
STRATEGIC FRAMEWORK FOR WATER SERVICES

Water is life, sanitation is dignity

September 2003

Preface

This Strategic Framework, approved by Cabinet on 17 September 2003, sets out a comprehensive approach with respect to the provision of water services in South Africa, ranging from small community water supply and sanitation schemes in remote rural areas to large regional schemes supplying water and wastewater services to people and industries in our largest urban areas. It outlines the changes of approach needed to achieve our policy goals as a result of the progress we have made in establishing democratic local government and developments in the sector since 1994.

Consultation. This Strategic Framework has been developed through a consultative process. Meetings and workshops were held around the country with a wide range of stakeholders. Feedback received at these meetings and all written comments received from stakeholders and the public have been taken into consideration. I would like to thank everybody who has participated in the development of this Strategic Framework, and in particular the collaborative efforts of the Department of Provincial and Local Government (DPLG), the South African Local Government Association (SALGA) and the South Africa Association of Water Utilities (SAAWU). This is a water services sector Strategic Framework, owned by all who play a role in the sector.

The water ladder. National government is committed to eliminating the backlog in basic water services and to progressively improving levels of service over time in line with the original aims of the Reconstruction and Development Programme in 1994. The first step up the water ladder is the provision of at least a basic water and sanitation service to all people living in South Africa. This is the most important policy priority and government will commit adequate funds to make this possible within the next few years. The next step is an intermediate level of service such as a tap in the yard. Water services authorities are expected to assist communities to achieve intermediate and higher levels of service wherever practical, affordable and sustainable without compromising the national policy priority of universal access to at least a basic level of service. National government will increase its commitment of grant funds over time to support households to step up the services ladder. Basic levels of service will also be reviewed in future to consider increasing the basic level from 25 to 50 litres per person.

Sustainability. Access to a tap and toilet is of no use if the water stops flowing or the toilet no longer works. Sustainability requires that services are affordable. For this reason, we have introduced a groundbreaking policy of free basic water and sanitation services. This means that everybody in South Africa has the right to a basic amount of water and a basic sanitation service that is affordable. With this right comes a responsibility – not to abuse the right to free basic services and to pay for services where these are provided over and above a basic service.

Health education. Providing physical infrastructure is not enough to ensure the health of our people. Emphasis will be placed on gender-sensitive health and hygiene education so that the provision of water and sanitation services will be accompanied by improvements in health and significant reductions in water-related diseases such as cholera and diarrhoea. This is particularly important in the context of vulnerabilities arising from HIV/Aids.

Economic development and sustainable livelihoods. Water and sanitation programmes will be designed to support sustainable livelihoods and local economic development. The provision of water supply and sanitation services has significant potential to alleviate poverty through the creation of jobs, use of local resources, improvement of nutrition and health, development of skills, and provision of a long-term livelihood for many households.

Institutional reform, water boards and the private sector. The capacity to provide services effectively and efficiently is a critical constraint in many areas in South Africa. Government will play a leading role in promoting institutional reform to ensure that capacity is used optimally and that efficient and sustainable water services providers are established. This process of institutional reform will promote the regional integration of water services where appropriate. Water boards will be transformed as part of this process. The role of the private sector in the provision of water services is welcomed, provided that consumer

Targets. The targets we have set for ourselves are aspirational. The targets for access to water supply and sanitation services exceed those set out in the Millennium Development Goals. To meet them will require a concerted and collaborative effort on the part of all role-players. Together we can do it.

Water is life, sanitation is dignity.

Ronnie Kasrils, MP
Minister of Water Affairs and Forestry
September 2003

The water services sector in South Africa – an overview of the current situation

Water services refer to water supply and sanitation services and include regional water schemes, local water schemes, on-site sanitation and the collection and treatment of wastewater. In 2001 there were 44.8 million people living in South Africa, all of whom used domestic water services of some kind, but 5 million (11%) had no access to safe water supply and a further 6.5 million (15%) did not have to defined basic service levels. 18.1 million people (41%) did not have adequate sanitation services (2001 Census). Water and wastewater services are essential for health and life. They are also essential for businesses and industries. Efficient provision of these services can help to eradicate poverty and promote economic development.

Organisations currently involved in water services include the following:

- The **Department of Water Affairs and Forestry (DWAF)** is responsible for sector policy, support and regulation. DWAF currently operates water resource infrastructure (such as dams), some bulk water supply schemes and some retail infrastructure (providing services directly to consumers). DWAF water services assets are currently in the process of being transferred to water services authorities. The **Department of Provincial and Local Government** regulates and oversees the activities of local government. Other **national government** departments and **provincial governments** also play an important role in supporting the water services sector.
- **Water services authorities** (metropolitan municipalities, some district municipalities and authorised local municipalities) are responsible for ensuring provision of water services within their area of jurisdiction.
- **Municipalities** operate some local water resource infrastructure (such as dams and boreholes) and bulk water supply schemes, supply water and sanitation to consumers (households, businesses and industries) and operate wastewater collection and treatment systems.
- **Water boards** operate some water resource infrastructure, bulk potable water supply schemes (selling to municipalities and industries), some retail water infrastructure and some wastewater systems.
- **Community-based organisations** manage some small water schemes in rural areas.
- **Publicly or privately owned companies** provide some water services. For example, Johannesburg Water is a public water utility wholly owned by the City of Johannesburg Metropolitan Municipality. The direct involvement of privately owned companies in the operation of water services in South Africa has been limited (only five) to date. Section 21 companies provide water services (for example, the Midvaal Water Company). Two Long-term concessions have been contracted with private companies, being the Dolphin Coast and Nelspruit concessions.
- There are many other role-players involved in the water services sector. These include any organisation providing water services, all **consumers** and **households** using water services, all **employees** in these organisations and their related representative structures, **education and training institutions**, **professional bodies**, **contractors**, **non-government organisations**, the manufacturing industry, **business** and other organisations involved in supporting activities such as research and development.

An estimate of the overall size of the water services sector in South Africa is given below. Of the total water use in the urban, industrial and domestic sectors, 72% is urban, 12% is rural and 16% is mining and bulk industrial.

Overview of the water services sector in South Africa ^a

	DWAF	Water boards	Municipalities	Total
Assets (R billion) ^b	40	12	50	102
Investment (R billion pa) ^c	1,2	1,0	2,8	5,0
Turnover (R billion pa) ^d	1,7	3,5	6,8	12,0
Staff numbers ^e	8 000	8 000	40 000	56 000
Volume (million kl pa) ^f				4 600

Notes: a) All data are coarse estimates only. b) Book value; data generally are neither consistent nor reliable.

c) Estimates of capital investment; comprehensive reliable data are not kept. d) Water sales only.

e) Estimates of water-services related staff only. f) Urban, rural, mining and bulk industrial water use.

