

CHAPTER 6

PRINCIPLES OF A REMUNERATION SYSTEM FOR MEMBERS OF MUNICIPAL COUNCILS

6.1 INTRODUCTION

As local government began to transform and consolidate in South Africa, the remuneration system for councillors also began to grow in importance and priority. The fact that the *Constitution of the Republic of South Africa, 1996* makes specific provision for an Act of Parliament to regulate this matter, indicates its magnitude, and the significance that government placed thereon.

However, the enactment of the *Remuneration of Public Office Bearers Act, 1998* (Act No. 20 of 1998) merely provided the Minister for Provincial and Local Government with a framework to determine the upper limits of salary, allowances and benefits for councillors. Policy still had to be formulated on a wide range of issues such as the grading of municipal councils; identifying a hierarchy of councillors; pronouncing on allowances (travelling, housing, cell phones); providing for benefits (medical aid, pension); and providing details on reimbursive expenditure.

Barron, Crawley and Wood (1991:8) suggest that the councillor as policymaker is the most powerful justification of democratically elected municipalities. The same authors report that more than 20 years ago, an influential report spelt out the duties of councillors as policymakers, and indicated that it is the members who should take and be responsible for the key decisions on objectives, and on the means and plans to attain them. They further state that councillors must periodically review the position as part of their function of directing and controlling, while the context within which they presently formulate policy is one of heightened ideological conflict and personal rancour. There can be no doubt

that local government is increasingly seen today as an arena in which to pursue ideological values and objectives and to seek to bring about radical change. Broad policy statements are thus transferred from manifestos to become the overall policy of the authority.

The following sections therefore describe the principles that underpin the present remuneration system applicable to councillors. The various Government Notices that were published annually by the Minister for Provincial and Local Government in the *Government Gazette* in terms of the relevant provisions in the *Remuneration of Public Office Bearers Act, 1998* (Act No. 20 of 1998) are discussed, reflecting on how the remuneration system for councillors evolved since the inception of the Act.

6.2 IMPLEMENTATION OF THE *REMUNERATION OF PUBLIC OFFICE BEARERS ACT, 1998* (ACT NO. 20 OF 1998)

With the operationalization of the *Remuneration of Public Office Bearers Act, 1998* (Act No. 20 of 1998) on 23 September 1998, the Minister was obliged to annually determine the upper limits of salaries, allowances and benefits of councillors in terms of sections 7(1), 8(5)(a) and 9(5)(a) respectively, of the Act.

Noting the fact that the *Remuneration of Public Office Bearers Act, 1998* (Act No. 20 of 1998) commenced on 23 September 1998, the first two notices that were published in this regard were based on the interim phase of local government, and provided for institutional and political arrangements that were present at the time. The Local Government MINMEC then undertook a study to develop recommendations for a system of remunerating councillors.

For the first term of municipal councils commencing 5 December 2000, the upper limits of councillor remuneration were based on specific recommendations made by the Commission.

6.3 REMUNERATION SYSTEM FOR COUNCILLORS PRIOR TO THE FIRST TERM OF MUNICIPAL COUNCILS (UNTIL 4 DECEMBER 2000)

The system of councillor remuneration that was applicable between 1 July 1999 and 5 December 2000 can broadly be summarized as follows:

- (i) There were 16 size classifications for the purposes of ranking municipalities. The size classifications were based on the following two factors, each accounting for 50 per cent of the size classification:
 - The preceding year's actual property rates income; and
 - The number of registered voters in each municipality;
- (ii) Weightings were attached to each of the criteria to determine the points required for each size classification, and the weightings were used to determine the maximum remuneration that could be payable;
- (iii) There were three categories of councillor as set out in the table below, with the percentage of the maximum remuneration payable to each level;
- (iv) The upper limit of remuneration was benchmarked against that of a Member of the Provincial Legislature, excluding motor vehicle and pension benefits; and
- (v) A minimum limit of remuneration was also determined.

TABLE 13: HIERARCHY OF COUNCILLORS AND APPLICABLE REMUNERATION PRIOR TO THE FIRST TERM OF MUNICIPAL COUNCILS

LEVEL 1	100% of Benchmark	Mayor and Chairperson of the Executive Committee
LEVEL 2	75% OF LEVEL 1	Deputy Mayor and Members of the Executive Committee
LEVEL 3	25% OF LEVEL 2	Ordinary Councillors

It should be noted that the above recommendations were an almost exact duplication of the system of remuneration that was proclaimed by the erstwhile MEC of Local Government in the Western Cape on 9 May 1995; the system of

remuneration which was applicable to transitional municipal structures in that province, as discussed *supra* (paragraph 5.4.4).

6.3.1 From 1 July 1999 to 30 June 2000

Based on the above-mentioned recommendations, on 19 July 1999 the Minister for Provincial and Local Government published Government Notice No. R. 903 in *Government Gazette* No. 20306, after consultation with the MECs responsible for local government in the provinces. This notice set out the upper limits of councillor remuneration in terms of section 7(1) of the *Remuneration of Public Office Bearers Act*, 1998 (Act No. 20 of 1998). A copy of this notice is attached as Annexure B.

The notice provided the upper limits for annual salaries payable to councillors in the differently graded municipal councils. In addition to the determined salary, councillors were also able to claim for travelling to and from meetings of the council, provided that the councillor resided more than 30 kilometres from the place where council meetings were held. This reimbursement was in accordance with the tariffs prescribed by the Department of Transport for the use of privately owned vehicles. Also, a councillor who was required to travel outside the area of jurisdiction of the municipality, was entitled to be compensated for out of pocket expenses directly related to such business. There were no provisions made for the payment of benefits.

Since a nationally determined system of remuneration was being implemented for the first time in the country, and noting that there could have been cases where remuneration may have exceeded the upper limits as determined by the Minister for Provincial and Local Government, the notice also provided for transitional arrangements. In this regard, it was stated that “where the salaries and allowances as at 1 July 1999 exceed the salaries and allowances determined by this notice the relevant councillors retain such higher level of

payment, but on condition that no further upward adjustments be made in respect of such level of payment until the upper levels determined under section 7 of the *Remuneration of Public Office Bearers Act, 1998* (Act No. 20 of 1998) equal such present higher levels, whereafter further adjustments will again apply to the councillors in question.”.

6.3.2 From 1 July 2000 to 4 December 2000

On 11 August 2000 the Minister for Provincial and Local Government published Government Notice No. R. 803 in *Government Gazette* No. 21474, after consultation with the MECs responsible for local government in the provinces. This notice set out the upper limits of councillor remuneration in terms of sections 7(1), 7(2), 8(5)(a) and 9(5)(a) of the *Remuneration of Public Office Bearers Act, 1998* (Act No. 20 of 1998). A copy of this notice is attached as Annexure C, and was applicable until the eve of the municipal elections held on 5 December 2000.

Additional provisions were included in the notice, and the Minister for Provincial and Local Government also indicated that a sitting allowance would be paid to appointed councillors. Upper limits were also provided for pension and medical aid benefits, respectively, as follows:

- The upper limit of the contribution to be made by a municipal council to the pension fund of which a member of that municipal council is a member, is 33.25 per cent of the remuneration; and
- The upper limit of the contribution to be made by a municipal council to the medical aid scheme of which a member of that municipal council is a member, shall be twice the amount of that which the member is obliged to pay in respect of membership fees.

It is noted from the above that the Minister for Provincial and Local Government continued to allow municipalities and councillors to contribute to the pension fund (Municipal Councillors Pension Fund) at the rate that was determined by the

erstwhile Minister of Provincial Affairs and Constitutional Development on 13 September 1988. Having regard to the fact that all councillors were appointed on a part-time basis, no exceptions were made, even if the councillor received a pension benefit by virtue of his/her employment in a capacity other than as a councillor.

Similarly, with regard to the medical aid benefit that was extended, there was no restriction applicable to councillors if a councillor was a member of another medical aid scheme by virtue of his/her employment in a capacity other than as a councillor. Also, there was no ceiling as to the amount that a councillor could receive in this regard.

The notice also provided for reimbursive allowances, in the form of actual amounts that could be claimed in respect of actual out of pocket expenditure that was incurred in the course of performing official functions on behalf of the municipality. The notice again provided for transitional arrangements and allowed councillors to remain on “personal” notches until such time as their remuneration equalled the remuneration as determined by the Minister for Provincial and Local Government, whereafter further adjustments would once again apply to such councillors.

6.4 REMUNERATION SYSTEM FOR COUNCILLORS FROM THE COMMENCEMENT OF THE FIRST TERM OF MUNICIPAL COUNCILS (FROM 5 DECEMBER 2000)

In essence, the Minister for Provincial and Local Government was required to, after consultation with the MEC responsible for local government in each province, and after considering the various factors listed in section 7(1) of the *Remuneration of Public Office Bearers Act, 1998* (Act No. 20 of 1998), publish a notice in the *Government Gazette* that would set out the upper limits of councillor

remuneration. Amongst other things, the notice would have to provide for the following:

- (i) Definitions;
- (ii) Grading the different categories of municipal councils;
- (iii) Determining a hierarchy of councillors;
- (iv) Determining benchmarks for the various councillors;
- (v) Specifying salary, allowances and benefits;
- (vi) Distinguishing between proportionally represented, appointed and ward councillors; and
- (vii) Distinguishing between full-time and part-time councillors.

The Commission had undertaken a comprehensive study in this regard, and subsequently made recommendations to the Minister for Provincial and Local Government. This section examines the recommendations made by the Commission, and concludes by discussing in chronological order the various notices that were published in terms of the *Remuneration of Public Office Bearers Act, 1998* (Act No. 20 of 1998). Relevant issues raised by the Commission are included in the discussion hereunder.

6.4.1 Definitions

The definitions section in any law is meant to provide legal certainty as to the interpretation and meaning of certain terms that may be included in legislation. As the system of remuneration evolved from the publication of the first notice in terms of the *Remuneration of Public Office Bearers Act, 1998* (Act No. 20 of 1998), to the notice that is presently applicable, definitions were provided for the following terms:

- (i) Category of municipal council;
- (ii) Rates income of a municipality;
- (iii) Number of registered voters in a municipality; and
- (iv) Full-time and part-time councillors.

Although there was a change over the years in replacing the term “official function” with “ceremonial function”, no definitions in this regard were provided in the notices that were published in terms of the *Remuneration of Public Office Bearers Act*, 1998 (Act No. 20 of 1998) by the Minister for Provincial and Local Government. Chapter seven elaborates further in this regard, in which recommendations are proposed for a new remuneration system for councillors.

6.4.2 Grading of Municipal Councils

Prior to 1997, the *Remuneration of Town Clerks Act*, 1984 (Act No. 115 of 1984) was used as a basis to determine the remuneration of town clerks / chief executive officers of all local authorities. In 2000 a formula was used to design a grading system between the smallest (grade 1) and the largest (grade 15) municipality. Remuneration levels were also assigned to each grade. To determine the grade of municipality, the following factors were taken into account:

- (i) The income of the local authority;
- (ii) The numbers of ratepayers, levy payers, service users and tenants;
- (iii) The number of staff in the local authority;
- (iv) The number of proclaimed erven;
- (v) The number of residential units, both situated within and administered by the local authority;
- (vi) The number of water meters;
- (vii) The number of electricity meters;
- (viii) The number of sewerage points;
- (ix) The total length in kilometres of roads and streets;
- (x) The number of library books;
- (xi) The number of trading licenses issued;
- (xii) The kilolitres of water purified for human consumption;
- (xiii) The kilolitres of sewage purified;

- (xiv) The number of self propelled fire engines; and
- (xv) The number of self propelled ambulances.

The advantage of using these factors was that they could be easily verified. However, stakeholders indicated that the above grading system was subject to much criticism, mainly because of the duplication in the factors and the adverse behavioural implications on policy decisions in order to increase the grading of the local authority.

In the final analysis, it was recommended that the system of grading municipal councils should be based on the following criteria:

- The number of registered voters; and
- The actual property rates income of the municipality.

The **number of registered voters** takes into account the size of the community to which the municipality is responsible, having regard to the fact that the number of councillors in each municipality will be based on this factor. The number of registered voters per ward councillor (in the same municipality) must not differ by more (or less) than 15 per cent, as provided for in the *Local Government: Municipal Structures Act, 1998* (Act No. 117 of 1998). This factor could also be used as an indicator of the development challenge facing the municipality, although this could vary from municipality to municipality.

