's annual reports, conducting oversight hearings or writing oversight reports. Rather it seeks to give members and committees some helpful pointers that if followed will enhance the quality of their oversight activities.

The oversight issues and questions presented in this section are of a generic nature. Each portfolio committee will need to adapt and develop these questions to the particular function and the particular entity that they are responsible for overseeing.

Of particular importance is for portfolio committees to develop a set of questions that focus on the specific service delivery responsibilities of the entity whose annual report is being examined. Such questions will differ from entity to entity and may also differ from year to year, depending on the performance of the entity and what it has reported in its annual report, and what issues have been raised by other role-players.

1 The aim of Portfolio Committees overseeing annual reports

Portfolio committees need to have a clear understanding of what they are seeking to achieve through the oversight of annual reports.

In the first instance it is to fulfil the obligation which the Constitution places on the National Assembly and the provincial legislatures to ensure that all executive organs of state in the national/provincial spheres of government are accountable to it; and to maintain oversight of the exercise of national/provincial Minister/MEC, including the implementation of legislation and organs of state.

However, in fulfilling this constitutional obligation it is suggested that the aim of the oversight process is to give the portfolio committee (and through it the legislature) the confidence that the department, constitutional institution or public entity under review is actually delivering:

- high quality services, economically, efficiently and effectively,
- in line with its constitutional and/or legislative mandate, strategic plans and budgets, and
- that it is contributing meaningfully to the realisation of government's overall objectives.

A further aim of the portfolio committee should be to gather information on the *views of customers and clients* of the departments, constitutional institutions or public entities being reviewed and to take this into account when evaluating the performance of the particular entity and making recommendations as to how it can improve the responsiveness and quality of its services and functions. In this respect, for service delivery departments like education, health or home affairs, it may be useful to develop a process where ward councillors from each municipality are provided with an opportunity to submit written reports on the quality of services offered by the various service delivery departments in their particular municipal ward. This could

be done by members seeking such reports from ward councillors in their constituency. They would thus be the eyes and ears of members of provincial legislatures and Parliament.

Apart from councillors, elected representatives in Parliament and provincial legislatures can also seek the opinions of school governing boards, hospital boards, etc. in their constituency.

2 Preparing to exercise oversight: a checklist

To exercise proper oversight of departments, constitutional institutions and public entities, members of portfolio committees and the committees as a whole need to prepare for the task. The following table provides a checklist that both members and committees can use to guide their preparations:

Oversight Preparation Checklist	
Be ready	– think about the issues and information needs well in advance of the start of the oversight process.
Be dead-line oriented	– set clear start, interim milestones and completion targets.
Be aware	– know about other oversight processes that may be relevant, e.g. of other departments or entities, or of provincial departments.
Be focused	– tailor the oversight process to where it can have the most impact, i.e. set clear priorities.
Be creative	– be flexible enough to take on board new issues and options should they arise in the course of the oversight process.
Be open	– consult with outside experts, organisations and clients throughout.
Be forward looking	– remember that the purpose of oversight is to improve service delivery in the future.

It is important to remember:

The committee needs to work as a team in exercising oversight.

The amount of work involved in exercising proper oversight of large entities such as government departments is enormous. It is therefore strongly recommended that portfolio committees should meet prior to the tabling of the annual reports (i.e. before 30 September) to plan and prepare for the oversight process. Indeed, committees may find it necessary to meet a number of times, and allocate particular tasks to different members. For instance, the committee may ask one member to gather information relating to the department's previous performance and its performance targets, another member to approach experts and clients for information, and another member to review links between the particular department and other entities that need to be taken into consideration.

Remember that the oversight process is not about policy, but implementation of agreed policy. It is about the *legislature exercising oversight of the executive in accordance with the Constitution*. All members therefore need to work together to ensure that the legislature as a whole fulfils its constitutional responsibilities in the most effective way possible. It is in the interest of both the ruling and opposition parties that such oversight is dealt with effectively in order to ensure that problems affecting service delivery are dealt with decisively in order to secure future improvements.