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1. Introduction

1.1 Key challenges

We live in a world of *inequality* where abundance lives side-by-side with deprivation. We know that the world has enough resources for everybody to be adequately fed and clothed, and to have access to the basic services necessary for healthy living – safe water and sanitation. Yet more than one billion people do not have adequate access to potable water supply services and nearly 2.5 billion people are without adequate access to basic sanitation services. In Africa, more than 38% of the population does not have access to a safe water supply and 40% does not have access to adequate sanitation services.

At the dawn of democracy in South Africa there were an estimated 12 million people or more without adequate water supply services¹ and nearly 21 million people without adequate sanitation services.² However, our inequalities have specific historical roots and our ability to deal with the services backlog is greater than most developing countries. South Africa has made great strides in reducing this gross inequality. It is estimated that more than 9 million people have been provided with basic water supplies during the last nine years. This is an impressive achievement. Nevertheless, inequality in access to basic services is still a stark reality and progress with sanitation has been much slower. Great challenges remain.

The recent cholera outbreak in KwaZulu-Natal and other parts of the country was a wake-up call for us in terms of accelerating the provision of water, sanitation and hygiene awareness. It brought to our attention the unavoidable fact that we had not done enough in terms of delivering sanitation and promoting simple but critical health and hygiene. (Minister Kasrils, Budget Speech, 10 May 2002)

Lack of access to water supply and sanitation constrains opportunities to escape *poverty* and exacerbates the problems of vulnerable groups, especially those affected by HIV/Aids and other diseases. It is therefore appropriate that a key focus of South Africa's water services policy should be on ensuring access of the poor to adequate, affordable and sustainable levels of defined basic water supply and sanitation services (the first step up the ladder). Moreover, stepping up the services ladder by providing *higher levels of service* (for example, a yard tap providing more than 50 litres per person per day) will greatly enhance people's lives, provided these services are sustainable.

Services and the use of the water resource must be *sustainable* to ensure that we continue to make progress, and to ensure that future generations benefit from this progress. Whilst the emphasis during the past nine years was on delivery, it is now timely to place greater emphasis on sustainability of the resource (through conservation and demand management), and of the infrastructure and the institutions responsible for providing the services (by ensuring financial viability). Under-expenditure in maintenance and under-investment in rehabilitation is a significant challenge to overcome.

The provision of effective, efficient and sustainable water services to households, institutions, businesses and industries is necessary to support *economic development*. At the same time, water is scarce and it is important that water be used wisely and that due attention be paid to water conservation and demand management.

In order to promote greater effectiveness and efficiency, a process of *institutional reform* of water services provision will be initiated. This is necessary to specifically address water

¹ Terms that are specifically defined in the Strategic Framework are underlined when first used. A comprehensive set of definitions is given in Annexure 3.

² Water Supply and Sanitation Policy White Paper. Republic of South Africa. 1994.

services provision across water services authority boundaries and the integration of bulk and retail water services provision where appropriate so as to improve the coherence of the sector and to realise economies of scale.

What is meant by water services?

The term water services means water supply services and/or sanitation services or any part thereof. In this Strategic Framework the term is generally used in its inclusive sense.

Water services are provided to domestic consumers, institutions, businesses and industries. The Strategic Framework places an appropriate focus on the imperative of ensuring universal access by households to at least a basic water supply and sanitation service. However, the provision of effective and efficient water services to meet the economic demand of all consumers (domestic and non-domestic) is equally important and is also addressed in this Strategic Framework.

1.2 Why a Strategic Framework for Water Services?

It is now more than eight years since the Water Supply and Sanitation Policy White Paper was published in November 1994 (referred to hereafter as the 1994 White Paper). Much has been achieved and the 1994 White Paper played a key part in creating an enabling policy framework. The 1994 White Paper was focused on the establishment of a new national water services function and on the role of national government in assuming a direct delivery function to provide basic water and sanitation services rapidly to people living primarily in rural areas. Since 1994 the context has changed significantly. This Strategic Framework provides a comprehensive summary of policy with respect to the water services sector in South Africa and provides a strategic framework for its implementation over the next ten years.

Local government transformation. The local government elections in 2000 represented the final phase in the local government transformation process that commenced in 1993. It is now possible for local government to assume full responsibility for ensuring water and sanitation services as provided for in the Constitution of the Republic of South Africa (Act 108 of 1996). This means that the role of the Department of Water Affairs and Forestry (DWA) will change from being a direct provider to being a sector leader, supporter and regulator. The 2002 Division of Revenue Act created the impetus for phasing out DWA's role in the direct operation of water services. A suite of legislation setting out the roles and responsibilities of local government has been promulgated (see Annexure 1).

We are now entering another important phase in the long process of building local democracy. We have established our new municipalities. Now we have to make sure they do their job of providing services to our people, efficiently, effectively, and affordably. They must do this in a way which allows our people to participate in building a better life for all. (Minister Kasrils, 9 May 2002)

New water policies. The Water Services Act 108 of 1997 made important policy advances specifically with respect to the institutional framework. The free basic water policy represents a further policy development within the broad municipal and intergovernmental policy framework. Water resources policies were fundamentally overhauled in the White Paper on a National Water Policy for South Africa (April 1997) and the National Water Act 36 of 1998. A White Paper on Basic Household Sanitation was published in 2001.

New financial framework. During the past nine years DWA has been an important funding channel for water services. In future, government funding for water services will increasingly shift to consolidated grant mechanisms directed to local government.

Key changes compared to the 1994 White Paper

1. This Strategic Framework is a comprehensive framework paper for the water services sector.
2. DWAF will become a sector leader, supporter and regulator (rather than an operator).
3. Water services authorities are responsible for the delivery of water services.
4. An approach to the institutional reform of water services provision is set out.
5. The financial policy framework reflects the consolidation of national government funding to local government through the equitable share, the municipal infrastructure grant and the capacity building grant.
6. More emphasis is placed on sustainability, financial viability and efficiency.
7. The vision of the water ladder is defined to ensure commitment of the sector to enable all people to progressively move up the ladder to higher levels of service.

1.3 Purpose and scope

This Strategic Framework, approved by cabinet, sets out the national framework for the water services sector (water supply and sanitation). The strategic framework will inform the development of detailed strategies to give effect to the framework. The purpose of the Strategic Framework is to put forward a vision for the water services sector in South Africa *for the next ten years*, and to set out the framework that will enable the sector vision to be achieved.

This Strategic Framework is the *umbrella framework* for the water services sector. It addresses the full spectrum of water supply and sanitation services and all relevant institutions. The White Paper on Basic Household Sanitation (2001), which focuses specifically on basic sanitation services, will be amended where necessary to ensure full compatibility with this Strategic Framework. This Strategic Framework replaces the 1994 White Paper.