With regard to the **actual property rates income**, each municipality is required to have a valuation roll prepared which sets out the description of each property, together with the valuation thereof. The valuation roll is prepared by a qualified valuator and is considered to be an independent and reliable database of properties.

Having regard to the fact that there were, at that time, 16 size classifications, the Commission recommended six broad banding classifications, with an emphasis

on distinguishing between the smaller to medium-sized municipalities, rather than the larger-sized municipalities.

6.4.3 Determining a Hierarchy of Councillors

Bearing in mind the hierarchy that was applicable to the previous dispensation, the following responsibilities were identified for the different types of councillors for the new term of municipal councils:

TABLE 14: ROLES AND RESPONSIBILITIES OF THE DIFFERENT CATEGORIES OF COUNCILLORS IN TERMS OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996

CATEGORY OF COUNCILLOR	ROLE / RESPONSIBILITIES	DISTINGUISHING RESPONSIBILITIES
Speaker	Chairperson of the Municipal Council.	There are no added responsibilities.
Acting Speaker (This is not a permanent position)	When the Speaker is absent or the position is vacant, or when the Speaker is unable to perform a function (temporarily excused from a meeting where there is a conflict of interest).	No extra remuneration should be paid due to temporary acting position.
Mayor	Chairs the Executive Committee, performs ceremonial functions and exercises delegated powers.	There are added responsibilities that are significant. These should be recognised in remuneration.
Deputy Mayor (Position must be approved by the MEC)	Performs duties of Mayor when Mayor is absent, or unavailable to undertake functions, or if the position of Mayor is vacant.	There are added responsibilities that are significant, and should be recognised in remuneration.

CATEGORY OF COUNCILLOR	ROLE / RESPONSIBILITIES	DISTINGUISHING RESPONSIBILITIES
Executive Committee Member	Undertakes executive authority in accordance with delegated powers of the municipal council.	There are added responsibilities that are significant, and should be recognised in remuneration. In addition, the Executive Committee would be expected to meet more often than the municipal council.
Executive Mayor	Undertakes executive authority in terms of delegated powers of the municipal council.	Recognition of the significant role and responsibilities attached to this position should be reflected in remuneration.
Executive Deputy Mayor	Performs the duties of the Executive Mayor when the Executive Mayor is absent, or when unable to undertake functions, or when that position is vacant.	There are added responsibilities that are significant, and should be recognised in remuneration.
Mayoral Committee Member	Advisor to the Executive Mayor.	There are added responsibilities that are significant, and should be recognised in remuneration.
Subcouncil member	Undertakes powers and duties in local areas, and advises the metropolitan council on local concerns.	There are added responsibilities that are significant, and should be recognised in remuneration.
Ward councillor	Chairs the ward committee, and communicates between the ward committee and the municipality on ward issues and concerns.	There is no added responsibility, when compared to other “ordinary” councillors.
Appointed councillor	Serves as an elected councillor on a local council, and represents the local council on the district council.	There is no added responsibility, when compared to other “ordinary” councillors. However, in terms of section

CATEGORY OF COUNCILLOR	ROLE / RESPONSIBILITIES	DISTINGUISHING RESPONSIBILITIES
		7(2) of the <i>Remuneration of Public Office Bearers Act, 1998</i> (Act No. 20 of 1998) such a councillor may receive an additional allowance.
Other committee member	Committees could include: <ul style="list-style-type: none"> ▪ Committees to advise the council, and may take decisions in terms of delegated powers and duties; and ▪ Committees to advise the Executive Committee or Executive Mayor – do not divest responsibility from Executive Committee or Executive Mayor. 	There are no added responsibilities as their responsibilities are derived from either the Executive Committee or the municipal council.

The following hierarchy of councillors (which was subsequently adopted by the Minister for Provincial and Local Government) was recommended in the light of the new legislative provisions regulating local government:

TABLE 15: HIERARCHY OF COUNCILLORS IN TERMS OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996

LEVEL	POSITION OF COUNCILLOR
LEVEL 1	Mayor, and Executive Mayor
LEVEL 2	Speaker, Deputy Mayor, and Executive Deputy Mayor
LEVEL 3	Members of the Executive or Mayoral Committees, and Chairperson of a Subcouncil
LEVEL 4	Ordinary Councillors (including ward and appointed councillors)

6.4.4 Determining Benchmarks

Benchmarking is an important aspect of determining remuneration, particularly in the private sector. Remuneration specialists conduct surveys for different levels within an organization and for different industries. The benchmarks are adjusted for organizational size and roles and responsibilities. Typically, the roles and responsibilities will be adjusted on a scientific work-study review basis. This remuneration setting process also recognizes the impact of market forces on attracting skilled and experienced personnel.

The Commission indicated that there was no independent benchmark that could be used as a starting basis for determining the remuneration of councillors. No similar positions exist in the private sector, so there are no market benchmarks that can be used. Whilst it was traditional to compare councillors to members of the provincial legislature, there are differences that need to be taken into account, particularly when comparing the different roles and responsibilities between members of these two spheres of government.

The Commission suggested that the following principles of remuneration should be used to determine the remuneration of both full-time and part-time councillors:

- (i) Remuneration should compensate councillors for the time spent on council related activities;
- (ii) Remuneration should compensate councillors for the roles and responsibilities that make demands on councillors;
- (iii) There are community leadership roles and responsibilities implicit in being a councillor that should be reflected in remuneration; and
- (iv) The basis of remuneration should be transparent, equitable and all-inclusive to the greatest possible extent.

With regard to the above, the Commission recommended that the upper limit of the remuneration of a mayor / executive mayor (level 1) of the highest graded

municipal council be benchmarked at 75 per cent of the remuneration of an MEC, after having estimated that an MEC would spend 25 per cent of his/her time and responsibility of dealing with provincial council related activities on a collective basis, as well as providing executive support to the Premier.

A gap of 20 per cent was proposed between level 1 and level 2, and a gap of 10 per cent was proposed between level 2 and level 3. For ordinary councillors, varying hourly rates were proposed in the different grades of municipal councils (Independent Commission for the Remuneration of Public Office-Bearers, 2000).

6.4.5 Allowances and Benefits

The Commission recommended that councillors receive allowances for the following:

- Cell phones and telephones;
- Travelling; and
- Use of personal facilities.

The Commission further recommended that, with respect to pension benefits, the maximum contribution rates should be limited to the following:

- Council contribution - 15 per cent of remuneration (excluding benefits); and
- Councillor contribution - 7.5 per cent of remuneration (excluding benefits).

With regard to medical aid benefits, the Commission recommended that councillors contribute 33.3 per cent, while councils would contribute the balance to such funds.

It was further proposed that part-time councillors would receive neither the pension nor the medical aid benefits.

6.4.6 Proportionally Represented, Appointed and Ward Councillors

The recommendations of the Commission grouped proportionally represented, appointed and ward councillors as “ordinary councillors”, unless such councillors were elected into “office-bearer” positions.

Ordinary councillors formed the lowest level in the hierarchy, could only serve on a part-time basis, and each such councillor was remunerated at the same level in a municipal council of the same grade. Appointed councillors, however, were entitled to a sitting allowance, namely the difference between the remuneration that such a councillor received at a local council and the higher remuneration that was payable at the district council.

6.4.7 Full-time and Part-time Councillors

The *Local Government: Municipal Structures Act, 1998* (Act No. 117 of 1998) provides that a municipality has the power to designate councillors determined by the MEC for local government, as full-time. However, an MEC’s determination must be in accordance with a policy framework as may be determined by the Minister for Provincial and Local Government after consulting the MECs for local government.

Barron, Crawley and Wood (1991:150) suggest that a rough definition of a full-time councillor would be a member who spends 35 to 40 hours a week on council work. The proportion of members who may be classed as full-time is difficult to determine. The authors found that in 50 per cent of the municipalities that they visited in England there were no full-time members; in 20 per cent there were “one or two” and in the remaining 30 per cent there were more than “one or two”.

As part of the preparations for the introduction of the first term of municipal councils, it was necessary for the policy framework for full-time councillors to be determined well in advance by the Minister for Provincial and Local Government. This was to enable MECs to designate full-time councillors in their different municipalities and to include such designations when they were publishing establishment notices (section 12 of the *Local Government: Municipal Structures Act, 1998* (Act No. 117 of 1998)). Subsequently, on 5 April 2000 the Minister for Provincial and Local Government published a policy framework for the designation of full-time councillors in the *Government Gazette*. Formulae to determine the number of councillors in a municipality, in terms of section 20 of the *Local Government: Municipal Structures Act, 1998* (Act No. 117 of 1998), were also published in the *Government Gazette* on the same day.

The policy framework for the designation of full-time councillors also evolved over the years, as indicated in the table below:

TABLE 16: POLICY FRAMEWORK FOR THE DESIGNATION OF FULL-TIME COUNCILLORS

GENERAL NOTICE NO. 1515 OF 5 APRIL 2000	GENERAL NOTICE NO. 2073 OF 18 OCTOBER 2002	GENERAL NOTICE NO. 2056 OF 28 JULY 2003
CATEGORY A MUNICIPALITIES		
<ul style="list-style-type: none"> ▪ Speaker; ▪ Members of an Executive Committee; ▪ Executive Mayors; ▪ Member of a Mayoral Committee; ▪ Chairperson of a subcouncil. 	<ul style="list-style-type: none"> ▪ Speaker; ▪ Members of an Executive Committee; ▪ Executive Mayor; ▪ Member of a Mayoral Committee; ▪ Chairperson of a subcouncil; ▪ A single whip appointed for council. 	<ul style="list-style-type: none"> ▪ Speaker; ▪ Executive Mayor; ▪ Mayor; ▪ Deputy Executive Mayor; ▪ Deputy Mayor; ▪ A member of an Executive Committee, other than the Mayor and Deputy Mayor; ▪ A member of a Mayoral Committee;

GENERAL NOTICE NO. 1515 OF 5 APRIL 2000	GENERAL NOTICE NO. 2073 OF 18 OCTOBER 2002	GENERAL NOTICE NO. 2056 OF 28 JULY 2003
		<ul style="list-style-type: none"> ▪ Chairperson of a subcouncil; ▪ A single whip appointed for council.
CATEGORY B MUNICIPALITIES		
<ul style="list-style-type: none"> ▪ Speakers of municipalities with 30 councillors or more; ▪ Members of an Executive Committee of municipalities with 40 councillors or more; ▪ Executive Mayors; ▪ Members of Mayoral Committees. 	<ul style="list-style-type: none"> ▪ Speaker; ▪ Members of an Executive Committee; ▪ Executive Mayor; ▪ Members of Mayoral Committees. 	<ul style="list-style-type: none"> ▪ Speaker; ▪ Executive Mayor; ▪ Mayor; ▪ Deputy Executive Mayor; ▪ Deputy Mayor; ▪ A member of an Executive Committee, other than the Mayor and Deputy Mayor; ▪ A member of a Mayoral Committee; ▪ A single whip appointed for council in municipalities with 40 or more councillors.
CATEGORY C MUNICIPALITIES		
<ul style="list-style-type: none"> ▪ Speaker; ▪ Members of an Executive Committee; ▪ Executive Mayor; ▪ Members of Mayoral Committees. 	<ul style="list-style-type: none"> ▪ Speaker; ▪ Members of an Executive Committee; ▪ Executive Mayor; ▪ Members of Mayoral Committees. 	<ul style="list-style-type: none"> ▪ Speaker; ▪ Executive Mayor; ▪ Mayor; ▪ Deputy Executive Mayor; ▪ Deputy Mayor; ▪ A member of an Executive Committee, other than the Mayor and Deputy Mayor; ▪ A member of a Mayoral Committee; ▪ A single whip appointed for council in municipalities with 40 or more councillors.

As is evidenced above, the state of South Africa's local government system is still in a state of flux, with amendments being effected to policy due to presumed omissions and errors, or the need to provide for the demands being made by the local government sector on the national sphere of government.