3 Oversight of the technical quality of annual reports

It is suggested that in the oversight process, the portfolio committee should first examine the technical quality of the annual report of the entity it is reviewing. However, it needs to be emphasised that members should not place undue emphasis on this aspect of oversight.

1. *The aim of overseeing the technical quality of annual reports*

The aim of this aspect of the portfolio committee's oversight is to check the technical quality of an annual report so ensure that it complies with the legal and policy frameworks for the structuring, compilation and tabling of such reports.

2. *Necessary background information*

To exercise effective oversight of the technical quality of annual reports, members need to have access to the following documents or be familiar with the following background information:

- (i) *The guideline documents for the structuring, compilation and tabling of annual reports, and more specifically:*
- The provisions in the PFMA governing annual reports, particularly section 65 which governs the process for the tabling of annual reports by Ministers/MECs,
 - The provisions in the Treasury Regulations governing the annual reports,
 - The provisions of the Division of Revenue Act, governing the grants to be made from nationally-raised revenue to provinces and municipalities;
 - The provisions in the Public Service Regulations governing annual reports, and
 - The *Guide for the Preparation of Annual Reports* for the relevant year issued by the National Treasury.

Note that because certain provisions governing the structure and compilation of annual reports may change from year to year, it is important for members to use the provisions applicable to the particular financial year on which the annual report is reporting. So for instance members should not use the 2004 *Guide for the Preparation of Annual Reports* as a basis for evaluating the technical correctness of annual reports for the 2003/04 financial year, but should rather use the 2003 *Guide* – as entities would have developed the 2003/04 annual reports in accordance with the requirements of the 2003 *Guide*.

- (ii) *The technical terms and methods used to measure performance*

Members need to have a working knowledge of how to measure performance in order to exercise oversight of the performance sections of annual reports. This working knowledge needs to encompass:

- Familiarity with the technical terms used to describe performance;
- An understanding of how service delivery performance is measured – both generally and for different functions;
- An understanding of how performance information is reported – again both generally and for the different functions; and
- Familiarity with ways of evaluating the reliability of performance information.

Members will need to invest some time in developing the necessary working knowledge of how to measure performance. A good place to start is the material the National Treasury has produced as guides for departments' strategic planning and annual reporting processes, namely:

- 'Section Two: Framework and definitions' in the *Framework and templates for provincial departments for the preparation of Strategic and Performance Plans for the 2004-2009 term, and Annual Performance Plans for the 2005 fiscal year*
- 'Criteria for good reporting' in the *Guide for the preparation of Annual Reports*
- *'The framework for non-financial reporting' (forthcoming)*

These sources are available on the National Treasury website at: www.treasury.gov.za

It would also be important for members to receive specific training on measuring performance. The National Treasury has a list of approved service providers that supply such training.

The Association of Public Accounts Committees (APAC) which is managed by the Office of the Auditor-General also provides training on the measuring and monitoring of performance. Although APAC concentrates on providing training for members of the public accounts committees, it has indicated an interest and a willingness to extend its training activities to all members of legislatures.

(iii) *The technical terms and methods used to report on human resource issues*

Members need to have a working knowledge of how to measure and report on human resource issues in order to exercise oversight of the human resource management sections of annual reports. This working knowledge needs to encompass:

- Familiarity with the technical terms in the human resources field;
- An understanding of how different aspects of human resource management get measured;
- An understanding of how information on human resource management is reported; and
- Familiarity with ways of evaluating the reliability of information on human resource management.

Members will need to invest some time in developing the necessary working knowledge of how government entities are expected to measure and report on human resource management issues. The Department of Public Service and Administration has issued a wide range of documents in this regard. Members can obtain these documents from DPISA's website at: www.dpsa.gov.za. The Public Service Commission has also issued a range of reports that will be useful to members when reviewing department's human resource management track record. These can be obtained from www.psc.gov.za

Particularly useful in this regard is the DPISA document entitled *A guide to understanding the oversight report of departmental annual reports*. A copy of the guide can be accessed from the DPISA website

The technical requirements of the human resource management sections of annual reports are required in terms of Chapter 1, Part III J.3 of the Public Service Regulations, 2001. The National Treasury's *Guide for the preparation of Annual Reports for national and provincial departments* sets out the format for the presentation of the human resource information in the annual reports.

