

**AGENDA of the
Portfolio Committee : Planning & Development
4 February 2025
(Also the agenda for the Mayoral Committee Meeting : 10 February 2025)**

**3.
IMPLEMENTATION PROTOCOL WITH THE WESTERN CAPE DEPARTMENT OF
SOCIAL DEVELOPMENT**

**G Smit
21 January 2024**

Special Projects Officer

(028) 313 8035

1. Executive Summary

The purpose of this report is to request permission to enter into an implementation protocol with the Western Cape Department of Social Development.

2. Service Delivery and Budget Implementation Plan - IGNITE

Directorate: Planning and Development
Department: Socio-Economic Services

3. Compliance with Strategic Priority

Promotion of tourism, economic and social development

4. Delegated Authority

Executive Mayor

5. Legal Requirements

Constitution of the Republic of South Africa, 108 of 1996
Local Government: Municipal Systems Act, 32 of 2000
Intergovernmental Relations Framework Act, 13 of 2005

6. Discussion

The Western Cape Department of Social Development established the Overberg Municipal Social Development Forum in 2019. The forum provides a platform for local municipalities to interact and collaborate with various national and provincial departments; as well as serving as a coordinating body of social development initiatives in the district. The forum is facilitated by the provincial department of social development and meets quarterly. All participating local municipalities in the District are encouraged to enter into the protocol agreement which materially assist the participating organs of state in the provisioning of a service in a specific area to co-ordinate their efforts in that area.

The Overstrand Municipality had an agreement in place since 2019. In terms of the termination date of the agreement, which is 2 months from the date when

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members of the provincial legislature are sworn in, subsequent to a general election in terms of the Electoral Act, 1998 (Act 73 of 1998). Hence the agreement lapsed in 2024 following the general elections in May 2024.

The specific areas on which the protocol agreement will focus are captured in Annexure A of of the protocol agreement. In line with the priorities of the Provincial Government of the Western Cape, the focus areas will be:

- Gender Based Violence and Gender mainstreaming;
- Youth Development; and
- Substance abuse.

These focus areas may be reviewed every six months.

7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

Annexure A: Draft Implementation protocol with Western Cape Government - Department of Social Development

RECOMMENDATION:

that permission to enter into Implementation Protocol with the Western Cape Department of Social Development **be granted**.

RESPONSIBLE OFFICIAL :

G SMIT

TARGET DATE FOR IMPLEMENTATION :

1 MARCH 2025

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**3.
IMPLEMENTATION PROTOCOL WITH THE WESTERN CAPE DEPARTMENT OF
SOCIAL DEVELOPMENT**

**G Smit
21 January 2024**

Special Projects Officer

(028) 313 8035

**THIS MATTER SERVED BEFORE THE PLANNING & DEVELOPMENT PORTFOLIO
COMMITTEE ON 4 FEBRUARY 2025, WHICH COMMITTEE SUPPORTED THE
RECOMMENDATION**

RESPONSIBLE OFFICIAL :

G SMIT

TARGET DATE FOR IMPLEMENTATION :

1 MARCH 2025

IMPLEMENTATION PROTOCOL**FOR THE IMPLEMENTATION OF PROJECTS AND INITIATIVES IN SUPPORT OF THE
DEPARTMENT'S SOCIAL DEVELOPMENT PROGRAMMES**

Concluded by and between:

THE WESTERN CAPE GOVERNMENT VIA ITS DEPARTMENT OF SOCIAL DEVELOPMENT

(Herein represented by Jaco Londt in his capacity as the Minister of Social Development, and Robert Macdonald in his capacity as Head of the Department of Social Development, duly authorised thereto)

(Hereinafter referred to as "**the Department**")



AND

OVERSTRAND MUNICIPALITY

Munisipaliteit • U-Masipala • Municipality



(Herein represented by by **[insert]** in [her/his] capacity as the **[insert]**, and **[insert]** in his/her capacity as Municipal Manager of Municipality)

(Hereinafter referred to as "**the Municipality**")