6.5 REVIEW OF THE UPPER LIMITS OF REMUNERATION PUBLISHED IN THE VARIOUS GOVERNMENT GAZETTES

As indicated above, the Commission makes annual recommendations on each category of office-bearer in the different spheres of government. With regard to councillors, the Commission proposed an inflation related percentage increase for all councillors.

6.5.1 From 5 December 2000 to 30 June 2001

On 4 December 2000, the Minister for Provincial and Local Government published the upper limits of councillor remuneration in Government Notice No. R. 1326 in *Government Gazette* No. 21853, in terms of sections 7(1), 7(2) 8(5)(a) and 9(5)(a) of the *Remuneration of Public Office Bearers Act*, 1998 (Act No. 20 of 1998). A copy of this notice is attached as Annexure D.

This notice provided for the recommendations made by the Commission, and can be summarized as follows:

- (i) A grading system was provided, based on the property rates income and number of registered voters in a municipality;
- (ii) The grading system provided for six grades of municipal council;
- (iii) The remuneration of a mayor or executive mayor was benchmarked against the remuneration of a MEC;
- (iv) Upper limits for salaries of full-time and part-time councillors were proposed;

- (v) Upper limits were proposed for the following allowances for full-time and part-time councillors:
 - Cell phones and telephones;
 - Travelling;
 - Housing (for full-time councillors); and
 - Use of personal facilities;
- (vi) Upper limits for pension and medical aid benefits were unconditionally proposed for full-time councillors; and
- (vii) Upper limits for pension and medical aid benefits were proposed for part-time councillors, on condition that such a councillor was not a member of a pension fund or medical aid scheme by virtue of his or her employment in a capacity other than as a councillor.

Bearing in mind that a new remuneration system would be implemented with effect from the start of the first term of municipal councils, the DPLG approached Cabinet during November 2000 to provide financial assistance to municipalities for the purposes of financing councillor remuneration. Consequently, the Minister for Provincial and Local Government and the Minister of Finance agreed that financial assistance from national government be provided to category B and C municipalities for the 2001 / 2002 financial year as follows:

- **Category B municipalities:** all local municipalities where the total cost of councillor remuneration exceeded 35 per cent of its property rates income, qualified for financial assistance. The assistance consisted of national government funding a maximum of 56 per cent of the total councillor remuneration expenditure of the municipality, or the difference between the total councillor remuneration and the 35 per cent funding from its property rates income, whichever was the lower.

- **Category C municipalities:** all district municipalities where the total cost of councillor remuneration exceeded 15 per cent of its regional services council levy income, qualified for financial assistance. The assistance consisted of national government funding a maximum of 50 per cent of the total councillor remuneration package, or the difference between the total councillor remuneration and the 15 per cent funding from its regional services council levy income, whichever was the lower.

The financial assistance referred to above amounted to approximately R108 million and was funded from the Adjustment Estimates for the 2001 / 2002 financial year. The Ministers also agreed that the institutional component of the equitable share be adjusted so as to enable municipalities to fulfil their responsibilities in respect of councillor remuneration from the 2002 / 2003 financial year. Further, if individual MECs decided that the financial assistance be backdated to 5 December 2000, the additional costs were to be borne by provincial budgets.

6.5.2 From 1 July 2001 to 30 June 2002

On 20 September 2001, the Minister for Provincial and Local Government published the upper limits of councillor remuneration in Government Notice No. R. 910 in *Government Gazette* No. 22696, in terms of sections 7(1), 7(2) 8(5)(a) and 9(5)(a) of the *Remuneration of Public Office Bearers Act*, 1998 (Act No. 20 of 1998), for the 2001 / 2002 financial year of municipalities.

In addition to maintaining the status quo adopted in the previous notice, the following was provided for:

- (i) For the purposes of grading district municipal councils, such councils were allocated the same grade as the highest grade local municipal council in their area of jurisdiction, provided that no district council was graded lower than grade 4; and

- (ii) The remuneration of part-time councillors was increased, and such councillors received the following benchmarked remuneration:

TABLE 17: REMUNERATION FOR PART-TIME COUNCILLORS FOR THE 2001 / 2002 FINANCIAL YEAR

GRADE	EXEC. MAYOR / MAYOR	DEP. EXEC. MAYOR / DEP. MAYOR / SPEAKER	EXCO	ORDINARY MEMBERS	of R62000
6	R155 000	R124 000	R116 250	R62 000	100%
5	R139 500	R111 600	R104 625	R55 800	90%
4	R100 750	R80 600	R75 563	R40 300	65%
3	R77 500	R62 000	R58 125	R31 000	50%
2	R54 250	R43 400	R40 688	R21 700	35%
1	R31 000	R24 800	R23 250	R12 400	20%
	↑	↑	↑	↑	
	100%	80%	75%	40%	
(of Executive Mayor / Mayor salary)					

Note: To provide a “meaningful” increase to part-time councillors in the metropolitan municipalities, the remuneration of a part-time ordinary member in a grade 6 municipal council (R62 000) was subsequently increased to R109 830, while the remuneration of part-time councillors in other grades of municipality remained the same.”

Government Notice No. R. 910 also provided for the following:

- (i) Travelling allowances, which consisted of an allowance of 25% of the salary of a councillor, were amended to give a councillor the option of either the 25% allowance, or an allowance in respect of kilometres travelled during the performance of official functions on behalf of the municipality, at tariffs prescribed by the Department of Transport for use of privately owned vehicles;
- (ii) The sitting allowance of indirectly elected district council members was increased from R350 to R400 per day;

- (iii) Pension benefits were also extended to part-time councillors; and
- (vi) The remuneration of full-time councillors was increased, and such councillors received the following benchmarked remuneration;

TABLE 18: REMUNERATION FOR FULL-TIME COUNCILLORS FOR THE 2001 / 2002 FINANCIAL YEAR

% of R274494	GRADE	EXEC. MAYOR / MAYOR	↑	DEP. EXEC. MAYOR / DEP. MAYOR / SPEAKER	↑	EXCO / CHAIR OF SUBCOUNCIL	↑
100%	6	R274 494	0%	R247 045	0%	R219 595	0%
80%	5	R219 595	25.3%	R175 676	16.5%	R164 696	30.5%
65%	4	R178 421	23.4%	R142 737	14.8%	R133 816	28.5%
50%	3	R137 247	20.4%	R109 798	12%	R102 935	25.5%
35%	2	R96 073	15.3%	R76 858	7.28%	R72 055	20.1%
20%	1	R54 899	23.2%	R43 919	14.6%	R41 174	28.4%
		↑		↑		↑	
		100%		80%		75%	
		(of Executive Mayor / Mayor salary)					

- As the salary of an Executive Mayor / Mayor in a grade 6 municipal council is benchmarked against that of an MEC, the former was not increased.
- Salaries of 80%, 65%, 50%, 35% and 20% of the Executive Mayor / Mayor in a grade 6 municipal council were then allocated to the Executive Mayor / Mayor of a grade 5, grade 4, grade 3, grade 2 and grade 1 municipal council respectively. In essence, the salaries of all Executive Mayors / Mayors were indirectly benchmarked against that of an MEC – this clarifies the vertical downward movement in the table (far left).
- Moving horizontally, from left to right on the table, 80% and 75% of the salary of the Executive Mayor / Mayor in the respective graded municipal council were allocated to the Deputy Executive Mayor / Deputy Mayor /

Speaker and member of the executive committee / mayoral committee / Chairperson of Subcouncil, respectively.

Government Notice No. R. 910 was repealed by the publication on 2 October 2001 of Government Notice No. R. 999 published in *Government Gazette* No. 22726 in terms of sections 7, 8 and 9 of the *Remuneration of Public Office Bearers Act*, 1998 (Act No. 20 of 1998) by the Minister for Provincial and Local Government. The only difference between the two notices was that the latter notice did not provide an upper limit for cell phone / telephone allowances, and it was therefore implied that individual municipalities could develop their own policy in this regard, or rely on policy / guidelines that were issued by SALGA.

Copies of these notices are attached as Annexures E and F respectively.

6.5.3 From 1 July 2002 to 30 June 2003

On 18 October 2002, the Minister for Provincial and Local Government published the upper limits of councillor remuneration in Government Notice No. R. 1319, in terms of sections 7(1), 8(5)(a) and 9(5)(a) of the *Remuneration of Public Office Bearers Act*, 1998 (Act No. 20 of 1998). A copy of this notice is attached as Annexure G.

This notice differed from the previous one in respect of travelling and housing allowances. The following changes were effected to travelling allowances:

- (i) Councillors would be reimbursed for travelling during the performance of official functions outside the jurisdiction of the municipality;
 - (ii) A councillor would be disqualified from receiving a travelling allowance where the municipal council made a vehicle available to him/her;
 - (iii) A councillor could utilise a council owned vehicle when performing a ceremonial function as determined by the municipal council concerned;
- and

- (iv) A district council would be responsible for the reimbursement of travel expenditure incurred by a councillor during the performance of official functions on behalf of the district municipality.

With regard to housing allowances, a provision was added that disqualified a councillor from receiving a housing allowance where the municipal council made housing available to a councillor. In essence, the R. 1319 Notice provided that councillors would not be paid these allowances if they made use of a council owned house or vehicle.

However, Government Notice No. R. 1319 was amended on 28 November 2002 by the publication of Government Notice No. R. 1504 by the Minister for Provincial and Local Government. The amendment reverted to the status quo regarding travelling and housing allowances, and allowed councillors to receive these allowances even if the council made available a council owned house or vehicle to a councillor.

On 3 February 2003, Government Notice No. R. 1319 was further amended by the publication of Government Notice No. R. 190 by the Minister for Provincial and Local Government. This notice reversed the decision again and disqualified all councillors, except mayors and executive mayors, from receiving a housing or travelling allowance if the councillors utilized a council owned house or vehicle.

6.5.4 From 1 July 2003 to 30 June 2004

Government Notice No. R. 1097 of 28 July 2003 was published in the *Government Gazette* No. 252654 by the Minister for Provincial and Local Government in terms of sections 7(1), 8(5)(a) and 9(5)(a) of the *Remuneration of Public Office Bearers Act*, 1998 (Act No. 20 of 1998). A copy of this notice is attached as Annexure H.

No changes in policy were effected to the previous notice, and a general increase of 9% was extended to all councillors, as recommended by the Commission.

6.5.5 From 1 July 2004 to 30 June 2005

Government Notice No. R. 1477 of 21 December 2004 was published in *Government Gazette* No. 27138 by the Minister for Provincial and Local Government in terms of sections 7(1), 8(5)(a) and 9(5)(a) of the *Remuneration of Public Office Bearers Act*, 1998 (Act No. 20 of 1998). A copy of this notice is attached as Annexure I.

No changes in policy were effected to the previous notice, and a general increase of 6% was extended to all councillors, as recommended by the Commission.

6.5.6 From 1 July 2005 to the End of the First Term of Municipal Councils

On 14 November 2005 the Minister for Provincial and Local Government published the upper limits of councillor remuneration in Government Notice No. R. 1125 as published in *Government Gazette* No. 28231, in terms of sections 7(1), 8(5)(a) and 9(5)(a) of the *Remuneration of Public Office Bearers Act*, 1998 (Act No. 20 of 1998). A copy of this notice is attached as Annexure J.

No changes in policy was effected to the previous notice, and a general increase of 5.75% was extended to all councillors, as recommended by the Commission.

The term of municipal councils is five years calculated from the day following the date of the previous election (5 December 2000) of all municipal councils. In effect, this meant that the next general municipal elections had to be held before

6 March 2006, which would be before the end of the 2005 / 2006 financial year of municipalities.

6.6 RECOMMENDATIONS FOR AN IDEAL REMUNERATION SYSTEM FOR MEMBERS OF MUNICIPAL COUNCILS

The development of a legislative framework to regulate the remuneration system for councillors was discussed in Chapter 4. The promulgation of the *Remuneration of Public Office Bearers Act*, 1998 (Act No. 20 of 1998) culminated with the publication of a General Notice by the Minister for Provincial and Local Government in the *Government Gazette* in terms of the relevant provisions in the Act. This ushered in a centralized dispensation which provided for a uniform system of determining the remuneration for members of municipal councils.