(iv) *The strategic plan of the entity whose annual report is being reviewed.*

A key requirement of annual reports is that it must deal with every aspect of performance to which a department or other entity committed itself in its strategic plan. In other words annual reports must report against every objective and performance target contained in an entity's strategic plan. This requirement is critical to maintain the integrity of strategic plans. If annual reports do not deal with every aspect of strategic plans this opens the door to the possibility of 'corrupt planning' – where entities produce impressive, ambitious plans with no intention of actually delivering on them. Strategic plans are expected to set realistic and achievable service delivery objectives and performance targets. An important check on this is to require that annual reports link directly back to strategic plans.

In order to check these linkages, members need to have the entity's strategic plan against which it is reporting in the annual report under review. In this regard members need to make sure they do indeed have the correct strategic plans, i.e. if the annual report is for the financial year 2003/04, then the strategic plan must be for 2003/04, published around April 2003 and not the latest strategic plan tabled by the entity, which will in this instance be for the 2004/05, published around April 2004.

3. Typical technical focus questions

The following list presents examples of the kinds of questions that members should explore when it comes to evaluating the technical quality of annual reports. Note that this is by no means an exclusive or exhaustive list. There may be a host of other technically related questions that members may deem relevant:

- (i) Was the report delivered on time?
- (ii) Is the report in line with the prescribed formats?
- (iii) Does the layout of the report facilitate understanding of the information?
- (iv) Is the information communicated simply and clearly?
- (v) Is the annual report original, or are key portions copied from previous annual reports?
- (vi) Does the report deal faithfully with each aspect of the strategic plan (or ENE/Budget Statement Two)?
- (vii) Is each measurable objective specified in the strategic plan (or ENE/Budget Statement Two) reported on in the annual report?
- (viii) Is the service delivery information presented in the annual report reliable?
 - o Are the performance measures robust?
 - o Can the performance information be verified?
 - o Can the human resource information be verified?
- (ix) Is the annual report mere gloss with nice pictures or a serious attempt to account for performance?

Once the Auditor-General starts auditing performance information, then he will be able to provide valuable input on service delivery information, as indicated in the (viii) above.

4 Oversight of entities' performance

The portfolio committee's core responsibility in the oversight process is to review the performance of departments, constitutional institutions and public entities as reported in their annual report. In other words, looking beyond the formats and technical aspects: What does the annual report actually say about the entity's performance in the past financial year?

1. *The aim of overseeing the performance of entities*

The aim of this aspect of the oversight process is:

- To test whether the annual report is an accurate record of the entity's performance;
- To evaluate whether the reported performance is in line with entity's strategic plans and budgets, and acceptable given the operating environment; and
- To assess how the entity might improve on its performance in future.

For the oversight process to be most effective, it is critical that when portfolio committees review annual reports they should do so always focussing on the following question:

How can [name of entity] deliver services better in future?

2. *Necessary background information*

When a portfolio committee reviews an entity's annual report, it is in fact reviewing the extent to which the entity succeeded in implementing the strategic plan it tabled in the legislature, and which the legislature agreed to fund through the *Budget*. It therefore follows that members need to be familiar with the following background information:

(i) *The entity's strategic plan for the year to which the annual report applies*

It is absolutely essential that members have access to the entity's strategic plan against which it is reporting in the annual report under review. As noted above, members need to make sure they do indeed have the correct strategic plan document, and not the one for the current financial year.

Members should be thoroughly familiar with the contents of the strategic plan, *before* they read the annual report, as this will greatly facilitate their ability to assess the entity's performance. The strategic plan sets out the performance objectives and targets against which the entity should be reporting on its annual report.

Note that in some instances members may have to refer to other documents in addition to the entities' strategic plans, or in certain instances the relevant planning document may not be called a strategic plan, but an annual performance plan, a corporate plan or a business plan.