An outline of the steps necessary to implement the policies in this Strategic Framework is given in section 9.

1.4 Aligning policies, legislation and strategies

Policies establish the vision, overall goals and approach, *legislation* creates the enabling environment and *strategies* set out the detail of how the policies will be implemented in order to achieve the vision and goals. It is important that there be alignment between policies, legislation and strategies within the water services sector as well as alignment between these and the policies, legislation and strategies of other sectors related to the water sector (for example, water resources, finance, local government, housing and health, as shown below).

	water services	other sectors
policies	<div> Strategic Framework for Water Services <ul style="list-style-type: none"> • free basic water and sanitation • basic household sanitation • transfer • other policies </div>	<ul style="list-style-type: none"> • local government • finance • water resources • health • housing • other policies
legislation	Water Services Act	<ul style="list-style-type: none"> • Constitution • local government legislation • financial legislation • water resources legislation • health legislation • other legislation
strategies	<ul style="list-style-type: none"> • national water services strategy • national institutional reform strategy • national sanitation strategy • regulation strategy • free basic services strategy • transfer strategy • other strategies 	<ul style="list-style-type: none"> • national water resources strategy (including demand management and conservation) • local government capacity building • sector education and training authority strategies • other strategies

2. Sector vision, goals and targets

Sector vision: Water is life, sanitation is dignity

All people living in South Africa have access to adequate, safe, appropriate and affordable water and sanitation services, use water wisely and practise safe sanitation.

Water supply and sanitation services are provided by effective, efficient and sustainable institutions that are accountable and responsive to those whom they serve. Water services institutions reflect the cultural, gender and racial diversity in South Africa.

Water is used effectively, efficiently and sustainably in order to reduce poverty, improve human health and promote economic development. Water and wastewater are managed in an environmentally responsible and sustainable manner.

Sector goals

The following goals are set for the water services sector:

1. All people living in South Africa have access to an appropriate, acceptable, safe and affordable basic water supply and sanitation service.
2. All people living in South Africa are educated in healthy living practices (specifically with respect to the use of water and sanitation services) and the wise use of water.
3. Water and sanitation services are provided:
 - equitably (adequate services are provided fairly to all people);
 - affordably (no one is excluded from access to basic services because of their cost);
 - effectively (the job is done well);
 - efficiently (resources are not wasted);
 - sustainably (services are financially, environmentally, institutionally and socially sustainable); and
 - gender sensitively (taking into account the different needs and responsibilities of women and men with regard to water services and sanitation).
4. All water services authorities are accountable to their citizens, have adequate capacity to make wise choices (related to water services providers) and are able to regulate water services provision effectively.
5. All water services providers are accountable, cost-effective, efficient, and viable, and implement appropriate employment and gender equity policies.
6. The prices of water and sanitation services reflect the fact that they are both social and economic goods (that is, pricing promotes access to a basic safe service, encourages the wise and sustainable use of resources and ensures financial sustainability).
7. Water and sanitation services are effectively regulated with a view to ensuring the ongoing achievement of these goals.

TARGET		MEANS OF VERIFICATION	RESPONSIBILITY (to achieve target)
Access to services			
1	All people in South Africa have access to a functioning basic water supply facility by 2008.	Census; sample surveys undertaken by DWAF.	Water services authorities supported by DWAF.
2	All people in South Africa have access to a functioning basic sanitation facility by 2010.	Census; sample surveys undertaken by DWAF.	Water services authorities supported by the DWAF and the National Sanitation Task Team.
3	All schools have adequate and safe water supply and sanitation services by 2005.	Reporting by education departments. Results of random sample survey of schools, undertaken annually by DWAF.	Provincial Education Departments supported by National Department of Education and Department of Public Works.
4	All clinics have adequate and safe water supply and sanitation services by 2007.	Reporting by health departments. Results of random sample survey of clinics, undertaken annually by DWAF.	Provincial departments of health supported by National Department of Health and Department of Public Works.
5	All bucket toilets are eradicated by 2006.	Census.	Water services authorities supported by DWAF.
6	Investment in water services infrastructure in the sector totals least 0.75% of GDP.	Intergovernmental fiscal review.	National Treasury.
Education and health			
7	Hygiene education and the wise use of water are taught in all schools by 2005.	Curriculum includes hygiene education and wise use of water.	National Department of Education.
8	70% of households with access to at least a basic sanitation facility know how to practise safe sanitation by 2005 (and 100% by 2010).	Random household sample surveys undertaken by DWAF every three years, starting in 2004.	Water services authorities, supported by DWAF.
Free basic services			
9	Free basic water policy implemented in all water services authorities by 2005.	Annual reporting by water services authorities; random audits by DWAF.	Water services authorities.
10	Free basic sanitation policy implemented in all water services authorities by 2010.	Annual reporting by water services authorities; random audits by DWAF.	Water services authorities.