According to Van der Molen, Van Rooyen and Van Wyk (2002:176), one of the basic tenets of representative democracy is that public policy is subject to continual and multiple reviews. Time and expertise do not drive the decision process. It is the outcome (what is decided), and not the process that is valued, and breadth of knowledge is more highly valued than depth of knowledge. This does not imply that depth of knowledge is ignored, but it is viewed as less relevant to decision making than breadth of knowledge. This attitude is linked to the view of time. Depth of knowledge is the most ephemeral of all knowledge. The expert with a deep knowledge of a subject is recognized as such only within the context of the present. The future represents a decrease of the value of that knowledge. The information being sought often consists of precisely those issues that the expert finds extraneous.

Van der Molen, Van Rooyen and Van Wyk (*ibid.*) further state that a broader perspective provides the opportunity to appreciate the complexity of problems and, therefore, a better sense of the many different courses the future may represent. It is the expert's certainty of today that makes an understanding of the

future questionable. This need to think broadly has the advantage of being able to address more complicated decision processes. The straight, linear thinking of the expert fails because it is too simple. The decision maker with broad knowledge may not know as much about part of the problem as an expert, but that decision maker knows more about the entire problem than any individual expert. Sensitivity to the very things that the expert must ignore (opinion, feelings, values, bias and ideology, along with a range of emotions) is necessary for a generalist perspective.

Roux and Van Rooyen cited in Van der Molen, Van Rooyen and Van Wyk (2002:232) further state that when formulating policy options, one should ensure that alternatives are mutually exclusive. In this regard, it is stated that although it is to be expected that different sets of alternatives might display some overlap in terms of their features, it should be kept in mind that if the features of one alternative almost correspond in total with those of another alternative, it should be avoided. In such circumstances, the two alternatives relate too closely or are too narrow and should then rather be combined into a single, new alternative. They further suggest that one should avoid formulating too many alternatives, and indicate that using imagination and being creative in the design of multiple sets of policy alternatives might result in an almost uncontrollable number of alternatives. They state that the multiplicity of alternatives should be reduced to those that appear to be absolutely essential, and support the view that there should be between three and seven policy alternatives, and that eventually, only one alternative should reflect current policy.

Bearing in mind the above arguments, the following recommendations are based on the best possible alternatives available for an improved remuneration system for councillors.

6.6.1 Grading of Municipal Councils

As indicated *supra* (paragraph 6.3.1), from 1 July 1999 until the end of the first term of municipal councils, category A and B municipalities were allocated a grade by awarding points for actual property rates income collected by a municipality, and the number of registered voters in a municipality, at the end of the previous financial year. The total of these points then determined the grade of the municipal council, with the lowest grade being one (1) and the highest grade being six (6). Category C municipal councils were allocated the same grade as the highest grade of local councils within their area of jurisdiction: Provided that where the highest graded local council within the area of jurisdiction of a district council is lower than grade 4, such district council must be regarded as a grade 4 municipal council. In effect, this translates to all district municipalities being graded as either 4 or 5.

While the position with regard to the determination of the grades of metropolitan and local municipal councils has been constant over the years, the position with regard to the grading of district councils changed in September 2001. Prior to this date, district councils were allocated the same grade as the highest grade of local councils within their area of jurisdiction.

In the search for appropriate and more acceptable criteria to be used to determine the grade of a municipal council, the following factors are considered:

- (a) Registered voters;
- (b) The operating budget;
- (c) Property rates;
- (d) Capital budget;
- (e) Salaries and wages;
- (f) Size of the municipal area;
- (g) Number of councillors on the executive committee;
- (h) Number of houses;

- (i) Total population;
- (j) Poverty;
- (k) Powers and functions; and
- (l) Total municipal income (minus grants).

(i) Consideration of Various Criteria for Grading of Municipal Councils

Discussed hereunder are the abovementioned criteria, with arguments for and against using them for the purposes of grading a municipal council.

(a) Registered Voters

Item 2 of Schedule 2 of the *Constitution of the Republic of South Africa, 1993* provided that the Independent Electoral Commission must take into account available scientifically based data in respect of voters, representations by interested parties, and the number of proposed seats for the various provinces (Independent Commission for the Remuneration of Public Office-bearers, 2000:26).

The number of registered voters in a municipality was used to grade municipal councils because it was verifiable and could be audited. It should also be noted that the number of registered voters in a municipality is used to determine the number of councillors in a municipality. The use of the number of registered voters is based on current data, and takes into account the migration of people. This criterion may therefore be accepted as a fair sample of the population in a municipality.

The effect of this criterion is evidenced in the Eastern Cape Province where the number of registered voters in the O.R. Tambo District Municipality increased from 500 056 (in 2000) to 639 144 (in 2004) – this resulted in an increase of 6

councillors (from 53 to 59) in the district municipality alone. (Refer to the Schedule for details of similar changes in other municipalities.)

The number of registered voters could be an important indicator of the development challenge facing the municipality concerned, but this could vary from municipality to municipality, and would certainly not result in an equitable or consistent application. Furthermore, the demand for and delivery of municipal services will likely be significantly less in a rural or district area in relation to an urban area. This will have an impact on the overall responsibilities of councillors in both types of municipalities, even though the size of the electorate may be similar.

In conclusion, while there may be inconsistencies in its application, the number of registered voters in a municipality can be used to gauge overall municipality size. Due to the fact that this data may be audited and verified at any given time, the use of this criterion to grade municipal councils is recommended.

(b) The Operating Budget

According to the Independent Commission for the Remuneration of Public Office-bearers (2000:28) the operating budget is an excellent indicator of the relative size of municipalities. The same source further states that whilst it could be argued that there could be adverse behavioural consequences, as municipalities may focus on increasing the size of the operating budget to increase remuneration, the Commission believed that there were sufficient checks and balances to prevent this from happening. These are summarized as follows:

- (i) The operating budget of all municipalities is, and will continue to be, monitored by the National Treasury. The National Treasury also sets a limit on the growth in operating expenditure, excluding bulk purchases of electricity and water, which has to be adhered to unless there is growth in the municipality;

- (ii) Municipalities are not permitted to budget for an operating deficit. Therefore, increases in operating expenditure have to be financed by revenue, in the form of rates, service charges, regional levies, tariffs and government grants and subsidies. Communities will be unlikely to entertain significant increases in rates and service charges on a consistent basis thereby effectively capping the growth in the operating budget; and
- (iii) Those municipalities that encourage growth in their municipal areas will grow their revenue base. Assuming that the grading of municipal councils is reviewed on a regular basis, the councillors of such municipalities will be compensated for the higher responsibilities attached to a municipality that has grown. This, the Commission believed, would support the developmental obligation of municipalities as specified in the *Constitution of the Republic of South Africa, 1996*.

The Commission also highlighted the following disadvantages of using the operating budget as an indicator of the relative size of municipalities:

- (i) Municipal service partnerships and other forms of outsourcing service delivery could result in a reduction in the operating budget. Should a municipality enter into a municipal service partnership in respect of a major service undertaking such as water supply and reticulation, there could be a significant reduction in operating expenditure. In effect, this could result in councillors being financially penalised in their individual capacities for improving or expanding the delivery of services;
- (ii) District municipalities may provide certain bulk services on a regional basis to maximize economies of scale. This could deprive local municipalities within the district, of the revenue arising from the provision of these services, although from a district perspective it could result in an improved and cost effective service. As a result, there could be resistance from affected local municipalities to the regionalization of bulk service provision; and

- (iii) Certain grants and subsidies are included in the operating budget, in particular the equitable share of national revenue. It has been argued that these grants are constitutionally entrenched and will be received by qualifying municipalities due to environmental and socio-economic factors rather than good governance or efforts by councillors.

For the reasons outlined above, this criterion is considered inappropriate to be used as a factor to grade municipal councils.

(c) Property Rates Income

As many municipalities have not valued all properties within their area of jurisdiction, such municipalities will be prejudiced until the valuation is complete. However, this is an important revenue source to municipalities and the use of this factor may encourage municipalities to undertake outstanding valuations. The Commission indicated that this was a suitable factor as:

- It is fairly static, in that the valuation roll only needs to be reviewed every five to seven years;
- It is subject to independent review; and
- It will encourage municipalities to grow their rates base by promoting economic development.

However, there are also a number of disadvantages of using this factor, such as the following:

- (i) A municipality in an urban area will automatically receive a higher ranking due to the higher population densities in relation to a municipality in a rural area;
- (ii) There are external factors that influence the valuation of a property, which may have no direct bearing on the roles and responsibilities of councillors;
- (iii) A municipality that has a significant number of low-valued properties may receive a lower rating in relation to a municipality that has fewer but higher

- valued properties in its area of jurisdiction. However, the backlog of infrastructure and service delivery in areas with low-valued properties, in relation to areas with high valued properties, could be far greater; and
- (iv) The roles and responsibilities of councillors in these two types of areas may be vastly different.

For the reasons outlined above, this criterion is considered inappropriate to be used as a factor to grade municipal councils.

(d) Capital Budget

About two-thirds of municipal activity is self-funded, as municipalities generate revenue through user charges for the consumption of services such as electricity and water. The remaining third is for public goods and services like suburban and municipal infrastructure. These do not raise significant revenue, but are normally funded from rates and regional services council levies. This is in contrast to provinces, which have little revenue-raising capacity and are totally dependent on national grants; 95 per cent of their activities are the provision of public goods such as school education, health, social grants and welfare services, housing and provincial roads. (National Treasury, 2003:28).

The Independent Commission for the Remuneration of Public Office-bearers (2000:31) firmly believed that this factor could not serve as a criterion to grade municipal councils because:

- (i) Whilst there is an annual recurring base capital expenditure amount, the nature of capital expenditure is that certain amounts are of an ad-hoc nature. For example, a developing municipality may have to expand its sewage purification and treatment works to cater for additional bulk sewage. Significant expenditure would be incurred in a relatively short period, say over one to two years, but thereafter, it may be many years before the need for similar expenditure. It would therefore be extremely

- difficult to differentiate between annual recurring basic expenditure and once-off, ad-hoc expenditure;
- (ii) The implications of the capital budget on future operating expenditure may be significant or not sustainable in the longer term. These issues may not be fully considered if there is an incentive to maximize capital expenditure;
 - (iii) The monitoring of capital expenditure by the National Treasury in terms of macro-control is difficult. Possible overstatement of the capital budget can be done easily, which may not be identifiable. This is partly due to the contingent nature of external financing, as the local authority may not qualify for, or be able to raise the external finance it initially intended when preparing the capital budget. Furthermore, the timing of capital expenditure is difficult to predict, and it is common for rollovers of components of the capital budget from one year to the next; and
 - (iv) Significant capital expenditure may be financed on a grant or subsidized basis by external bodies. These bodies will approve the subject, assess or prepare associated business plans and may even take project management responsibility. The municipality may therefore not have any direct responsibilities or accountability obligations in respect of some of these projects.

For the reasons outlined above, this criterion is considered inappropriate to grade municipal councils.

(e) Salaries and Wages

In the private sector, the number of staff and the expenditure for salaries and wages is one of the traditional factors used for determining the remuneration of senior executives. This factor recognizes the additional responsibilities that emanate from managing either a large work force, or the management of highly skilled personnel who earn significant remuneration. There is no doubt that the

size of a municipality's work force has an impact on the role and responsibilities of councillors.

However, there are the following disadvantages in using this factor to grade municipal councils:

- (i) Municipalities that enter into municipal service partnerships or outsource municipal functions will be penalised;
- (ii) It may encourage inappropriate staffing / labour practices; and
- (iii) The South African Local Government Association, as a body representing municipalities as employers, undertakes functions such as wage negotiations on behalf of municipalities, which relieves municipalities of these responsibilities (Independent Commission for the Remuneration of Public Office-bearers, 2000:32).

For the reasons outlined above, this criterion is considered inappropriate to grade municipal councils.

(f) Size of the Municipal Area

The geographical area of a municipality is an independent and static factor that could be considered as a criterion for grading municipal councils. However, the Independent Commission for the Remuneration of Public Office-bearers (2000:32) lists the following disadvantages of using this criterion to rank municipalities:

- (i) The extent of the area of the municipality could be distorted by vacant or agricultural land, areas which do not impact on the roles and responsibilities of councillors;
- (ii) The area of jurisdiction may be vast, but there may be sparse population densities; and
- (iii) Municipal areas are not easily identifiable.