In the case of national departments, members should also refer to the relevant Vote in the *Estimates of National Expenditure* applicable to the financial year under review, as this document sets out clear measurable objectives against which the departments have to report in their annual reports

For provincial departments the 'strategic and performance plans' are the authoritative documents setting out measurable objectives. Certain of these measurable objectives are repeated in *Budget Statement Two* of the provincial budgets.

(ii) *Information on the external and internal challenges faced by the entity in the year under review*

The primary source of this information will probably be the entity itself. The entity will in all likelihood refer to it in its quarterly performance reports, the general information section of the annual report or in the presentations by Minister/MEC or accounting officer at the oversight hearings.

It would also be useful if the portfolio committee could get an independent view of the operating conditions which the entity experienced in the year under review from an outside expert. Entities often blame external circumstances (circumstances beyond their control) for shortcomings in their performance and it is therefore important to determine to what extent this is justified. Or did the management fail to show the necessary initiative to keep service delivery on track despite the circumstances?

Another useful source of information may be the media. Members may usefully invest time doing a news search on the Internet in relation to the activities or functional area of a particular entity. For instance, members responsible for overseeing the Department of Agriculture may search for information on the performance of the agricultural sector or for key issues affecting the agricultural sector in the year under review. It may even be useful for a member of the committee or the committee research staff to be mandated to keep a list of the key issues affecting a particular sector during the course of the year. This information could prove to be useful background information when it comes to exercising oversight of an entity's annual report.

Members need to be careful not to minimise the impact that certain external and internal circumstances can have on service delivery. The challenge is to understand the nature of the circumstance, and evaluate whether the management responded to it appropriately, and whether they could have done better if they had responded differently. This needs to be done keeping in mind that it is always easier to be wise after the event.

(iii) *Information from clients*

The recipients of an institution's services are often in the best position to comment on the performance of the institution. Departments and other public bodies should conduct routine client surveys as part of their service delivery improvement programme and they should be encouraged to report such information in their annual reports. However, it may be useful in particular circumstances for the portfolio committee to gather client information from independent sources, for instance from organisations working in the particular functional area, e.g. employers organisations in the labour field, or health NGOs in the health field etc. This can be done through the oversight hearings or by way of a call for written submissions.

(iv) *Need to be familiar with the particular entity*

To exercise oversight most effectively, members need to be fully familiar with the particular entity. They need to have a clear understanding of its mandate, its structure, its way of operating, its strengths and also its weaknesses. Members should endeavour to keep track of its performance in a range of areas – possibly by referring back to previous annual reports and other information published by the entity.

Another way of becoming familiar with an entity and its activities is through site visits. These can be very productive, but can also be misleading, depending on whether the visit is 'staged' or transparent.

In becoming familiar with an entity, members need to be careful that they maintain their independence, and do not allow themselves to be *co-opted* to the particular entities point of view.. Members should seek to maintain cordial relationships with the managements of entities, but it should always be clear that the relationship is an arms-length relationship, subject to the oversight responsibilities that the member has by virtue of being a public representative.

3. Typical content focus areas and questions

This section discusses the areas members should explore when it comes to evaluating the performance of entities as reported in their annual reports. Note that this is by no means an exclusive or exhaustive list. Indeed given the generic nature of this *Guide*, it goes without saying that it does not cover function specific issues that portfolio committees will need to explore when dealing with a particular entity.

It is suggested that portfolio committees should seek to review the following key issues when exercising oversight of an entity's annual report:

(i) Organisational concerns and options

Government operates in a changing environment. It is therefore appropriate to regularly examine whether a department, constitutional institution or public entity is appropriately structured to deliver on its mandate and, in certain instances even to ask whether there is a continued need for the entity at all, particularly in the case of public entities.