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PREAMBLE

- A. WHEREAS** the Municipality through its Social Development Unit undertakes a range of programmes and initiatives in support of the developmental agenda that has been set for local government to follow as contained in the Constitution of the Republic of South Africa ("the Constitution") and White Paper on Local Government which do align to the functions of Local Government as listed in the Constitution;
- B. AND WHEREAS** the Municipality is desirous to continue supporting and complementing the social developmental work undertaken by the Department utilising its own human, financial and other resources. The programmes and initiatives undertaken by the Municipality in support of the work undertaken by the Department are contained in Annexure "A" to this Protocol;
- C. AND WHEREAS** the Municipality and the Department undertake to collaborate in the preparation of their respective budget and planning exercises on an annual basis to ensure that synergies are maximised, and duplication is avoided;
- D. AND WHEREAS** *Section 35(1) of the Intergovernmental Relations Framework Act, 2005 (Act 13 of 2005)* provides that where the implementation of a policy, the exercise of a statutory power, the performance of a statutory function or the provision of a service depend on the participation of organs of state in government, those organs must co-ordinate their actions in such a manner as may be appropriate or required in the circumstances, and may do so by entering into an implementation protocol;
- E. AND WHEREAS** *Section 35(2) (c)* provides that an implementation protocol will materially assist the organs of state participating in the provisioning of a service in a specific area to co-ordinate their efforts in that area;
- F. AND WHEREAS** *Section 35(2)(d)* provides that an implementation protocol must be considered where an organ of state to which primary responsibility for the

implementation of the policy, the exercise of the statutory power, the performance of the statutory function or the provision of the service has been assigned lacks the necessary capacity; and

- G. NOW THEREFORE** the parties hereby enter into an implementation protocol for purposes of executing projects and initiatives in support of addressing the developmental needs of communities and individuals either in collaboration with each other or on their own.

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

- 1.1 The headings of the clauses in this Protocol are for the purposes of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this Protocol nor any clause hereof. In this Protocol, unless a contrary intention clearly appears:
- 1.1.1 Words importing –
- 1.1.1.1 any one gender includes the other gender;
- 1.1.1.2 the singular includes the plural and vice versa; and
- 1.1.1.3 natural persons include created entities (corporate or non-corporate) and vice versa.
- 1.2 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, effect shall be given to it as if it were a substantive clause in the body of the Protocol, notwithstanding that it is only contained in the interpretation clause.
- 1.3 When any number of days is prescribed in this Protocol, it shall be reckoned exclusively of the first and inclusively of the last day.

- 1.4 This Protocol includes as an integral part the Programme information, contained in **Annexure "A"** (Approved Operational Plans of the Municipality and the Department) attached hereto.
- 1.5 The following terms shall have the meanings assigned to them hereunder and cognate expressions shall have a corresponding meaning, namely:
- 1.5.1 **"Calendar Day"** means any day of the week and includes weekends and statutory public holidays proclaimed as such in the Republic of South Africa;
- 1.5.2 **"Commencement date"** means the last date of signature of any party to the Protocol;
- 1.5.3 **"Constitution"** means the Constitution of the Republic of South Africa, 1996;
- 1.5.4 **"IGRFA"** means Intergovernmental Relations Framework Act 13 of 2005;
- 1.5.5 **"Law"** means the law governing the Protocol and shall be the law of the Republic of South Africa;
- 1.5.6 **"Month"** means a calendar month, and more specifically:
- (a) in reference to a number of months from a specific date, a calendar month commencing on that date or the same date of any subsequent month; and
- (b) in any other context, a month of the calendar, that is, one of the 12 months of the calendar, and "monthly" has a corresponding meaning;
- 1.5.7 **"Notice"** means a written notice;
- 1.5.8 **"NPO"** means a not-for-profit organisation;

- 1.5.9 **“Parties”** mean the parties to this Protocol identified herein;
- 1.5.10 **“Programmes”** mean Social Developmental Programmes as listed in Annexure “A” (Approved Operational Plan) attached hereto and any and all amendments as agreed in writing from time to time;
- 1.5.11 **“Termination date”** means the date 2 Months from the date when members of the provincial legislature are sworn in, subsequent to a general election in terms of the *Electoral Act, 1998* (Act 73 of 1998);
- 1.5.12 **“the Department”** means the Department of Social Development (Region); and
- 1.5.13 **“the Municipality”** means the Overstrand Municipality, established in terms of the *Local Government: Municipal Structures Act 117 of 1998* read with the *Province of the Western Cape: Provincial Gazette 5588 dated 22 September 2000*.

2. FUNDING

- 2.1 The Department will, within its financial means, follow appropriate budget processes to ensure funding availability for Programmes as outlined in the Annexure “A”, in line with its functional area of competence as set out in the Constitution.
- 2.2 The Municipality will similarly, within its financial means, follow appropriate budget processes to ensure funding availability for Programmes as outlined in the Annexure “A”.
- 2.3 There will be no transfer of funds between the Municipality and the Department, unless otherwise agreed by the Parties, in writing, in respect of a specific programme-related project or activity, but at all times subject to the availability and appropriation of funds in terms of prevailing prescripts.