For the reasons outlined above, this criterion is considered inappropriate to grade municipal councils.

(g) Number of Councillors in the Executive Committee

In terms of section 43 of the *Local Government: Municipal Structures Act, 1998* (Act No. 117 of 1998), the number of councillors in an executive committee may not exceed 20 per cent of the number of councillors in the municipality or 10 councillors, whichever is the least, and an executive committee may not have less than 3 members. Therefore, there may not be a fair distinction between a medium and large sized municipal council, as both may have only 10 councillors in the executive committee. A further factor is that a municipality may not have an executive committee if there are less than 9 councillors in the municipality.

It is therefore considered inappropriate to use this factor to grade municipal councils.

(h) Number of Houses

This criterion is, by implication, contained in the factor of “property rates”, as the more the number of houses, the greater the rates income will be. The number of houses in a municipality also does not take into account the value of houses, as it is simply a number. Municipalities with a similar number of houses may have vastly different income levels as the one municipality may have a more affluent population and higher property values than the other.

For the reasons outlined above, this criterion is considered inappropriate to grade municipal councils.

(i) Total Population

Meyer (1997:73) states that one basis for development plans and studies is population figures – that is, the growth (which could be positive or negative) and shift of population in the municipal area, and from and to the municipal area. It is further indicated under section 131(6) of the *Local Authorities Ordinance*, 1974 (Ordinance No. 25 of 1974) and under section 132(7) of the *Transvaal Local Government Ordinance*, 1939 (Ordinance No. 17 of 1939), that municipalities under the area of jurisdiction of these two ordinances were authorized to undertake censuses of the local population.

According to Mohr, Fourie and Associates (2000:373) “population figures in South Africa are still compiled and presented separately for the four major population race groups. The main reason is that the different population groups have different demographic characteristics. Like most macroeconomic magnitudes, the total population and labour force are difficult to measure. The problems encountered in this regard include definition problems, undercounting and changing geographical demarcations, as discussed below:

- (i) **Definition problems.** It is difficult, for example, to determine whether or not a person is willing to work, or whether a seasonal or part-time worker should be defined as employed or unemployed.
- (ii) **Undercounting.** This arises from the physical problems that are experienced when counting the population, as well as from deliberate attempts by individuals to avoid being counted (or registered) when population censuses are undertaken.
- (iii) **Changing geographical demarcations.** This problem was illustrated quite clearly in South Africa in the 1970s and 1980s. In 1976 Transkei became an independent state, followed by Bophuthatswana (1977), Venda (1979) and Ciskei (1981). Their populations were excluded from the South African population. In 1994, however, these states were reincorporated into South Africa. At the same time the new, enlarged

South Africa (the same as the pre-1976 South Africa) was divided into nine provinces. Such changes present many problems to demographers”.

Mohr, Fourie and Associates (*ibid.*) provide some estimates of the South African population, for the total geographic area of the country, in the table below.

- The first part of the table shows the estimated number of people per major population group and for the country as a whole; and
- The second part shows the percentage distribution between the different population groups. The first four years (1980, 1985, 1991 and 1996) were census years. The figures for 2001 and 2011 were projections.

TABLE 19: ESTIMATES OF THE SOUTH AFRICAN POPULATION FOR SELECTED YEARS

YEAR	POPULATION (MILLIONS)				
	ASIANS	BLACKS	COLOUREDS	WHITES	TOTAL
1980	0.818	21.079	2.687	4.526	29.110
1985	0.898	24.462	2.958	4.853	33.171
1991	0.987	28.397	3.286	5.068	37.738
1996	1.046	31.503	3.600	4.435	40.586
2001	1.160	35.220	3.760	5.240	45.380
2011	1.210	40.940	4.120	5.230	51.500
	POPULATION (PER CENTAGE OF TOTAL)				
1980	2.8	72.4	9.3	15.5	100.0
1985	2.7	73.7	8.9	14.7	100.0
1991	2.6	75.3	8.7	13.4	100.0
1996	2.6	77.6	8.9	10.9	100.0
2001	2.6	77.6	8.3	11.5	100.0
2011	2.3	79.5	8.0	10.2	100.0

Between 1980 and 1996 the South African population increased at an average of 2.1 per cent. The corresponding rates for the different population groups were:

Asians 1.5 per cent; blacks 2.5 per cent; coloureds 1.8 per cent; and whites 0.1 per cent.

Mohr, Fourie and Associates (*ibid.*) further state that demographers have identified a demographic cycle through which any given population tends to move. This cycle is divided into four stages, as follows:

- **Stage I** is characterized by high birth rates and high death rates. Population growth is low during this stage.
- During **Stage II**, as modernization occurs and health services improve, death rates fall. With continued high birth rates, population growth increases quite rapidly. Life expectancy also increases.
- During **Stage III**, birth rates start to fall as a result of the forces and influences of modernization. Although the death rate also falls further, the fall in the birth rate is much greater. The result is a fall in the rate of population growth (accompanied by a further increase in life expectancy).
- **Stage IV** is reached when birth rates fall so low that the size of the population starts to decline. Life expectancy, however, is very high. Most western European countries have undergone the full process of demographic transition. Population growth in these countries is approaching zero while life expectancy is close to 80 years.

Mohr, Fourie and Associates (*ibid.*) further state that “in South Africa, Asians, coloureds and whites are already in Stage III of the cycle, but blacks were generally still in Stage II until fairly recently. However, the birth rate for the black population has levelled off significantly and is expected to fall as urbanization continues and living standards improve. South African blacks therefore probably entered Stage III towards the end of the 1990s. It is important to note, however, that the demographic cycle pertains to natural population growth only. The overall growth of the population consists of natural growth plus net migration. If large numbers of foreigners enter the country, legally or illegally, in pursuit of employment and income, natural population growth can be overshadowed by the

growth in the number of immigrants. If immigration reaches large proportions, as happened in South Africa in the 1990s, natural demographic trends may become relatively unimportant”.

Mohr, Fourie and Associates (*ibid.*) further state that “the greatest uncertainty regarding the future size and growth of the South African population is the impact of HIV / AIDS. Southern Africa, including South Africa, has the highest incidence of HIV / AIDS in the world and some observers and agencies, such as UNAIDS, anticipate a disaster scenario with large increases in death rates and sharp declines in life expectancy. Other observers are less pessimistic but nevertheless anticipate a significant impact and estimate that the population growth rate will be much lower during the first half of the 21st century than during the second half of the 20th century”. Demographic changes have a variety of important consequences, and the size and growth of the South African population (and therefore also of the labour force) are dominated by the demographic trends of the black population group, which constitutes the majority of the population.

Barron, Crawley and Wood (1991:192) state that the size of councils in Britain is another distinctive feature of British local government. The typical British municipality has 50 elected members, and as indicated in the table below, municipalities in England and Wales serve very much larger populations than in most other western democracies.

TABLE 20: AVERAGE POPULATION SIZE OF MUNICIPALITIES IN OTHER COUNTRIES

COUNTRY	POPULATION
England and Wales	122 740
Sweden	29 527
Denmark	17 963
Australia	14 125
USA	12 000

COUNTRY	POPULATION
Norway	8 891
New Zealand	7 980
Italy	6 717
Canada	5 011
West Germany	2 694
France	1 320

The issues raised above and the outdated data as provided by Stats SA every five years following a census (in the future, it is believed that Stats SA will conduct a census only every 10 years) would not assist in improving the system of grading municipal councils, as the grade of a municipal council would be based on outdated data, and would not take into account the migration of people.

For the reasons outlined above, this criterion is considered inappropriate to grade municipal councils.

(j) Poverty

Consideration was also given to the use of this indicator to grade municipal councils. The poverty factor is based on the number of households in a municipality with income of up to R800.00 per month. Such a survey is undertaken by Stats SA every five years following a census. In the future, it is believed that Stats SA will conduct a census only every 10 years. If this is the case, then the grade of a municipal council would again be based on outdated data. Although this criterion is used to determine the equitable share allocations to municipalities, it does not justify the use thereof to determine the grade of a municipal council, and in so doing, perpetuate the use of obsolete data.

It is therefore considered inappropriate to use this criterion to grade municipal councils.

(k) Powers and Functions

The allocation of the powers and functions of municipal health services, water, sanitation and electricity, which are assigned by the Minister for Provincial and Local Government on a “permanent” basis, was tested as a criterion to grade municipal councils.

The use of this criterion was considered impractical, because where a municipality is authorized to perform more functions, it is awarded more points. The Kannaland Local Municipality was analysed in this regard, and where it is presently graded 2, the inclusion of this criterion elevated the municipality to a grade 4. The Kannaland Local Municipality is significantly different when compared with other grade 4 local municipal councils, such as George, Stellenbosch, Potchefstroom, Mafikeng, Rustenburg, KwaDukuza, and Merafong City.

Parts A and B of Schedule 4 to the *Constitution of the Republic of South Africa, 1996* deal with the functional areas of concurrent national and provincial legislative competence. Due to the number and extent of the various functions performed by municipalities, they cannot be presented here. (See compact disc enclosed in the inside of the back cover of this dissertation, that provides a detailed report of powers and functions for each local and district municipality for the period 2005 / 2006.

In the light of the above inconsistencies, it is concluded that this criterion would not assist in improving the present system of grading municipal councils.

(l) Total Municipal Income

Municipalities that maximize their revenue generating opportunities, as represented by cash collected, should be awarded a higher ranking. Taking into

account the current adverse financial position of municipalities, this criterion could certainly result in the behaviour required to stabilize the system of local government. (Independent Commission for the Remuneration of Public Office-bearers, 2000:28).

The level of rates income gives an indication as to the level of economic activity in a municipality, and it is also a useful indicator of the strategic importance of a municipality in the economy of a province, and the country as a whole. However, it has been stated that its use is limited if it is employed exclusive of other important data, and that although it is a significant source of revenue to municipalities (at about 19.6 per cent of total municipal revenue in 2003 / 2004) it can by no means be used as a true reflection of a municipality's service responsibilities or its affordability to generate own revenue.

The total municipal income of a municipality, which indicates all own revenue collected by the municipality, minus the grants that it would receive, was tested as a criterion to be used in this regard.

An advantage of using this criterion is that it incorporates an element of performance into the basis of remuneration. If there is no political will to collect the income actually due to the municipality, then there will be an adverse impact on the remuneration of councillors. A further advantage is that the ranking will require that the actual income collected must be determined by the municipality, and this will encourage municipalities to ensure that the accounting records are kept up to date to enable the criterion to be reviewed. Further, those municipalities that do not maintain current records will risk unauthorized expenditure due to possible overpayment of remuneration to councillors.

This indicator already plays a role, in that, in terms of section 7(1)(d) of the *Remuneration of Public Office Bearers Act*, 1998 (Act No. 20 of 1998), the Minister for Provincial and Local Government must determine the upper limits of

salaries and allowances after considering, amongst other factors, “the gross income” of the municipality.

Due to the fact that this data may be audited and verified, and for the reasons outlined above, the use of this criterion to grade municipal councils is recommended. Furthermore, it is considered appropriate to replace the criterion of actual property rates income with total municipal income.

(ii) Selection of Criteria for Grading of Municipal Councils

Having regard to the merits (or otherwise) of the various criteria discussed above, it would appear that there are no factors that fit all proposed municipal structures, or that will appropriately recognize the different roles and responsibilities of all municipal councillors. The study therefore recommends that the criteria of the “number of registered voters”, and the “total municipal income” (actual) of a municipality are the most appropriate, and that they should be used to determine the grade of a municipal council.

Maintaining the status quo, six broad banding classifications, with an emphasis of distinguishing between smaller and larger municipalities, should be used. The tables below reflect the different bands that are recommended for each of the criteria, and the points applicable in each case. The aggregation of the points indicates the overall size of the municipality for the purpose of remunerating councillors.