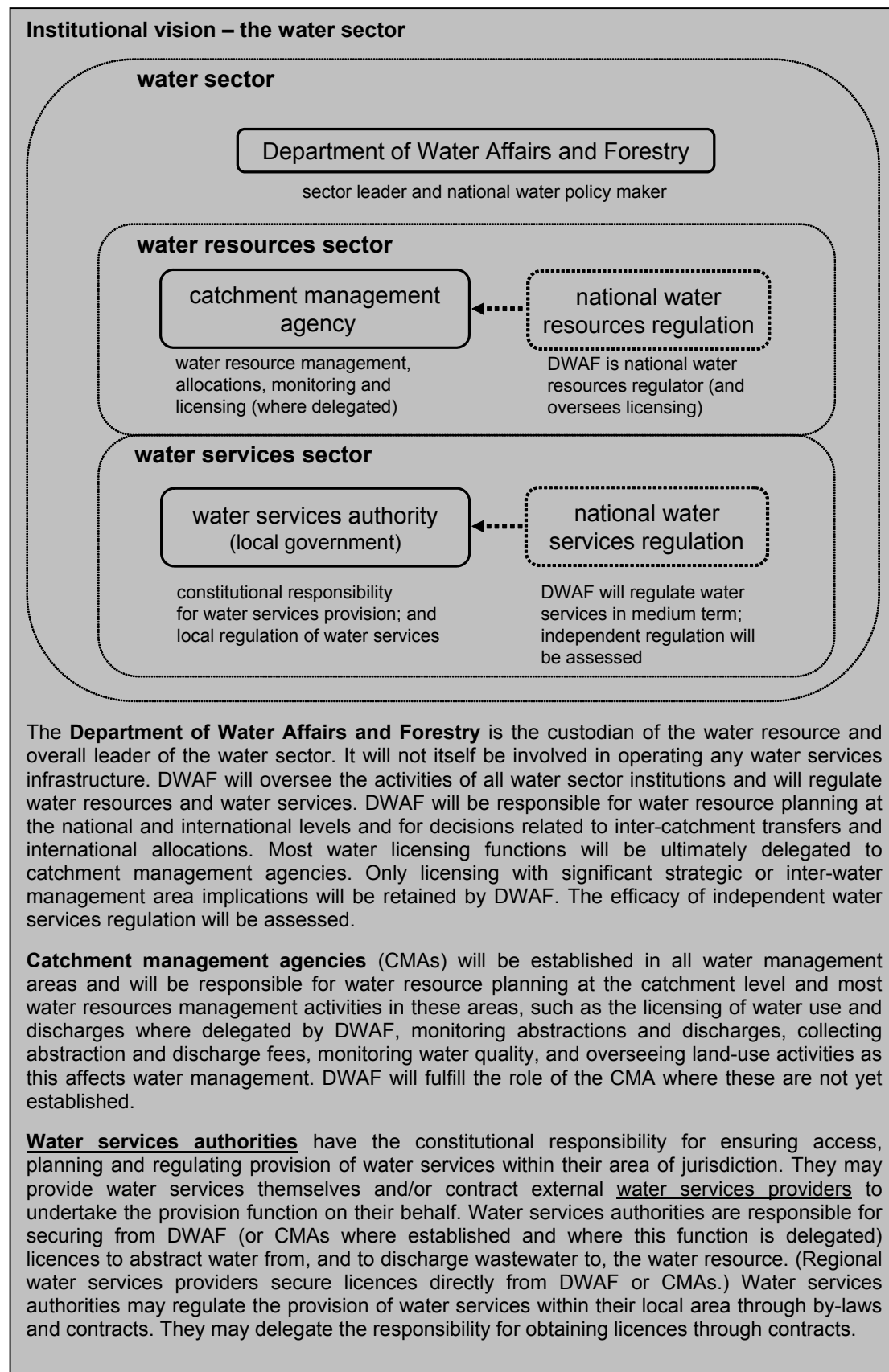
TARGET		MEANS OF VERIFICATION	RESPONSIBILITY (to achieve target)
Institutional development and performance			
11	A national institutional reform strategy is developed by June 2004.	Cabinet memorandum submitted and accepted.	DWAF (together with SALGA and SAAWU ³).
12	The institutional reform of regional water services providers is completed by 2013.	Regional water services providers are established where appropriate.	DWAF (together with SALGA and SAAWU).
13	All assets of water services schemes are transferred from DWAF to water services authorities by 2008.	DWAF asset register.	DWAF.
14	By-laws are promulgated in every water services authority area by 2005.	Register of by-laws (held by DWAF).	Water services authorities.
15	All water services authorities report annually on progress against their water services development plans by 2005.	Progress reports submitted to DWAF. Register of progress reports (held by DWAF).	Water services authorities.
16	All external water services providers are rendering services in terms of a contract with the applicable water services authority by 2005.	Contracts are lodged with DWAF.	Water services authorities.
17	All water services providers are rendering services in terms of a business plan by 2005.	Business plans lodged with water services authorities. Random audits by DWAF.	Water services authorities.
18	All water services authorities have adopted a set of key performance indicators that include those set out in Annexure 2 by 2005 and report on these annually.	Reports lodged with DWAF.	Water services authorities.
19	DWAF reports on sector development and progress annually.	Annual report by DWAF.	DWAF.

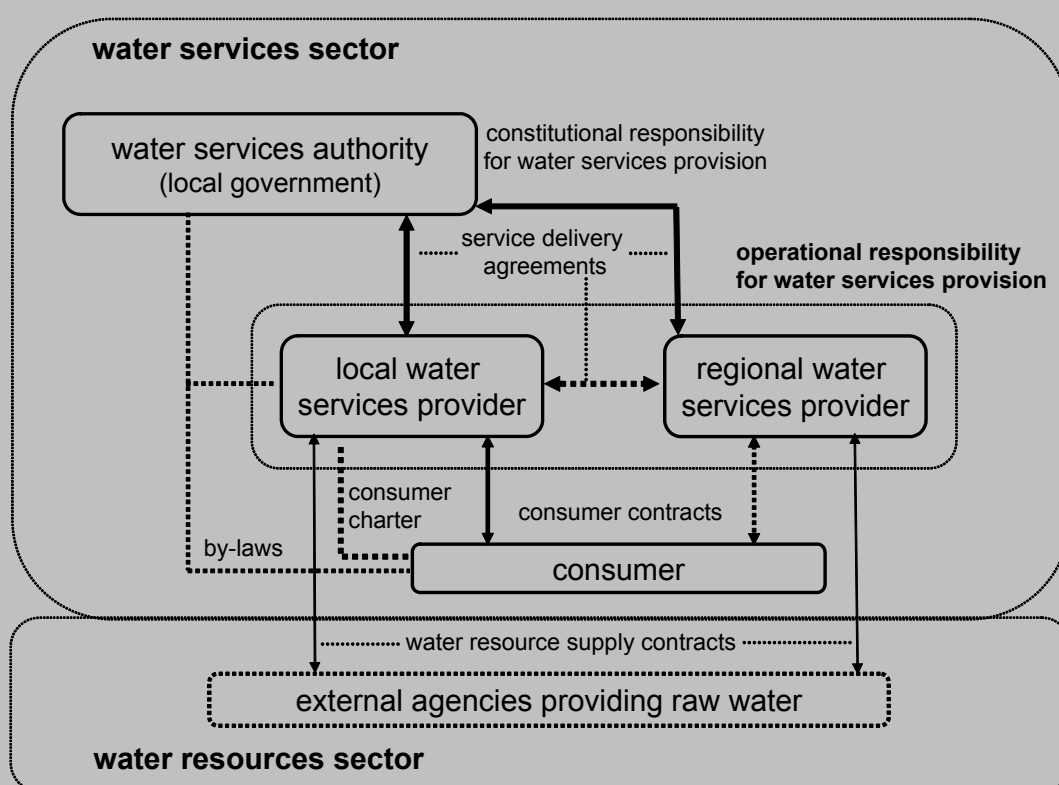
These targets exceed those set out in the Millennium Development Goals. The achievement of these targets will require a concerted and collaborative effort on the part of all role-players.

³ South African Association of Water Utilities.

3. The institutional framework

3.1 Vision and key principles



Institutional vision – water services provision

Responsibility. Water services providers are the organisations that assume *operational* responsibility for providing water and/or sanitation services. (Where water services authorities undertake any of these services themselves, they are a water services provider.)