The oversight process provides members an opportunity to explore whether some rationalisation of organisational structures might be beneficial in the light of changing customer requirements or expectations, changes in the government's overall delivery strategy or changes in policy. Questions that members may consider exploring in this regard include:

- a. How effectively does the entity contribute to the delivery of government objectives, as reflected in its mandate?
- b. Should the mandate be changed in order to better reflect the priorities of government, and the needs of clients?
- c. Is there a continuing need for the functions being delivered by the entity as a whole, and by each of its programmes? If not, can the entity as a whole be closed down, or certain of its programmes be terminated?
- d. Is there a need for new programmes to be initiated?

(ii) Overspending and other poor audit outcomes

A poor audit outcome is an audit opinion that is qualified, adverse or disclaimed and includes matters of emphasis noted in the audit report. Irrespective of the audit outcome, the accounting officer must (in writing) explain specific serious transgressions, which may include the incurring of overspending, unauthorised, irregular and fruitless and wasteful expenditure. Questions that members may consider exploring in this regard include:

- a. At what point did the accounting officer become aware of the risk of overspending or under-spending? What remedial steps did the accounting officer take at that stage to prevent or deal with the problem?
- b. At what point did the accounting officer inform his/her Minister/MEC of this risk? Were any remedial steps agreed to between the Minister/MEC and the accounting officer? Did the Minister/MEC of the department at any stage issue a directive to the accounting officer in terms of section 64(2) of the PFMA and which may have

resulted in overspending? If so, why did the Minister/MEC do so, and did the Minister/MEC notify the Minister/MEC for Finance? Has the accounting officer complied by filing a copy of the directive with the provincial treasury, National Treasury and Auditor-General, as required by section 64(3) of the PFMA.?

- c. Do the section 40(4)(c) PFMA reports, submitted by the accounting officer on 15 September and 15 October before the adjustments budget, project any over expenditure? If so, what steps were taken by the department to adjust its budget to deal with such pressures? If monthly reports reflected under-spending, what steps were taken to improve spending capacity?
- d. Do the section 40(4)(c) PFMA reports submitted by the accounting officer before the end of the financial year project any over expenditure? If so, what steps were taken by the department to deal with these pressures?
- e. Why were the adjustment budget process or section 16 of the PFMA not utilised to deal with the pressures that led to the overspending? Did the accounting officer seek the written approval of the relevant treasury before incurring the over expenditure?
- f. Were the Cabinet/EXCO made aware of potential overspending before it occurred; if so, when and what steps were agreed on to prevent such overspending?
- g. What is the outcome of the department's audit? Apart from overspending, does the audit identify any other unauthorised expenditure? Are any other serious matters raised by the Auditor-General under Emphasis of Matter and/or in the management letter sent to the accounting officer?
- h. What corrective steps have been taken or are being taken to address poor audit outcomes?
- i. What disciplinary steps have been taken against erring officials?
- j. Have criminal investigations been instituted against erring officials?

(iii) *Evaluating performance*

Oversight reviews are primarily an opportunity to look at how well an entity has performed against its aims, objectives and performance targets over the previous year. In evaluating an entity's performance, it is equally important to consider whether the current aims, objectives and performance targets are sufficiently focused and demanding to help the entity improve its performance in the future. Questions that members may consider exploring in this regard include:

Past performance

- a. Is the annual report transparent about the entity's performance? Or is it simply a public relations document?
- b. To what extent has the entity met its aims, objectives and performance targets and quality standards? What were the reasons for any failures?
- c. How have the entities performance targets changed over time? Are service delivery targets increasing in line with increases in funding?
- d. What examples are there of good practice in how the entity has delivered its services?
- e. What changes have been made in the services provided to clients? How can greater client choice be provided in future?

- f. What are clients' views on the nature and quality of services and the way in which they have been provided and have these views altered over time?

Future performance

- g. How well are the objectives and performance targets linked into the government's overall aims?
- h. Are the aims, objectives and targets sufficiently comprehensive?
- i. How useful are the performance targets in driving continuous improvement?
- j. How much continuity is there in the performance targets between one year and the next?
- k. Does the entity have too many performance targets?
- l. Are any additional/alternative performance measures and targets needed?
- m. How well do the performance targets measure the delivery of outputs and the achievement of outcomes (where relevant)?
- n. Does the entity have the right balance between output and outcome performance targets?
- o. Are effective information systems in place to measure performance against objectives and targets and how could these be improved?