TABLE 21: ALLOCATION OF POINTS FOR THE NUMBER OF REGISTERED VOTERS

TOTAL NUMBER OF REGISTERED VOTERS	NUMBER OF POINTS
Less than 10 000	8.33
10 001 - 30 000	16.67
30 001 - 60 000	25.00
60 001 - 120 000	33.33
120 001 - 450 000	41.67
More than 450 000	50.00

TABLE 22: ALLOCATION OF POINTS FOR THE TOTAL MUNICIPAL INCOME

TOTAL MUNICIPAL INCOME	NUMBER OF POINTS
Less than 10 000 000	8.33
R 10 000 001 - R 50 000 000	16.67
R 50 000 001 - R 200 000 000	25.00
R 200 000 001 - R 1 500 000 000	33.33
R 1 500 000 001 - R 2 000 000 000	41.67
More than R 2 000 000 000	50.00

TABLE 23: TOTAL POINTS FOR DETERMINING THE GRADE OF MUNICIPAL COUNCILS

GRADE OF MUNICIPAL COUNCIL	POINTS
1	Less than 16.66
2	16.67 to 33.33
3	33.34 to 50.00
4	50.01 to 66.67
5	66.68 to 83.35
6	More than 83.36

The attached Schedule indicates the grade of each municipal council in the dispensation that was applicable in terms of Government Notice No. R. 1125 that was published on 14 November 2005 in the *Government Gazette* by the Minister for Provincial and Local Government, in terms of the relevant provisions in the *Remuneration of Public Office Bearers Act, 1998* (Act No. 20 of 1998), and the grade of municipal council when using the above-mentioned criteria and the bands that have been recommended.

It is further recommended that district municipal councils be independently and objectively graded on the above-mentioned criteria, and the attached Schedule indicates this position.

6.6.2 Total Remuneration Package

In terms of sections 7, 8 and 9 of the *Remuneration of Public Office Bearers Act, 1998* (Act No. 20 of 1998) the Minister for Provincial and Local Government must determine respectively the upper limit of the salaries and allowances, pension and medical aid contributions of councillors. In implementing the above provisions, the Minister for Provincial and Local Government provided separately for salaries, allowances and benefits.

Section 7(1) of the same Act requires the Minister for Provincial and Local Government to determine the upper limits of salaries and allowances after considering, inter alia:

- (i) the current principles and levels of remuneration in society generally;
- (ii) the need for the promotion of equality and uniformity of salaries, allowances and benefits for equal work performed; and
- (iii) the provision of uniform norms and standards nationally to address disparities.

In addition to the above-mentioned framework, the following must also be considered when developing a remuneration system for councillors:

- (i) Remuneration should compensate councillors for time spent on council activities;
- (ii) Remuneration should compensate councillors for the roles and responsibilities demanded of a councillor, in terms of the legislative framework applicable to local government and the corresponding transformation imperatives;
- (iii) There are community leadership roles and responsibilities implicit in being a councillor that should be reflected in remuneration; and
- (iv) Remuneration should be transparent and equitable.

Armstrong and Murlis (1994:367) state that the application of the total remuneration or “remuneration package” concept involves treating all aspects of pay and benefits as a whole. This approach gives valuable discipline and perspective to the overall process of salary and benefits planning and creates a framework within which the different elements of remuneration can be adjusted according to the needs of the organization and the individual. The cost to the company and the value to the individual of each element are assessed, with the aim of achieving an appropriate balance between the various components of remuneration for each employee grade or category. The concept applies to all levels of staff, but it is usually of more importance at senior levels because competitive practice and tax considerations have led to the development of a much wider range of benefits, in addition to salary, for senior executives.

According to Brivik (2005) "remuneration" is broadly and differently defined in the *Income Tax Act, 1962* (Act No. 58 of 1962), *Basic Conditions of Employment Act, 1997* (Act No. 75 of 1997), *Labour Relations Act, 1996* (Act No. 66 of 1995) and the *Compensation for Occupational Injuries and Diseases Act, 1993* (Act No. 130 of 1993). The definitions include payment in cash or in kind in respect of services rendered, that must be negotiated between two parties – the employer and the

employee. It is assumed that the employee will negotiate and settle for payment which is commensurate with the services rendered, and that the employer will make payment that it believes is suitable and adequate for the service it receives. An employee who is unhappy about the level of pay or remuneration can declare a contractual dispute, which can be resolved through bargaining or, in the case of last resort, industrial action. It cannot be resolved at the Council for Conciliation Mediation and Arbitration, or through the courts.

It is therefore recommended that, salary and certain allowances be consolidated. Such allowances must include the following:

- (a) Motor vehicle allowance;
- (b) Housing allowance;
- (c) Holding of Municipal Public Office Allowance.

Benefits (pension and medical aid), the cell phone and telephone allowance, and the out of pocket allowance must be paid in addition to the total remuneration package.

(i) Salary

The Commission presently recommends that the total remuneration package for public office-bearers in the national and provincial spheres of government be broken down into a basic salary component and a motor vehicle allowance component, constituting 80 per cent and 20 per cent of the total remuneration package, respectively.

It is therefore recommended that the total remuneration package to be extended to councillors must be in accordance with the above-mentioned dispensation, as well as with the components extended to public office-bearers in other spheres of government.

(ii) Allowances

In keeping with the need to promote equality and uniformity of remuneration generally, it is recommended that as far as possible, the similar allowances that are offered to other public representatives be offered to councillors. It is therefore proposed that councillors receive the following allowances, each of which is described further below:

- (a) Motor vehicle allowance;
- (b) Housing allowance;
- (c) Cell phone and telephone allowance;
- (d) Out of pocket expenses allowance; and
- (e) Holding of Municipal Public Office Allowance.

(a) Motor Vehicle Allowance

In keeping with generally accepted norms and standards, it is recommended that a component of not more than 20 per cent of the total remuneration package constitute a travel allowance. However, the position of councillor in the local sphere of government differs vastly from being a public representative in other spheres of government. Being at the heart of service delivery, a councillor needs to attend regular meetings, which could be convened by the municipal council, or by community based organizations. In terms of this dispensation, the 20 per cent allowance will include running and maintenance costs up to 500 kilometres per month.

In addition to the 20 per cent allowance referred to above, and only due to the unique nature of the work of the councillor, official distances travelled in excess of 500 kilometres in a particular month should be claimed in accordance with the applicable tariffs prescribed by the Department of Transport for the use of privately owned vehicles. For the purposes of claiming running and maintenance

allowances, a logbook reflecting the official and private kilometres travelled per month must be kept.

It is also recommended that should a councillor opt not to receive a travelling allowance as part of the total remuneration package, then such a councillor may only be entitled to receive the 80 per cent basic salary component of the total remuneration package. The municipality would, in this instance, then be obliged to provide transport for the councillor when the councillor performs work of an official nature for the municipality.

(b) Housing Allowance

Although councillors would derive no tax benefit from structuring their basic salary component of 80 per cent to provide for a housing allowance, flexibility should be extended to councillors to allow them to structure their salary to do so. This position is recommended because in terms of section 167 of the *Local Government: Municipal Finance Management Act, 2003* (Act No. 56 of 2003), a municipality may remunerate its councillors only within the framework of the *Remuneration of Public Office Bearers Act, 1998* (Act No. 20 of 1998).

Financial institutions, as a rule, require that when a person receives a mortgage bond from such an institution, then that person must make repayments for the mortgage bond as a direct stop order from their salary. If the housing allowance is not stipulated in the framework determined by the Minister for Provincial and Local Government, then such an allowance could be considered unauthorized expenditure.

(c) Cell phone and Telephone Allowance

In keeping with the dispensation extended to other public representatives, it is recommended that, in addition to the total remuneration package, a councillor should obtain a fixed allowance for the use of cell phones and telephones.

It should be noted that this recommendation deviates from the status quo, and reverts to the original position adopted by the Minister for Provincial and Local Government in this regard, in that the allowance is “broader” and includes the use of landline telephones. This position is recommended because in areas where there is no cell phone network coverage, such as the rural areas of the northern part of the KwaZulu-Natal Province and the Kalahari in the Northern Cape Province, councillors that relied solely on the use of fixed land lines did not receive the cell phone allowance, and were therefore discriminated against.

(d) Out of pocket Expenses

In terms of the *Remuneration of Public Office Bearers Act, 1998* (Act No. 20 of 1998), a councillor must be reimbursed for reasonable and actual out of pocket expenses incurred during the execution of official duties. The Minister for Provincial and Local Government must therefore provide for this allowance to also cater for section 167 of the *Local Government: Municipal Finance Management Act, 2003* (Act No. 56 of 2003) in order that such expenditure incurred by a councillor is not considered unauthorized expenditure.

Reimbursement for this expenditure should be based on reasonable tariffs, within guidelines developed by the municipality, and based on the production of original receipts by the councillor.

(e) Holding of Municipal Public Office Allowance

On 28 September 2000, by proclamation in *Government Gazettes* No. 21602, 21603 and 21604, the President declared that the total remuneration package of public representatives in the national and provincial spheres of government shall include an amount of R40 000 per annum as the amount declared in terms of section 8(1)(d) of the *Income Tax Act, 1962* (Act No. 58 of 1962).

While this provision was originally not extended to councillors, the *Revenue Laws Amendment Act, 1999* (Act No. 53 of 1999) amended section 8 of the *Income Tax Act, 1962* (Act No. 58 of 1962), to provide that a certain part of the salary of members of municipal councils be deemed to be an allowance. This provision was deemed to have come into operation on 1 March 2000.

In order to promote uniform norms and standards, as espoused in section 7 of the *Remuneration of Public Office Bearers Act, 1998* (Act No. 20 of 1998), it is recommended that such a dispensation also be extended to councillors. The benefit of this allowance is that a lesser portion of a councillor's basic salary will be subjected to taxation, which would mean that councillors will have greater disposable income. In terms of section 8(1)(d) of the *Income Tax Act, 1962* (Act No. 58 of 1962) this allowance is meant to enable a councillor to defray expenditure deemed to have been so expended by the councillor, to the extent that expenditure relevant to this allowance is not otherwise recoverable by the councillor. The councillor could incur expenditure in respect of secretarial services, duplicating services, stationery, postage, telephone calls, the hire of office accommodation and the maintenance of such accommodation, or hospitality extended at any official or civic function which the councillor is expected to arrange.

The extension of this allowance to councillors will require an amendment to the *Remuneration of Public Office Bearers Act, 1998* (Act No. 20 of 1998), which is discussed in the next chapter.

(iii) Benefits

Traditionally, benefits have been described as “something other than remuneration”. The courts are reluctant to give benefits a wider interpretation to prevent remuneration disputes being referred to them – it is not their duty to negotiate a better salary for employees. A dispute over benefits falls under the jurisdiction of the Commission for Conciliation, Mediation and Arbitration or the Labour Court, which will consider whether it is an unfair labour practice. Recently, the Labour Court found that a “benefit” does not have to be recorded in the contract for it to fall under the Labour Relations Act, 1995 (Act No. 66 of 1995) which regulates the conduct of the employer and imposes a duty of fairness (Brivik, 2005).

Kanungo and Mendonca (1992:9) state that the multitude of employee benefit programmes can be grouped into three categories, as follows:

- Income protection programmes;
- Reimbursed time off; and
- Services and perquisites (“perks”).

These programmes, most of which were started during World War II, have increased both in variety and cost. For example, in 1950 such programmes cost organizations an average of \$515 per year – less than 15 per cent of gross payroll costs. In 1986, they cost about \$9 000 per year, or about 36.3 per cent of gross payroll costs. These costs continue to climb. Tax considerations have often influenced the introduction of these programmes.

Armstrong and Murlis (1994:367) state that employee benefits are elements of remuneration given in addition to the various forms of cash pay. They provide quantifiable value for individual employees, and may be deferred or contingent (such as a pension scheme, insurance cover or sick pay), or immediate (such as a company car). Employee benefits also include elements which are not strictly remuneration, such as annual holidays.

The terms “fringe benefits” and “perks” are sometimes used derogatively, but should be reserved for those employee benefits that do not fundamentally cater for personal security and personal needs.

The objectives of the employee benefits policies and practices of an organization should be:

- (i) To increase the commitment of employees to the organization;
- (ii) To provide for the actual or perceived personal needs of employees, including those concerning security, financial assistance and the provision of assets in addition to pay, such as company cars and petrol;
- (iii) To demonstrate that the company cares for the needs of its employees;
- (iv) To ensure that an attractive and competitive total remuneration package is provided which both attracts and retains high-quality staff; and
- (v) To provide a tax-efficient method of remuneration which reduces tax liabilities compared with those related to equivalent cash payments.