Contract with water services authorities. All water services providers who provide water services to or on behalf of water services authorities must do so in terms of a service delivery agreement (contract) with the water services authority.

Contracts for bulk services. Where water services providers purchase water from, sell water to, or accept wastewater from, another institution, this must be done in terms of a contract.

Water resource supply contracts. Where water services providers purchase raw water, this must be done in terms of a contract.

Local water services providers are water services providers who provide water services to (or on behalf of) *only one* water services authority. Local water services providers could provide bulk and/or retail water services.

Regional water services providers are water services providers who operate regional infrastructure (crossing water services authority boundaries) *and* provide water services to (or on behalf of) *more than one* water services authority.

Consumer charter. Where water services providers provide retail services to consumers, they must do so in terms of a consumer charter and consumer contracts.

Key principles informing the institutional vision

1. **Clear definition of roles and responsibilities.** The respective roles and responsibilities of the different independent spheres of government and other water services institutions are clearly defined. The imperative of co-operative government is nonetheless recognised. Overlapping mandates are minimised.
2. **Separation of regulatory and operational responsibilities.** There is a clear separation of the activities of regulation and operation. This reduces the potential for conflicts of interest inherent in self-regulation and will help to improve the clarity of objectives and responsibilities. Regulation will seek to protect the interests of consumers and balance these with the need for sustainable institutions.
3. **Local government is responsible for ensuring water services provision.** Provision of water services is the constitutional responsibility of local government. Developmental and democratic local government is in the best position to make accountable decisions related to how services should be provided, taking into account the social and environmental aspects of water services.
4. **Flexibility.** A key characteristic of the institutional vision is that the precise institutional form of water services provision is not specified but rather is flexible with respect to both the scale of provision and the type of service provider. With respect to the *scale* of the provision of services, a water services provider could serve one small rural community, one or more towns, a large metropolitan area or a whole region. With respect to the *type* of water services provider, a water services provider could be a municipality, a public utility (owned by local and/or national government), a community-based organisation or a private organisation. (This is not a comprehensive list.) This flexibility recognises the diverse realities of the water services sector in South Africa which includes large metropolitan areas, major and minor towns scattered across South Africa, dense and sparsely populated rural settlements, small distributed systems of supply using springs and boreholes serving a few people, surface water systems supplying a few towns, and large regional schemes serving many towns and cities.
5. **The private sector has a role to play** in assisting local government and other water services institutions in the water services sector.
6. **Management at the appropriate level.** The institutional vision provides for management, decision making and control of water services projects to be devolved to the lowest appropriate level whilst taking into account efficiency benefits related to economies of scale.
7. **Building on existing capacity.** The skills and resources within established and capable water services institutions will be protected and enhanced, recognising the potential impact of HIV/Aids on human resources.
8. **Transformation.** Through the institutional reform process, assisted by the support framework, water services institutions will be transformed in order to ensure effective, efficient and sustainable services provision, and taking cognisance of the need to reflect the cultural, gender and racial diversity in South Africa.
9. **Gender mainstreaming.** Women often bear the brunt of absent or poor water services and hence are key stakeholders in the sector. The needs and responsibilities of women and men in relation to water services and sanitation are often different. There will be a targeted effort to enable women to play a meaningful role at all levels in consultations, planning, decision making and in the operation and management of water services.
10. **Civil society** has an important role to play in, amongst others, planning, monitoring and advocacy.

3.2 Key policies to achieve the vision

There are four sets of policies that are critical to the successful realisation of the institutional vision.

Clarifying mandates. Policies related to the roles and responsibilities of water services authorities and water services providers form the foundation of the institutional framework.

Institutional reform. A national policy on the process of institutional reform of water services provision is necessary to specifically address water services provision across water services authority boundaries and the integration of bulk and retail water services provision where appropriate so as to improve the coherence of the sector and to realise economies of scale.

Choosing water services providers. The specific policies related to the process of choosing water services providers by water services authorities will to a large extent determine the outcomes of institutional reform. These policies form a subset of the policy on institutional reform.

Transfer policy. Specific and detailed policies are necessary to govern the transfers of water services infrastructure from DWAF to water services authorities.

Each is discussed in turn.

3.3 Clarifying mandates

3.3.1 Water services authorities

Definition. A water services authority is any municipality that has the executive authority to provide water services within its area of jurisdiction in terms of the Municipal Structures Act 118 of 1998 or the ministerial authorisations made in terms of this Act. There can only be one water services authority in any specific area and water services authority area boundaries cannot overlap. Water services authorities are metropolitan municipalities, district municipalities⁴ and authorised local municipalities.

Responsibilities. The primary responsibility for ensuring the provision of water services rests with water services authorities. More specifically, water services authorities have the following roles and responsibilities:

- **Ensuring access.** They must ensure the realisation of the right to access to water services, particularly basic water services (the first step up the ladder) subject to available resources by seeing that appropriate investments in water services infrastructure are made.
- **Planning.** They must prepare water services development plans to ensure effective, efficient, affordable, economical and sustainable access to water services which promote sustainable livelihoods and economic development (stepping up the ladder).
- **Regulation.** They must regulate water services provision and water services providers within their area of jurisdictions and within the policy and regulatory frameworks set by DWAF through the enactment of by-laws and the regulation of contracts.
- **Provision.** They must ensure the provision of effective, efficient and sustainable water services (including water conservation and demand management) either by

⁴ District municipalities are water services authorities unless all of the local municipalities within its area have been authorised to be water services authorities. District municipalities retain the water services authority function, however, for district management areas which fall under their jurisdiction.

providing water services themselves or by selecting, procuring and contracting with external water services providers. The provision of water services also includes communication activities related to, amongst other things, gender-sensitive hygiene promotion and the wise use of water.

Universal service obligation. Water services authorities have a responsibility to ensure that *all people* living within their jurisdiction are progressively provided with at least basic water services (the first step up the ladder). This includes people living on private land (for example, farm dwellers) and others who are provided services by intermediaries. (See section 3.5.2.) Wherever practical and sustainable, water services authorities are expected to plan for and provide higher levels of service (stepping up the ladder).

Services to industry. Water services authorities have a right but not an obligation to provide industrial water to or to accept industrial wastewater from industries within their area of jurisdiction.

Regional schemes. Where water supply systems cross water services authority boundaries, water services authorities must co-operate with one another and with regional water services providers (where these exist). The most appropriate arrangements to manage the cross-boundary infrastructure will be established through the institutional reform process set out in section 3.4.

Duty to provide information. Water services authorities have a duty to provide information concerning the provision of water services as reasonably requested by the Minister, DWAF, the national water services regulator, the relevant province and consumers.