Efficiency savings and productivity gains

- p. Does the entity have adequate systems in place to ensure that it can identify clients' requirements and monitor the extent to which they are met?
- q. Has the entity delivered value for money? Over time, is it delivering its outputs at reduced cost or more outputs for the same cost?
- r. Has the entity been innovative in managing costs and improving performance? What steps has it taken in this regard? Is there any scope for increased efficiency savings?
- s. To what extent are staff involved in directly providing services to clients hampered by internal bureaucracy? What has been done to encourage greater flexibility and creativity in delivering services? What can still be done in this regard?
- t. How effective have the relationships with other entities or spheres of government operating in the same or related areas been? Is there scope for improving these relationships and so ensure more effective service delivery?
- u. Has the entity managed service delivery risks adequately?
- v. Does the entity comply with the requirements of the Access to Information Act?

(iv) *Supply chain management*

Section 217(1) of the Constitution requires that "When an organ of state in the national, provincial or local sphere of government, or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost effective". In addition, section 217(3) of the Constitution further requires national legislation to prescribe a framework providing for preferential procurement to address the social and economic imbalances of the past.

To this end Parliament has passed the Preferential Procurement Policy Framework Act (PPPFA). This Act and its Regulations incorporate the 80/20 and 90/10 preference point systems.

In addition, the National Treasury has issued *Policy Guidelines for the Issuance of a Supply Chain Management Framework in terms of Section 76(4)(c) of the PFMA*, as well as a document entitled *Supply Chain Management: A guide for Accounting Officers / Authorities*.

The government has also adopted an extended public works programme that seeks to maximise the job creation opportunities of the state's procurement and capital investment activities.

Accounting officers/authorities are responsible for putting in place supply chain management systems in accordance with the policy framework. They must also set preferential procurement targets, targets for the extended public works programme, and other measures to ensure the efficient functioning of the supply chain management system within the department or entity.

Oversight reviews give portfolio committees the opportunity to explore the extent to which departments have put in place suitable systems and targets to give effect to the government's procurement policies, as well as to exercise oversight of departments' procurement activities to ensure that they are fair, equitable, transparent, competitive and cost effective as required by the Constitution. Questions that members may consider exploring in this regard include:

- a. Does the department or public entity have a supply chain management system in place that complies with the PPPFA and the Supply Chain Management Framework issued by the National Treasury?
- b. Does the department or public entity have an up-to-date fixed assets register? What systems are in place to ensure the asset register remains current?
- c. Does the department or public entity have a policy in place governing alterations and maintenance? How much was spent on maintenance in the year under review? What is the maintenance backlog?
- d. Does the department or public entity have systems in place to manage moveable assets, including systems for coding items and allocating responsibility, for maintaining and checking inventories, and for maintaining the assets?
- e. Does the department or public entity have systems in place to manage consumables, including inventory levels, sound systems for ordering, receiving and distributing consumables, stores/warehouse management and systems for monitoring vendor performance?
- f. Does the department have a disposal management system in place?
- g. Do all members of the department's Bid Committees have NIA clearance?
- h. What measures has the department or public entity put in place to facilitate the reporting of corruption in procurement and other aspects of the supply chain management system?
- i. How many cases of corruption in the procurement process did the department investigate and successfully prosecute in the year under review?
- j. Can the department indicate the value of assets that have been lost, stolen or destroyed in the year under review?

- k. Has the department or public entity set targets for preferential procurement and for its contribution to the extended public works programme? How has the department performed against these targets in the year being reviewed?
- l. Has the department or public entity reported on all large tenders, capital projects or Public Private Partnership deals (i.e. where the total value of the deals is greater than R50 million)?
- m. Does the Auditor-General report any irregularities or weaknesses in the supply chain management system?

