

# The role and function of speakers

**O**n 12 March 2001, the South African Local Government Association (SALGA) conducted a workshop to deal with the role and function of speakers. What follows is a summary of the findings of the delegates.

## POSITION OF THE SPEAKER

The Constitution requires that every council elects a chairperson (s 160(1)(b)). The Municipal Structures Act (Structures Act) calls the chairperson the speaker (s 36). The aim of the office of the speaker is to structure the two functions of a municipal council – its legislative function and its executive function. From the functions listed in section 37 and the provision that the mayor may not be the speaker (s 36(5)), it is clear that the speaker assumes responsibility for the legislative function of the council. The mayor, on the other hand, is responsible for the executive function.

This distinction is not watertight. In local and district municipalities with plenary executive systems, the mayor also acts as the speaker (s 36(5)). These types of municipalities are too small to make a clear distinction between the office-bearers responsible for the two functions of a council.

The legislative function of a council entails the following:

- the passing of by-laws;
- the formulation of policy;
- the oversight of the executive and administration; and
- the communication channel between the community and the municipality.

It is therefore suggested that the councillors elected as speakers should focus on these functions and not be drawn into the council's executive committees or executive positions. The function of the speaker is important in the proper functioning of a council: for this reason it should be a full-time position in the council.

## THE SPEAKER AND COUNCIL MEETINGS

The primary function of the speaker relates to the holding and conducting of council meetings. The Structures Act requires that the speaker –

- ensures that the council meets at least quarterly;
- presides over the meetings;
- maintains order at the meetings; and
- ensures that council meetings are conducted in accordance with the rules and orders of the council (s 37).

To perform these functions effectively, the speaker should also be given the following duties:

### Rules Committee

The speaker should chair the Rules Committee, which drafts the rules and orders of the council. The Rules Committee should be composed on the basis of proportional representation, with the same proportions as the representation of parties in the council. Each municipality should decide, however, how it accommodates small parties.

The Rules Committee should have access to the legal services of the municipality to draft the rules and orders. The terms of reference of the Rules Committee must be in accordance with applicable legislation. There is a need for uniform terms of reference for rules committees, which SALGA must develop. SALGA should assist in drafting



uniform standard rules and orders, which municipalities can adapt to their own circumstances. These rules and orders should be flexible and should only function as a guide.

### Agenda

The speaker has ultimate control over the agenda of council meetings. The signature of the speaker must be appended to the agenda before distribution.

### By-laws

The speaker has the responsibility of ensuring that by-laws introduced in the council comply with the Constitution, the Structures Act and, where applicable, national and provincial legislation. To this end, the speaker should have access to the legal services of the municipality.

### Reports to council

The speaker must prepare an annual report to council about the activities of the council and the speaker's office. The standing rules of the council determine what should be included in the report. It should contain at least the following:

- the implementation of the Code of Conduct;
- reports from the mayor and the executive committee on implementation of council resolutions;
- public participation in council activities;
- implementation of council resolutions;
- by-laws passed by the council; and
- linkages with other speakers.

### Political management

The speaker is responsible for the political management of council activities. In exercising this function impartiality must be demonstrated.

## THE SPEAKER AND COUNCILLORS

Since the speaker is responsible for the proper functioning of the legislative side of the council, he or she has specific responsibilities with regard to the other councillors.

### Support

In order to facilitate adequate support to councillors, three offices, to be

located in the speaker's office, have been identified:

- **a councillor support office** which must provide councillors with infrastructural support to perform all their functions;
- **a legal office** to provide the speaker and councillors with legal advice and a measure of political advice; and
- **a community liaison office** to facilitate the interaction between the council and the community.

### Training

The speaker should be responsible for supporting and building the capacity of councillors. This may include holding training programmes and workshops, for which Councils should budget.

### Monitoring

In order to ensure that all councillors are accountable to local communities, it is proposed that speakers be empowered to allocate proportional representation (PR) councillors to particular areas within the municipality.

In order for the speaker to be familiar with all the activities of council members, he or she should be entitled to have *ex officio* sitting (without voting rights) on all committees of the council.

### Discipline

In terms of Schedule 1 to the Systems Act, the speaker is responsible for the effective implementation of the Code of Conduct for councillors. SALGA should develop standard procedures for the implementation of the provisions of the Code of Conduct. Specific procedures should also be developed for complaints directed against the speaker.

### Council budget

The budget of the municipal council is the overall responsibility of the speaker. The budget includes council functions, travel allowances for members, etc.

## THE SPEAKER AND THE PUBLIC

Local government must ensure community participation in legislative initiatives. Hence, the speaker has an important role to play with regard to the interaction between the council and the public.

### Ward committees

Community participation through ward committees is important for the democratic functioning of the council. The speaker should be responsible for over-seeing the establishment and effective functioning of ward committees.

### Public consultation on by-laws

The speaker should monitor whether the constitutional obligation of public participation and consultation with regard to proposed by-laws has been complied with. The speaker should be able to communicate with the public on the performance of the council.

## THE OFFICE OF THE SPEAKER

For the speaker to effectively execute his or her duties, the office should be adequately equipped. It should be allocated a budget for functions, etc. The municipality's legal services should also be available to the speaker. A public relations officer may be located in the office of the speaker.

### Ceremonial role

The mayor performs the primary ceremonial role as first citizen of the municipality. If necessary, a council may delegate some ceremonial functions to the speaker.

### Intergovernmental relations

While the primary responsibility for intergovernmental relations lies with the mayor, a role for speakers in this regard should be investigated. A component could be the structured interaction between speakers of district, provincial and governments.

### Deputy speaker

In view of the speaker's many and varied tasks, the possibility of appointing a deputy speaker should be considered. This may entail an amendment to the Structures Act as section 41 only provides for an acting speaker appointed by the council.

Report compiled by:  
Nico Steytler and  
Johann Mettler  
Local Government Project  
Community Law Centre, UWC