Providing more than just basic services (climbing the ladder)

Water services authorities do not, and should not, only provide water services necessary for basic health and hygiene. It is important that municipalities undertake gender-sensitive health communication, facilitate the provision of higher levels of services for domestic users where viable and provide services which support sustainable livelihoods and economic development.

3.3.2 Water services providers

Definition. A water services provider is defined as:

- any person who has a contract with a water services authority or another water services provider to sell water to, and/or accept wastewater for the purposes of treatment from, that authority or provider (bulk water services provider); and/or
- any person who has a contract with a water services authority to assume operational responsibility for providing water services to one or more consumers (end users) within a specific geographic area (retail water services provider); or
- a water services authority which provides either or both of the above services itself.

The definition of water services providers – an explanation

This definition has been changed (from that currently provided in the Water Services Act) to provide greater clarity. It is important to note the following with respect to the definition of a *retail* water services provider:

Responsibility. The defining characteristic of a retail water services provider is that the water services provider has *operational responsibility* for the physical provision of the water and/or sanitation services to one or more end consumers.

Single consumer interface. The end consumer or “end user” of the services should have, at any one time, no more than two water services providers – a retail *water supply* services provider and a retail *sanitation* services provider, or preferably a retail water services provider which provides both water supply and sanitation services. Every consumer should always know who their retail *sanitation* services provider is and who their retail *water supply* services provider is.

Single contractual interface. Equally important and for the sake of practical accountability, a municipality should only have a contract with one retail water services provider to be responsible for water and/or sanitation services in a specific geographical area within the water services authority area.

Single chain of contracts. There should be a single chain of contracts that ensures the effective delivery of water from the resource to the consumer and the effective return of wastewater and human waste from the consumer to the resource.

Contract area defined. A retail water services provider’s responsibility to provide services should be geographically defined and there should not be an overlap in contract areas between two retail water services providers providing retail water supply services and between two retail water services providers providing retail sanitation services.

Allocation of responsibilities and risks. Where appropriate, it is desirable that water services providers assume primary responsibility for the consumer interface and assume the operational and financial risk related to the provision of the services and the collection of fees. Where a community-based organisation is acting as water services provider it might be necessary for the water services authority to assume at least part of the financial risk related to the provision of services.

Duty to provide water services. The main duty of water services providers is to provide water services in accordance with the Constitution, the Water Services Act and the by-laws of the water services authority, and in terms of any specific conditions set by the water services authority in a contract.

Effectiveness and efficiency. Water services providers must provide water services in an effective and efficient manner, striving to meet and exceed recognised best-practice benchmarks.

Consumer charter. All water services providers must publish a consumer charter which is consistent with by-laws and other regulations, is approved by the water services authority, and includes the duties and responsibilities of both the water services provider and the consumer, including the conditions of the supply of water services and payment.

Consumer relations. Water services providers must communicate the contents of the consumer charter with all consumers to whom they provide services. All water services providers must make themselves accessible to consumers and provide the necessary facilities to receive consumer payments, queries, complaints and suggestions for improvements.

Consumer friendly billing. Water services providers must present consumers with accounts which are clear and easy to understand. Wherever practical the account should be presented in the consumer’s home language.

Business plan. A water services provider must develop a business plan. (See section 5.2.2.)

Duty to provide information. Water services providers have a duty to provide information concerning the provision of water services as reasonably requested by the Minister, DWAF, the national water services regulator, the relevant province and consumers.

3.4 Institutional reform of water services provision

3.4.1 Context and motivation

The authorisation of local municipalities who are water services authorities has been finalised and is effective from 1 July 2003. It is the responsibility of water services authorities to make suitable arrangements for water services provision within their areas of jurisdiction. At the same time, water services infrastructure is in the process of being transferred from national government to water services authorities. Water boards are state-owned regional water services providers who provide both bulk services to more than one water services authority area (regulated directly by DWAF) and retail services on behalf of water services authorities (regulated by contract with the water services authority). Within this context, it is necessary and desirable to review the institutional arrangements for water services provision for the whole sector (that is, both the regional and local provision of water services).

The following factors provide further motivation for the reform of water services provision in South Africa:

Financial viability. Some water services providers, as presently constituted, are not financially viable.

Under-investment. Poor revenue collection, rising input costs and downward pressure on retail water tariffs are placing many water services providers under financial pressure and are resulting in inadequate spending on maintenance and under-investment in rehabilitation. This will result in the deterioration of assets over time and a breakdown in service provision.

Revenue management. Late payment and poor rates of payment are critical issues for many water services providers in South Africa. The physical functions of service provision are separated from revenue management in the case of most municipal water services providers. This often hinders effective consumer and revenue management.

Financing. Considerable ongoing investment is required to expand and sustain water services infrastructure in South Africa. This investment is of both a social nature (to meet basic needs) and an economic nature (to meet economic demands). It is important that the water services sector has the ability to attract financing in the form of loans, bonds or equity particularly for investments necessary to meet economic demand. The development of financially strong water services providers will greatly assist in this.

Lack of capacity. The capacity required for effective water services provision is in short supply in many parts of the country, and particularly in rural areas. It is important, therefore, to make the best use of existing capacity, particularly in the light of potential losses in human resource capacity through HIV/Aids.

Inefficiencies and economies of scale. The current institutional framework for water services provision is highly fragmented, with a substantial number of water services institutions acting as water services providers. These include district and local municipalities, water boards, municipal entities, national government, water user associations, community-based organisations and private companies. This fragmentation may result in the loss of economies of scale, duplication of administration and technical functions, inability to attract and retain good management and technical staff, and inability to invest in the development and training of specialist skills.

3.4.2 Reform objectives

The key objectives of reform are to:

- **ensure the provision** of an appropriate level of water and sanitation services which are sustainable to all households in South Africa and to implement the free basic water and sanitation policies effectively and efficiently;
- improve the **performance** of water services providers;
- improve the **financial viability and sustainability** of the water services sector by significantly enhancing revenue collection (from those who use in excess of a basic service) and improving consumer management;
- improve the **accountability** of water services providers to water services authorities and to consumers;
- use existing **capacity**, skills and resources in the water services sector in an integrated and optimal way and to attract, develop and retain the necessary professional and technical skills, and improve employment and gender equity;
- improve the **efficiency of water use** so as to ensure the wise use of South Africa's scarce water resources through appropriate demand management and conservation initiatives; and
- improve the **regulation** of water services providers to ensure technical and environmental standards are met, services are provided efficiently and services are appropriately priced.