- 2.4 The Department commits to inform the Municipality of the intended publication of the call for funding proposals, by the NPO sector, so that the Municipality may assist in spreading such intention to all local stakeholders.
- 2.5. Furthermore, the Department will, post the completion of the funding application process, inform the Municipality of all the successful NPOs within its area, including the cross-border service providers.
- 2.6 In the event of a collaboration in terms of clause 4.3 each Party shall be responsible to fund the extent of its own Programme costs, unless otherwise agreed by the Parties, in writing, in respect of a specific programme or programme-related project or activity, but at all times subject to the availability and appropriation of funds in terms of prevailing prescripts.

3. DURATION

This Protocol shall commence on the Commencement Date and terminate on the Termination Date, unless otherwise agreed in writing and signed by the Parties.

4. PROGRAMMES

- 4.1 It is specifically recorded that in terms of this Protocol, the Municipality shall primarily be accountable for the Programmes as outlined in Annexure "A" (Approved Operational Plan) in line with its approved Budget.
- 4.2 It is specifically recorded that in terms of this Protocol, the Department shall continue to be accountable for its Programmes as outlined in clause 2.1 above.
- 4.3 The Municipality and the Department are free to collaborate on the specific Programmes listed in Annexure "A" (Approved Operational Plan) and Programme-related projects and activities.

- 4.4 For the purposes of programs hosted by DSD, that benefit the community, the Municipality will make community halls available free of charge subject to the provisions with regards to the booking of community halls as stipulated in the applicable Policy

5. OBLIGATIONS OF THE MUNICIPALITY AND THE DEPARTMENT

- 5.1 Reasonable notice will be provided when either Party proposes to collaborate with the other, as indicated in clause 4.3.
- 5.2 The Parties will consider all proposals as contemplated in clause 5.1 above and provide timely feedback regarding such proposals.
- 5.3 When collaborating on Programmes the Parties will continuously liaise with each other on the implementation of such Programmes.
- 5.4 Both Parties hereby agree that the content of this Protocol and the relevant annexure, hereby referred to as "Annexure A", will be reviewed on a six (6) monthly basis, in-line with the priorities of the Provincial Government of the Western Cape.
- 5.5 The Parties will consider a renewal of this Protocol before the termination date thereof.

6. CO-OPERATIVE GOVERNANCE

- 6.1 The Parties will adhere to the principles of co-operative governance as reflected in sections 40 and 41 of the Constitution.
- 6.2 The Parties will agree to co-operate with one another in mutual trust and good faith by –
- 6.2.1 fostering friendly relations;
- 6.2.2 assisting and supporting one another;
- 6.2.3 informing one another of and consulting with one another on matters of common interest to this Protocol;

- 6.2.4 adhering to agreed procedures and principles;
- 6.2.5 conducting actions and processes in terms of the IGRFRA;
- 6.2.6 diligently fulfilling all their undertakings and obligations as set out in this Protocol, including the Annexure(s), to ensure that the required outcomes are met;
- 6.2.7 respecting each other's, responsibilities and obligations and not acting in a manner that encroaches or impinges on the institutional integrity of the other Party; and
- 6.2.8 always acting in the best interests of each other when any decisions are to be made or when any action is to be taken.

7. LIAISON BETWEEN THE PARTIES

- 7.1 The Parties agree to liaise through the following persons or their successors, duly authorised by the Parties:

For the Department: The Regional Director: Social Development

Phone number: (023) -3485300

Email Address: Quinton.Arendse@westerncape.gov.za

For the Municipality: The Municipal Manager, ()

Phone number: (028) 313 8128

Fax number: ()

- 7.2 The Parties may establish a steering committee to oversee the Parties' collaboration as envisaged in clause 4.3 of this Protocol to monitor the

implementation of Programmes and report to their respective Executive and Administrative principals.

8. DISPUTES

- 8.1 All disputes, which arise between the Parties in connection with the interpretation of or giving effect to this Protocol shall be resolved amicably through consultation and negotiation.
- 8.2 Should a dispute remain unresolved, the provisions of *section 41 to section 45 of the Intergovernmental Relations Framework Act, 2005 (Act. 13 of 2005)* shall apply.

9. LIMITATION OF LIABILITY

Notwithstanding anything contained in this Protocol, the Parties' maximum liability shall be limited to the extent of their Programme commitment.

10. ENTIRE AGREEMENT

This Protocol constitutes the entire Protocol and supplements any and all previous agreements regarding this subject matter that may exist between the parties. No representations, either verbal or written, made by either party during the tenure of this Protocol shall be of any force or effect unless agreed to by both parties, reduced to writing, and annexed hereto, as an addendum.