(v) *Developing effective partnerships*

Government encourages departments and other public entities to form partnerships with local governments, business and civil society organisations with a view to delivering more responsive services, improve value for money and help government achieve its wider objectives. Oversight reviews give portfolio committees an opportunity to look at the links that government entities have, or should have, and possibly to suggest areas where improvements can be made. Questions that members may consider exploring in this regard include:

- a. What links does the entity have with other organisations?
- b. What reasons has the entity given for being involved in its current partnership(s)? How persuasive are these?
- c. Have all the partnerships in which the entity is involved been reviewed to evaluate whether the form of partnership is appropriate to its functions and objectives and what were the results?
- d. How does the entity measure whether its partnerships are contributing positively to the realisation of its aims and objectives, and the achievement of its service delivery targets?
- e. What do the entity's partnerships cost it? To what extent are these costs justified by the benefits that the partnership delivers?
- f. Where could the entity develop further joint-working arrangements with other bodies to enhance the efficiency and effectiveness of service delivery?

(vi) *Making better use of new technology*

In keeping with all public services, the government wants all departments and public entities to make the best use possible of new technology. Doing so will help government to provide new, efficient and convenient ways for citizens and businesses to communicate with entities and to receive services.

The oversight review process provides portfolio committees an opportunity to consider how services could be improved through better use of new technology and in a way which is in keeping with the government's IT strategy.

- a. To what extent is the entity's management aware of the development of the government's IT strategy and acting in accordance with it?
- b. How can the entity make better use of new technology to improve the delivery of its services and functions?
- c. To what extent has the entity ensured that all its staff have adequate IT training and can make full use of its systems?

- d. If an entity has decided to use IT in new ways, has it ensured that it has an adequate statutory basis for any new use of personal data?

(vii) *Human resources*

Government has developed very specific policy targets for the transformation of the public service. Members need to be familiar with these policies so that they can evaluate the progress entities are making towards becoming transformed and representative organisations. Questions that members may consider exploring in this regard include:

- a. What progress has the entity made with the implementation of its Service Delivery Improvement Plan? Is there clear evidence that services are indeed improving as a consequence of the Plan?
- b. What has the entity done in the past financial year to fill key vacancies? What more can it do, particularly with regards to filling professional and senior management positions?
- c. Have any senior managers left the department, and if so, were reasons provided?
- d. Was any disciplinary action taken against senior managers not complying with the PFMA or Division of Revenue Act?
- e. Were any members of staff (whistle-blowers) protected when alerting relevant authorities with any problems of corruption or non-compliance with legislation?
- f. What progress has the entity made as regards employment equity in the past financial year? What strategies has the entity adopted to promote employment equity?
- g. What is the status of the entity's skills development programme? Is the programme making a difference to the entity's ability to deliver services?
- h. How much did the entity pay out in performance bonuses? How much did the accounting officer and other senior managers receive as performance bonuses? Are these rewards in line with the entity's service delivery performance?
- i. How many disciplinary matters were outstanding at the end of the financial year? How many of these matters were older than two years, a year, six months and three months? What is the entity doing to ensure the speedy conclusion of matters?
- j. How many senior management posts do consultants as opposed to state employees fill? What strategies does the entity have to reduce its reliance on consultants for routine management functions and service delivery operations?

(viii) *Use of other key inputs*

In nearly all departments and public entities the largest expenditure item is invariably personnel. However, in order to carry out their functions and deliver services, other inputs are required. For instance, in the health sector the medicines are a key input, for the police transport or vehicles is a key input, for the education sector learner support material are a key input. Clearly, the key inputs differ from sector to sector. When preparing for the oversight process the portfolio committee should identify what are the key inputs in the work of the department or public entity and then develop a set of questions to monitor the efficient procurement, management and use of these inputs. Questions that portfolio committees may explore include:

- a. What are the key inputs the department uses in delivering on its mandate?

- b. What is the ratio of personnel expenditure to expenditure on other key inputs? How has this ratio changed over the last three years? What are the implications for service delivery? Does the balance need to be changed going forward?
- c. What systems are in place in order to ensure the efficient utilisation of these inputs?