3.4.3 Reform principles and approach

The key principles that will inform the reform process and that apply to all water services providers are as follows:

- The primary responsibility for ensuring the provision of water services rests with water services authorities.
- All water services providers are ultimately **accountable** to the water services authority (or authorities) to whom (or on behalf of whom) they render a service.
- Regionalisation (where it occurs) will be driven by a **bottom-up process** where local institutions lead the initiative to regionalise.
- National government will exert a **leadership** role in the reform process to protect the public interest by ensuring that parochial interests do not lead to adverse outcomes.
- Reform will be **incremental** and done on a case-by-case basis. (There will be no "one size fits all" national institutional model.)
- The institutional reform of water services provision will be informed by existing institutional capacity and resources and must be underpinned by a **sound business case**.
- Where **regionalisation** will clearly yield advantages (for example, through economies of scale, retention and development of skills and capacity to raise finance), then this will be pursued. However, the accountability of regional entities to water services authorities must also be addressed.
- Wherever practical and appropriate, **existing institutions will be transformed** and rationalised in preference to new institutions being established.

3.4.4 Choosing water services providers

Protecting consumer interests must be the key consideration when water services authorities consider how water and sanitation services should be provided. This means that, irrespective of whether water services are provided by the water services authority itself or an external water services provider, a water services authority must ensure that water services are provided effectively, efficiently and sustainably and that at least basic water services are provided universally (the first step) and higher levels of service are provided progressively (stepping up the services ladder). Water services authorities have the constitutional responsibility to ensure that all poor people have access to at least a basic water supply and sanitation service which is affordable.

Where a water services authority appoints a public or private **external water services provider**, the water services authority must comply with all relevant legislation (including the Municipal Systems Act, the Water Services Act and the Municipal Financial Management Act). In particular, a water services authority must:

- follow due process (that is, the procedure followed must be administratively fair and transparent);⁵
- make a sound business case for the benefits to be achieved;
- show how the risks and rewards are allocated, and how risks will be managed;
- ensure that consumer interests are protected; and
- enter into a contract with the water services provider which meets legislated requirements and which is subject to national oversight (see section 7).

Public preference. The provision of water services by public institutions is preferred.

DWAF will provide **guidelines** to assist water services authorities in selecting appropriate institutional arrangements for the provision of water services.

3.4.5 A national institutional reform strategy

A national institutional reform strategy will be developed. This strategy will include a framework for co-operation and decision making, detailed guidelines and principles, the identification of key stakeholders, the allocation of roles and responsibilities, key priorities to be addressed, a detailed process plan and a budget. The strategy will address the rationalisation of water services providers, particularly where regional infrastructure is involved, and the strengthening of public sector institutions providing water services where appropriate. The strategy will also provide support to water services authorities in establishing appropriate water services provider arrangements within their areas of jurisdiction.

The reform strategy will be implemented in phases.

The primary activities of phase 1 will be to:

- get Cabinet agreement to the *national institutional reform strategy*;
- secure the necessary financial support to implement the strategy;
- set up a national restructuring task team to be drawn from, amongst others, DWAF, DPLG, National Treasury, SALGA and SAAWU; and
- improve the governance and regulation of water boards.

⁵ The extent and nature of what constitutes due process in any particular case is informed by the complexity, monetary value and duration of the contract.

Phase 2 will involve investigations into institutional reform on a case-by-case basis in terms of the priorities set out in the national institutional reform strategy and in response to local demands.

The implementation of institutional reform on a case-by-case basis will follow on from the Phase 2 investigations.

3.4.6 Transfer of DWAF-owned schemes

DWAF is in the process of transferring its water services works (and associated water services provision function). This transfer is taking place in terms of the Joint Transfer Policy which has been agreed to between DWAF, DPLG, National Treasury and SALGA (“Joint Policy Position: Transfer of Water Services”, January 2003). This was required to ensure that all affected parties agree on a national policy framework within which works can be transferred, and in terms of the following major principles (extracted from the policy):

- All transfers will take place by means of a legally binding agreement.
- The receiving municipality will be the water services authority in whose area of jurisdiction the water services works are situated.
- The water services authority may select a receiving water services provider to take transfer of the work, however that institution must be another municipality, municipal entity, a water board or an organ of state. In such cases the transfer agreement will be entered into between DWAF, the relevant water services authority and where necessary the receiving institution.
- Where there are cross-boundary water services works, the transfer will be negotiated with all affected water services authorities.
- The water services authority will appoint the water services provider which may be the receiving institution. The water services provider agreement will be negotiated with the receiving institution prior to the actual transfer of assets.
- Existing agreements will be recognised and taken into account in negotiations.
- Water services authorities without capacity will either develop water services provider capacity or appoint an appropriate water services provider to whom the water services works will be transferred. DWAF will provide support for this.
- There will be a time-limited operating subsidy (to cover operation of the services including staff costs) and a transfer subsidy (to cover once-off refurbishment and transfer costs).
- Refurbishment will be according to legislated norms and standards of the Water Services Act (but excluding upgrading the water services works to meet the basic water supply standard and the fitting of volume measuring or controlling devices as set out in the Section 9 regulations), the minimum standards of the Occupational Health and Safety Act and the minimum compulsory waste discharge standards of the National Water Act.
- Institutional capacity support will be negotiated within the transfer agreement.
- All transfers will be completed by 30 June 2005.
- There will be joint oversight by DWAF, DPLG, National Treasury and SALGA of the implementation of the transfer policy through the inter-departmental transfer committee (IDTC).

The transfer process will run concurrently with the institutional reform process.

3.4.7 Diversity of reform outcomes

It is likely that the institutional reform undertaken in terms of the above principles and objectives will result in the creation of a diverse range of institutional arrangements appropriate to the specific and diverse local and regional contexts within South Africa. Some *possible* arrangements are outlined below without any intention of being pre-emptive or prescriptive. The list is by no means exhaustive, and is indicative only. No expression of preference is intended in terms of the ordering (or any omissions) of the alternatives. Combinations of alternatives are also possible. The appropriate institutional arrangements will be defined on a case-by-case basis.

Municipal provision. Direct provision of water services by municipalities is likely to remain an important service mechanism in many areas of the country.

Community-based provision. Where water services are provided through smaller localised systems, it may be most appropriate for these services to be managed by the local community with support from the water services authority or water services agents. (See section 3.5.1.) DWAF will engage with other national government departments to secure the right of water services authorities to use community-based water services providers (as defined in this Strategic Framework) without undertaking competitive tendering.

Local municipal-owned utilities. In some cases it may be appropriate to create municipal-owned utilities (municipal entities). These could provide bulk and retail (or just retail) water and wastewater services to urban and/or rural communities within the water services authority area.