Benefits can be divided into the following categories:

- (i) **Pension schemes:** these are generally regarded as the most important employee benefit. In the UK they are typically financed during the employee’s working lifetime to provide a guaranteed income for employees or their dependants on retirement or death;
- (ii) **Personal security:** these are benefits which enhance the individual’s personal and family security with regard to illness, health, accident, redundancy or life assurance;

- (iii) **Financial assistance:** loans, house purchase assistance, relocation assistance, discounts, etc;
- (iv) **Personal needs:** entitlements which recognize the interface between work and domestic needs or responsibilities, e.g. holidays and other forms of leave, child care, career breaks, retirement, counselling, financial counselling, fitness and recreational facilities;
- (v) **Company cars and petrol;**
- (vi) **Other benefits** which improve the standard of living of employees, such as subsidized meals, clothing allowances, refund of telephone costs and credit card facilities; and
- (vii) **Intangible benefits:** characteristics of the organization which make it an attractive and worthwhile place in which to work.

Armstrong and Murlis (1994:383) further state that the key criteria to be taken into account in developing employee benefit strategies are that they should:

- (i) Be an integral part of the total reward management strategy of the organization, which in turn should specifically support the achievement of its business objectives;
- (ii) Add value to basic remuneration by extending the purely financial provisions of these policies into areas where the company will benefit from providing additional rewards and which will support the satisfaction of employees' specific needs;
- (iii) Be in line with and supportive of the culture of the organization and its value system;
- (iv) Meet the needs of the organization to increase the commitment of its members, to develop their identification with its objectives and to increase unity of purpose;
- (v) Meet the real needs of individual employees, rather than those needs which management believes they have;
- (vi) Help the organization to recruit and retain high-quality and well-motivated staff by being competitive in the market place;

- (vii) Provide a measure of individual choice to employees; and
- (viii) Be creative – not simply offering what competitors offer, but devising new approaches to structuring the package and to providing individual benefits which are tailored to the strategic needs of the organization.

The most common benefits are pension and medical aid benefits, which are discussed in turn hereunder.

(a) Pension Benefits

Armstrong and Murlis (1994:386) suggest that pensions are generally regarded as the most important employee benefit. They are typically financed from contributions which build up rights to a guaranteed income for employees or their dependants on retirement or death. Companies frequently aim to provide adequate or generous pension arrangements because:

- (i) There is often a perceived moral obligation to provide a reasonable level of security for employees, especially those with long service;
- (ii) A good pension scheme demonstrates that the company has the long term interests of employees at heart;
- (iii) A good scheme helps attract and retain high quality staff; and
- (iv) Pensions can be a tax efficient form of remuneration.

Andrews (1997:328) defines a pension as a fixed sum of money which is paid at regular intervals to a former employee by an employer or his representatives. The same author remarks that pension schemes make it possible to eliminate from service those employees who are no longer in a condition to perform effective work.

According to the Independent Commission for the Remuneration of Public Office-bearers (2000:33), the municipality's contribution to the pension fund, of which a councillor is a member, should be 15 per cent. This position was adopted by the

Minister for Provincial and Local Government and has been extended to councillors since 2000. It is recommended that it be maintained in the future, and that this benefit be extended to both part-time and full-time councillors.

However, such contribution should be made on the pensionable salary of the councillor, and in addition to the total remuneration package applicable to a councillor.

(b) Medical Aid Benefits

With regard to contributions towards a medical aid scheme, it is also recommended that the status quo be maintained and that a municipality contributes no more than two-thirds of the total contribution, up to a maximum of R1 014.00 per month, and in addition to the total remuneration package applicable to a councillor.

In terms of the *Remuneration of Public Office Bearers Act, 1998* (Act No. 20 of 1998) no other benefits are extended to councillors, and the extension of any further benefits would be considered unauthorized expenditure, in terms of section 167 of the *Local Government: Municipal Finance Management Act, 2003* (Act No. 56 of 2003).

An individual's total remuneration package, by virtue of a position possibly occupied in another sphere of government, could prove to be above the upper limit as determined by the Minister for Provincial and Local Government. In this instance, the relevant politician retains such higher remuneration as he or she receives, until upward revisions in the pay structure bring the total remuneration package into the regular pay range, whereafter such councillor would receive further increases as determined by the Minister for Provincial and Local Government from time to time.

6.6.3 Hierarchy of Councillors

As discussed *supra* (paragraph 6.3), the following hierarchy of councillors was recommended by the Commission:

- Level 1: Mayor and Executive Mayor;
- Level 2: Speaker, Deputy Mayor and Executive Deputy Mayor;
- Level 3: Members of the Executive or Mayoral Committees and Chairperson of a subcouncil; and
- Level 4: Ordinary Councillors (including ward and appointed councillors).

It is recommended that the above hierarchy be maintained, but to include the position of whip, equated to level 3, as indicated above, and in terms of the similar responsibilities entrusted to such a public office-bearer in other spheres of government.

6.6.4 Benchmarks

Armstrong and Murlis (1994:122) state that benchmark jobs are key jobs selected to cover each level and major function in the organization, because they are well structured and representative of those levels and functions. Benchmark jobs should have the following characteristics: they are well known, clearly defined and, ideally, the relativities between them will be well established. They should also be jobs which, as far as possible, can be matched with jobs outside the organization for purposes of market rate surveys.

The initial evaluation of these jobs provides, as the term implies, reference points or signposts for evaluators when they are evaluating the other jobs in the organization, often the difficult and contentious ones.

The first step in evaluating jobs is to select benchmark jobs by:

- (i) Listing all the discrete jobs covered by function or department;

- (ii) Identifying from this list a sample of well known and easily recognized jobs, which reflect the range of responsibilities in the organization, both vertically and horizontally across functions;
- (iii) Ensuring that a sufficient proportion of benchmark jobs is identified which can be matched to jobs in other organizations to establish external relativities; and
- (iv) Ensuring that equal value considerations are taken into account.

As indicated *supra* (paragraph 2.4.6), “ranking” and the “factor comparison method” are techniques of job evaluation. With regard to the fact that no market benchmarks are applicable in the public service; the requirement to align remuneration between office-bearers in the different spheres of government; and the need to provide for the deployment of office-bearers between the spheres of government, it is recommended that appropriate grades / offices are identified in the provincial legislature, and to then equate offices in the local sphere of government against such identified offices. The advantage of this position would be that whenever revisions are made to the remuneration of public office-bearers in other spheres of government, such revisions could also be taken into consideration by the Minister for Provincial and Local Government for extension to members of municipal councils.

(i) Full-time Councillors

Based on recommendations made by the Commission on 8 July 2005 in *Government Gazette* No. 27770 in terms of section 8(4) of the *Commission for the Remuneration of Public Office-bearers Act, 1997* (Act No. 92 of 1997), the following total remuneration packages and benchmarks are recommended for full-time mayors / executive mayors of the differently graded municipal councils:

- (i) The remuneration of a mayor / executive mayor of a grade 6 municipal council is set against that of an MEC (i.e. R680 152 – Grade E1, Notch 3);

- (ii) The remuneration of a mayor / executive mayor of a grade 5 municipal council is set against that of a deputy speaker (i.e. R517 845 – Grade D, Notch 2);
- (iii) The remuneration of a mayor / executive mayor of a grade 4 municipal council is set against that of a chairperson of a committee / chairperson of committees (i.e. R486 301 – Grade C2, Notch 2);
- (iv) The remuneration of a mayor / executive mayor of a grade 3 municipal council is set against that of a deputy chairperson of committees (i.e. R436 211 – Grade B1, Notch 1);
- (v) The remuneration of a mayor / executive mayor of a grade 2 municipal council is set against that of a whip / leader of a minority party in a legislature (i.e. R388 005 – Grade A1, Notch 1); and
- (vi) The remuneration of a mayor / executive mayor of a grade 1 municipal council is set against that of a member of a legislature (i.e. R373 678 – Grade A2, Notch 1).

The above benchmarks proposed for full-time mayors / executive mayors of municipal councils are summarized in the table below:

TABLE 24: BENCHMARKED REMUNERATION FOR FULL-TIME MAYORS / EXECUTIVE MAYORS

GRADE	OFFICE IN THE PROVINCIAL LEGISLATURE	FULL-TIME OFFICE IN A MUNICIPAL COUNCIL	BASIC SALARY	MOTOR VEHICLE ALLOWANCE	TOTAL REMUNERATION
E1	Member of the Executive Council; Speaker (Notch 3)	Mayor / executive mayor of a grade 6 municipal council	R544 122	R136 030	R680 152
D	Deputy Speaker (Notch 2)	Mayor / executive mayor of a grade 5 municipal council	R414 276	R103 569	R517 845
C2	Chairperson of a Committee of a Legislature; Chairperson of Committees (Notch 2)	Mayor / executive mayor of a grade 4 municipal council	R389 041	R97 260	R486 301

GRADE	OFFICE IN THE PROVINCIAL LEGISLATURE	FULL-TIME OFFICE IN A MUNICIPAL COUNCIL	BASIC SALARY	MOTOR VEHICLE ALLOWANCE	TOTAL REMUNERATION
B	Deputy Chairperson of Committees (Notch 1)	Mayor / executive mayor of a grade 3 municipal council	R348 969	R87 242	R436 211
A1	Whip; Leader of a Minority Party in a Legislature other than the Official Opposition (Notch 1)	Mayor / executive mayor of a grade 2 municipal council	R310 404	R77 601	R388 005
A2	Member of a Legislature (Notch 1)	Mayor / executive mayor of a grade 1 municipal council	R298 943	R74 735	R373 678
All amounts reflected under the "TOTAL REMUNERATION" column include an amount of R40 000 per annum as per section 8(1)(d) of the <i>Income Tax Act</i> , 1962 (Act No. 58 of 1962).					

From the above benchmarked remuneration structure, it is apparent that the lower graded municipal councils are most advantaged, while councillors in metropolitan councils receive the smallest increases, as reflected in Table 29. The intention thereof is deliberate, in order to promote the attraction of higher calibre persons to assume public office, and to encourage meaningful input in furthering the interests of all people.

Public office-bearers in a provincial legislature receive benefits (medical aid and pension) in addition to the above total remuneration packages, and it is therefore recommended that councillors should receive the above total cost to "employer" remuneration, plus pension and medical aid benefits in addition thereto.

Cell phone / telephone allowances and reimbursement for out of pocket expenses will also be in addition to the total remuneration package. This dispensation would, while being benchmarked against the remuneration of provincial public office-bearers, extend to councillors the system that is applicable to senior managers in the public service. This is intended to limit municipal expenditure in this regard, so as not to provide any "shocks" to the system.

As indicated *supra* (paragraph 6.4.7), a MEC for local government in a province may designate councillors as full-time, in accordance with a policy framework as determined by the Minister for Provincial and Local Government. By implication, all other councillors that are not provided for in terms of the policy framework would therefore be part-time councillors, including those not designated as full-time by the MEC.

In terms of the policy framework determined by the Minister for Provincial and Local Government, the following councillors may be designated as full-time by the MEC for local government:

- Speaker;
- Executive Mayor;
- Mayor;
- Deputy Executive Mayor;
- Deputy Mayor;
- A member of an Executive Committee, other than the Mayor and Deputy Mayor;
- A member of a Mayoral Committee;
- Chairperson of a subcouncil; and
- A single whip appointed for council.

In terms of the above framework, all ordinary councillors (ward and appointed) must be appointed on a part-time basis.

For other full-time councillors (besides mayors / executive mayors), it is therefore recommended that:

- (i) Speakers and deputy mayors/ executive deputy mayors receive 80 per cent of the benchmarked remuneration of the mayor / executive mayor of the respective municipality;

- (ii) Members of the executive committee or mayoral committee, whips, and chairpersons of subcouncils receive 75 per cent of the benchmarked remuneration of the mayor / executive mayor of the respective municipality; and
- (iii) Ordinary councillors, for remuneration and benchmarking purposes, receive 50 per cent of the benchmarked remuneration of the mayor / executive mayor of the respective municipality, if they were designated as full-time within the municipal council.