11. NO WAIVER

The failure of either Party to insist upon the strict performance of any provision of this Protocol or to exercise any right, power or remedy consequent upon a breach hereof shall not constitute a waiver by such Party to require strict and punctual compliance with each and every provision of this Protocol.

12. NOTICES AND DOMICILIUM

12.1. The parties choose as their *domicilia citandi et executandi* the following addresses: -

12.2. The Department

For the Department : Department of Social Development

Address : Waaihoek Hostel, 7 Durban Street, Worcester, 6850

12.3. the Municipality

For the Municipality : Office of the Municipal Manager

Address : Civic Centre, 1 Magnolia Street, Hermanus, 7200

12.4. Either party hereto shall be entitled from time to time by written notice to the other party, to vary its *domicilium* to any other physical address.

12.5. Any notice required or permitted to be given in terms of this Protocol shall be valid and effective only if in writing and if received or deemed to have been received by the addressee.

12.6. Any notice given by one party to the other "the addressee" which –

12.6.1 is delivered by hand during the normal business hours of the addressee at the addressee's *domicilium* for the time being shall be presumed, until the contrary is proved, to have been received by the addressee at the time of delivery;

12.6.2 is posted by prepaid registered post from an address to the addressee at the addressee's *domicilium* for the time being, shall be presumed, until the contrary is proved, to have been received by the addressee on the 7th day after the date of posting;

12.7. Any notice in terms of or in connection with this Protocol shall be valid and effective only if in writing and if received or deemed to have been received by the addressee.

12/15

SIGNED at on this.....day of2024
in the presence of the undersigned witnesses.

**SIGNED ON BEHALF OF THE DEPARTMENT AT ON THIS THE
..... DAY OF 2024**

IN THE PRESENCE OF THE UNDERSIGNED WITNESSES: -

1. (witness)

2. (witness)

.....

[Minister] on behalf of the
Department being duly
authorised
thereto.....

**SIGNED ON BEHALF OF THE [Department] AT ON
THIS THE DAY OF 2024**

IN THE PRESENCE OF THE UNDERSIGNED WITNESSES: -

1. (witness)

2. (witness)

.....

[HOD] on behalf of the
Department being duly
authorised
thereto.....

.....

13/15

SIGNED at on this.....day of2024
in the presence of the undersigned witnesses.

**SIGNED ON BEHALF OF THE Municipality AT ON THIS THE
..... DAY OF 2024**

IN THE PRESENCE OF THE UNDERSIGNED WITNESSES: -

1. (witness)

2. (witness)

.....

[Mayor] on behalf of the
Municipality being duly
authorised
thereto.....
.....

**SIGNED ON BEHALF OF THE [Municipality] AT ON
THIS THE DAY OF 2024**

IN THE PRESENCE OF THE UNDERSIGNED WITNESSES: -

1. (witness)

2. (witness)

.....

[Municipal Manager] on
behalf of the **Municipality**
being duly authorised
thereto.....

ANNEXURE A

Delivering of Social Development Services:

Department of Social Development and Overstrand Municipality

Introduction:

1. Dept. Social Development:

The, DSD is the lead department in the delivering of Social Development Services arising out of its national legislative and policy mandates. It is however not the only provider of Social Development Service.

Social Development Services in a South African context has three functional areas as per the White Paper on Developmental Welfare Services 1997, these areas are

Social Welfare

Community Development

Social Security

Social Security Services are provided through an agency namely SASSA (South African Social Security Agency), whereas the DSD is responsible for the other two areas of service delivery, Social Welfare and Community Development in partnership with a range of stakeholders and partners.

2. Overstrand Municipality:

Section 152 of the Constitution of the Republic of South Africa states that the objectives of local government are inter alia.

(c) To promote social and economic development

(d) To promote a safe and healthy environment and

(e) To encourage the involvement of communities and community organisations in the matters of local government

We hereby declare our shared commitment to the following in the context of social and community development being:

Building strategic partnerships towards developing our communities in the Overstrand Municipal precinct

Promotion of the ideals of integrated governance

Integrated, sustainable and community centred policies and programmes

Co-ordination of shared work areas, responsibilities skills and capacity, resources and concerns

Agreed programs and projects (insert):

The Overstrand Municipality will support, within its available resources, the following initiatives, with a special focus on **Gender Based Violence (GBV)** in building sustainable communities.

- Gender Mainstreaming
- Substance Abuse

We as representatives of the Overstrand Municipality and the Department of Social Development (Region) hereby express our mutual concerns and therefore:

Agree to commit ourselves to be champions for the Protocol

Agree to build sustainable communities in fighting poverty and promote social and economic development.