With regard to the total remuneration package received by councillors (obtained by adding the components of salary; travelling, cell phone, housing, and office-bearer [where applicable] allowances; and the municipality's contributions to medical aid and pension), the table below sets out the proposed remuneration (excluding the cell phone and telephone allowance, out of pocket allowance, and benefits) and its relation to the remuneration paid in terms of Government Notice No. R. 1125 of 14 November 2005.

TABLE 25: PROPOSED REMUNERATION FOR FULL-TIME COUNCILLORS

FULL-TIME COUNCILLORS									
GRADE	BENCHMARK	MAYOR / EXECUTIVE MAYOR		SPEAKER / DEPUTY MAYOR / DEPUTY EXECUTIVE MAYOR		MEMBER OF EXCO / MAYCO / WHIP / CHAIRPERSON OF SUBCOUNCIL		ORDINARY COUNCILLOR (NOTE: NO FULL-TIME ORDINARY COUNCILLOR)	
		PROPOSED	STATUS QUO	PROPOSED	STATUS QUO	PROPOSED	STATUS QUO	PROPOSED	STATUS QUO
6	Member of the Executive Council; Speaker (Notch 3)	680,152	672,340	544,121	565,586	510,114	510,101	340,076	224,234
5	Deputy Speaker (Notch 2)	517,845	468,146	414,276	387,762	388,383	367,666	258,922	125,343
4	Chairperson of a Committee of a Legislature; Chairperson of Committees (Notch 2)	486,301	392,784	389,040	327,473	364,725	311,145	243,150	96,972
3	Deputy Chairperson of Committees (Notch 1)	436,211	317,423	348,968	267,182	327,158	254,621	218,105	79,950
2	Whip; Leader of a Minority	388,005	242,060	310,404	206,892	291,003	198,100	194,002	62,925

FULL-TIME COUNCILLORS									
GRADE		MAYOR / EXECUTIVE MAYOR		SPEAKER / DEPUTY MAYOR / DEPUTY EXECUTIVE MAYOR		MEMBER OF EXCO / MAYCO / WHIP / CHAIRPERSON OF SUBCOUNCIL		ORDINARY COUNCILLOR (NOTE: NO FULL-TIME ORDINARY COUNCILLOR)	
		PROPOSED	STATUS QUO	PROPOSED	STATUS QUO	PROPOSED	STATUS QUO	PROPOSED	STATUS QUO
	BENCHMARK								
	Party in a Legislature other than the Official Opposition (Notch 1)								
1	Member of a Legislature (Notch 1)	373,678	166,697	298,942	146,602	280,258	141,579	186,839	45,903
		100% OF BENCHMARK		80% OF BENCHMARK		75% OF BENCHMARK		50% OF BENCHMARK	

From the above table, it can be seen that the remuneration of all councillors is increased, except for the speaker in a grade 6 municipal council, where the remuneration is decreased by approximately R20 000.00 per annum. This matter is discussed in greater detail *infra* (paragraph 6.6.5).

The benchmarked remuneration for part-time councillors is dealt with in the next section.

(ii) Part-time Councillors

Stoker and Wilson (2004:66) state that councillors spend too much time in meetings, which is an inefficient use of their time, and discourages people from becoming councillors. Research showed that although 70 per cent of councillors rate their representative role as their top priority, they spend on average only 30 per cent of their time on it.

Mombaur (1994:213) states that in some of the Länder of the Federal Republic of Germany, burghers are entitled to elect full-time mayors. The citizens of these Länder enjoy the crucial advantage of being able to decide who should occupy the most prominent post in their community, or even to stand for election themselves. This was seen as a response to the frequently-heard demand that the democratic involvement of citizens should be strengthened and their rights to

participate extended. Burghers are therefore given the opportunity to directly elect the person in whom they have confidence, and whom they expect to best protect the interests of their communities.

According to the Independent Commission for the Remuneration of Public Representatives (1996), the only level of government in South Africa that has constituency representatives, is municipalities, albeit in the form of ward councillors. Therefore, with no identifiable members of parliament or members of provincial legislatures, the only true public representatives are ward councillors. This means that councillors are faced with all the problems that should be going to members of parliament and members of provincial legislatures – but they may not have the authority to deal with them. The part-time nature of councillors' service has been raised as a contentious issue by many councillors. Whilst some of them are unemployed and rely wholly on council work for income, those who are employed elsewhere are reportedly finding it difficult to strike a happy medium between their full-time employment and council work. Many of these councillors have entered into “no work, no pay” agreements with their employers, yet the salaries they receive from the council are not sufficient to compensate for loss of income. Mayors and executive committee members, on the other hand, do not believe that ordinary councillors should be engaged on a full-time basis. If that were the case, they argue, there would not be enough work in the day to occupy all council members.

The Independent Commission for the remuneration of Public Office-bearers (1996) states further that councillors have expressed dissatisfaction with the level of their pay and the attendant benefits. Complaints about salaries are closely linked to the part-time / full-time debate. The intensity of these complaints varies according to the grade of municipal council. Smaller local councils tend to feel underpaid when compared to their larger counterparts. This is caused by the differences in salaries between different sized councils.

In order to determine the remuneration that should be extended to part-time councillors, the “five-eighths” rule was applied. This rule represents a standard rule of thumb in converting full-time remuneration to part-time (mornings only) remuneration, based on the assumption of work being five hours per day out of eight normal hours. Using this formula (that is, 62.5 per cent of the corresponding full-time position), the remuneration that should be extended to part-time councillors is indicated in the following table:

TABLE 26: PROPOSED REMUNERATION FOR PART-TIME COUNCILLORS

PART-TIME COUNCILLORS								
GRADE	MAYOR / EXECUTIVE MAYOR		SPEAKER / DEPUTY MAYOR / DEPUTY EXECUTIVE MAYOR		MEMBER OF EXCO / MAYCO / WHIP / CHAIRPERSON OF SUBCOUNCIL		ORDINARY COUNCILLORS	
	PROPOSED	OLD	PROPOSED	OLD	PROPOSED	OLD	PROPOSED	OLD
6	425,095	306,910	340,075	250,172	318,821	235,984	212,547	224,234
5	323,653	278,538	258,922	227,474	242,739	214,706	161,826	125,343
4	303,938	207,614	243,150	170,732	227,953	161,512	151,968	96,972
3	272,631	165,059	218,105	136,688	204,473	129,595	136,315	79,950
2	242,503	122,502	194,002	102,644	181,876	97,680	121,251	62,925
1	233,548	79,948	186,838	68,599	175,161	65,760	116,774	45,903
	62.5% OF FULL-TIME POSITION		62.5% OF FULL-TIME POSITION		62.5% OF FULL-TIME POSITION		62.5% OF FULL-TIME POSITION	

From the above table, it is noticed that the remuneration of all councillors is increased, except for an ordinary councillor in a grade 6 municipal council, where the remuneration is decreased by approximately R12 000 per annum. This matter is discussed in greater detail in the next section.

6.6.5 Personal Remuneration Notches

As indicated *supra* (paragraph 2.4.5), an individual’s remuneration could be above the maximum of a pay grade or scale due to such an individual receiving “seniority increases”, or individuals being demoted but retaining their levels of remuneration.

With regard to councillors, such a situation could arise from, amongst others, the following reasons:

- (i) When a councillor who had previously held a position of office-bearer in a municipal council, is deployed to a position of “ordinary councillor”;
- (ii) When the grade of municipal council is downgraded as a result of a decrease in the number of registered voters in the municipality, or a decrease in the total municipal income of the municipality;
- (iii) When a councillor crosses the floor from one political party to another; or
- (iv) When revisions are made to the remuneration system.

With regard to changes in remuneration arising as a result of points (i) to (iii) above, it is recommended that such councillor should receive the remuneration which is associated with the position that he or she moves to, even though this may be lower than the remuneration of the previous office. However, where the remuneration is decreased as a result of an intentional intervention by the government, then such a councillor should retain the higher remuneration that was paid to him or her, until further upward revisions in the remuneration structure (such as annual cost of living increases) bring the remuneration into the regular pay range.

6.6.6 Indirectly Elected Councillors / Appointed Councillors

An appointed councillor is a councillor in a local municipality who is indirectly elected to represent the local municipality at the district level. Appointed councillors constitute 60 per cent of the number of councillors at the district municipality, and the remaining 40 per cent of the councillors are directly elected to that municipality.

It is recommended that the system of fixing a fee for attendance by councillors of a local municipality at district council meetings should be continued.

It is therefore recommended that:

- (i) If a councillor is appointed as an office-bearer of a district council, then such a councillor receives the difference between the salary, allowances and benefits received as a member of the local council; or
- (ii) If the salary, allowances and benefits of such a councillor at the local municipality is equal to or higher than the salary, allowances and benefits to which the councillor is entitled to as an appointed councillor, then such a councillor is entitled to a sitting allowance of not more than R500.00 per day, regardless of the number of meetings of the district council or committees of that council that are attended by such councillor on a specific day.

6.7 CONCLUSION

This chapter has dealt in detail with the underlying principles regarding the system of remuneration extended to councillors. The institutional, political and administrative systems were discussed in detail to offer a better understanding of the environment in which a councillor works, and the concomitant roles and responsibilities attached to the various office-bearer positions.

It has been shown that as the country approached the first term of municipal councils, a distinct hierarchy of councillors had become entrenched and legislation was developed to remunerate councillors prior to the commencement of the final phase of local government. While minor amendments and modifications were effected to the system of remuneration that was applicable in the interim phase, that system laid the foundation on which councillors were remunerated.

The publication of Government Notices in the *Government Gazette* annually by the Minister for Provincial and Local Government in terms of the relevant provisions of the *Remuneration of Public Office Bearers Act, 1998* (Act No. 20 of 1998) must be seen as government's attempt to centralize the remuneration of councillors, to implement uniform levels of remuneration, and to promote good governance. Clear efforts are evident to alleviate the notion of "double-dipping", and to have due regard to the recommendations made by the Commission when effecting any review to the remuneration of councillors.

The system of remuneration that is presently being implemented would appear to be sound, and can be viewed as being broadly based on the following key principles:

- Affordability was considered important;
- Municipal councils were placed into one of six grades;
- The grades were allocated according to the number of registered voters in the municipality and the actual property rates collected in the previous year;
- A differentiation was made between full-time and part-time councillors; and
- A basic salary, allowances and benefits were payable to all councillors:
 - contribution to the pension fund was limited to 15 per cent;
 - contribution to a medical scheme limited to two-thirds of the membership fee, to a maximum of R1 014.00;
 - travel allowance equal to 25 per cent of salary (alternatively, equal to actual kilometres travelled at a tariff rate per kilometre if the councillor so elected at the commencement of the financial year); and
 - allowance for the use of personal facilities.

This chapter also made specific recommendations for an ideal remuneration system for members of municipal councils, which is broadly based on the following principles:

- The total cost to employer / package approach is extended to councillors (composed of a basic salary, allowances [travelling and housing], and benefits [medical aid and pension]) ;
- Municipal councils are graded on the criteria of total number of registered voters, and the total municipal income of a municipality;
- Office-bearers may be appointed on either a full-time or part-time basis (Except for ordinary councillors, all other councillors may be appointed on a full-time or part-time basis in terms of the above, and in terms of the policy framework for the designation of full-time councillors, as published in the Government Gazette by the Minister on 18 July 2003);
- The benchmarks (upper and lower limits) have been set against identified positions of public office-bearers in the provincial sphere of government (which in turn is aligned to the remuneration of public office-bearers in the national sphere of government);
- The hierarchy of office-bearers that has been identified is in accordance with accepted norms and practice, as follows:
 - Level 1: Mayor / Executive Mayor;
 - Level 2: Speaker; Deputy Mayor / Deputy Executive Mayor;
 - Level 3: Members of the EXCO or MAYCO; Whip; Chairperson of a subcouncil; and
 - Level 4: Ordinary councillors (part-time only);
- Appointed councillors will receive a sitting allowance, or the difference in remuneration that the councillor receives between the local and district council; and
- Deviations from the framework are provided for when a councillor has a “personal remuneration notch”.

The following chapter provides an overview of remuneration systems for municipal councillors in certain other countries.