Water boards. The existing role and institutional structure of water boards may change during the broader process of the institutional reform of water services provision outlined above. It is not possible to be prescriptive at this point with respect to the specific changes that may take place, except to say that the governance and regulation of water boards will be strengthened in the short term. Some water boards could focus exclusively (or primarily) on bulk water supply to a region. Some bulk water services providers could be transformed into municipal-owned utilities (see above) and some could be transformed into integrated source to tap regional public utilities (see below).

Integrated source to tap regional public utilities. In some regions of the country it may be appropriate to transform existing providers into regional public utilities that would provide bulk and retail water and/or wastewater services to a number of water services authorities (“source to tap” public utilities). These regional utilities could be owned jointly by national and local government or exclusively by local government. These utilities could provide services to urban areas only or to both urban and rural areas.

Private sector involvement. The private sector can be involved in a wide range of ways, including but not limited to the following: acting as an external water services provider in terms of a contract (service delivery agreement) with a water services authority, investing in a public utility (provided ownership control vests with national government), and supporting other water services providers as water services agents. (See section 3.5.1.)

Private sector involvement, private operation and privatisation

While privatisation is an emotional and very much political issue in South Africa, the private sector has played and will continue to play an important role in water services. The challenges facing us are simply too big to be addressed by government alone. We will, however, not sell our public water services infrastructure to the private sector but this is no obstacle to the private sector getting involved in a whole range of activities. (Minister Kasrils, address to the African Investment Forum, April 2003)

The following definitions are used in this Strategic Framework and apply to the water sector:

- **Private sector involvement** includes support services (consulting services, outsourcing of various activities such as meter reading, cleaning, maintenance, etc.), contracting (construction, operations, management), the management of operations (private operation as defined below), and financing (bank loans, bonds, equity).
- **Private operation** is the operation of water assets by the private sector. Where this is done on behalf of government, it could be through a lease contract, a concession contract or a build-operate-transfer (BOT) contract.
- **Privatisation** is the permanent sale of fixed assets (that is, divestiture) by the public sector to the private sector, and/or private investment and perpetual ownership of assets. In terms of South African law and policy for water services, this is not allowed

3.5 Other agencies involved directly in water services

3.5.1 Water services agents

Water services agents are legal entities that provide services to water services providers. The distinguishing characteristic of water services agents is that they do not assume full operational responsibility for the physical provision of water and/or sanitation services, but rather provide support services (for example, meter reading) to water services providers. These services should be provided in terms of written contracts which clearly define the respective roles and responsibilities of the contracting parties.

3.5.2 Water services intermediaries

Definition. To be a water services intermediary, there must be a contract with the consumer (for example an employment or property lease contract) whose main purpose is not the provision of water services. Otherwise the agency is a water services provider.

Regulation. Water services authorities may require intermediaries to register with the authority and may regulate water services provided by intermediaries in terms of municipal by-laws.

People living on farms. Farmers are employers and are responsible for the housing and related services of their employees living on the farms. Farmers are therefore intermediaries and are responsible for the provision of (at least) basic water services to farm workers and their families living on their farms. Water Services Authorities is responsible to ensure that this is implemented and must ensure that it is addressed in their bylaws and adhered to.

Service levels. Intermediaries should provide more than just a basic minimum service wherever practical and feasible. Preference should be given to the provision of yard taps and adequate sanitation facilities for each family or dwelling.

Guidelines. Guidelines on the regulation of intermediaries will be developed by DWAF.

3.5.3 Water services committees

The Water Services Act made provision for the establishment of water services committees to undertake the tasks of the water services authority where there is a failure of local government. No water services committees were formed in the period 1997 to 2002. This provision is now obsolete and will be removed from the relevant legislation. (Water services committees should not be confused with community-based organisations which may act as water services providers in some rural communities, operating with the agreement and support of the relevant local government. The latter are also sometimes known as water committees.)

3.6 The role of national and provincial government

3.6.1 The role of national government

National government has the constitutional responsibility to support and strengthen the capacity of local government in the fulfilment of its functions, and to regulate local government to ensure effective performance of its duties. National government may develop legislation governing the provision of water and sanitation services. A municipality's right to govern the local government affairs of its community is subject to national and provincial legislation, as provided for in the Constitution.

Where water services authorities fail to plan and implement strategies for the universal provision of basic services and where they fail to provide efficient, effective and sustainable services, national government (together with provincial government) has the right to intervene. Provincial government is required to implement national legislation within the functional areas listed in Schedule 4 of the Constitution and to intervene when a municipality fails fulfil its executive obligations with regard to legislation.

Mechanisms of support, regulation and intervention are described in sections 7 and 8.

3.6.2 The role of DWAF

DWAF is the national department responsible for both water resources management and water services provision.

Future role. DWAF will play a central role in four areas with respect to water services:

- **Policy.** DWAF has overall responsibility for the management of water resources and for water sector policy (water resources and water services). DWAF's specific functions in this regard include sector leadership, promotion of good practice, development and revision of national policies, oversight of all legislation impacting on the water sector (including the setting of national norms and standards), co-ordination with other national departments on policy, legislation and other sector issues, national communications, and the development of national strategies to achieve water sector goals. DWAF also has the responsibility to develop policy with regard to international water services issues.
- **Regulation** comprises two functions: monitoring sector performance (including conformity to national norms and standards) and making regulatory interventions (to improve performance and/or to ensure compliance). DWAF's regulatory functions are discussed in section 7.
- **Support** to water services and related institutions will be undertaken in terms of the Constitution and the principle of co-operative government. Financial support will take place within the framework of the municipal infrastructure grant, the local government equitable share and the capacity building grant. DWAF will work with DPLG to establish appropriate conditions for the municipal infrastructure grant and to

monitor compliance with these conditions. (See section 4.2.) Other support to local government will be co-ordinated with DPLG and provincial government. The nature of the support will depend on the specific needs and requirements of local government and water institutions. (See section 8.)

- **Information management.** DWAF will manage information to be used for support, monitoring, regulation and planning. Information management is discussed together with monitoring in section 8.4.

Interim role as operator. DWAF is currently performing certain functions that are not part of its future core business, notably the operation and maintenance of water services works and the implementation of new water services infrastructure. These roles will cease once the transfer policy has been fully implemented. (See section 3.4.6.)

Shareholder role. DWAF is currently both the sole shareholder and primary regulator of water boards. In the short term, the shareholding and regulatory roles of DWAF will be more clearly separated and strengthened in the restructuring process. The future role of DWAF with respect to water boards will depend on the outcome of the institutional reform process outlined in section 3.4.

3.6.3 The role of provincial government

Provincial government, together and jointly with national government, has the constitutional responsibility to support and strengthen the capacity of local government in the fulfilment of its functions, and to regulate local government to ensure effective performance of its duties. Mechanisms of support, regulation and intervention are described in sections 7 and 8.

Provincial *public works* departments may undertake (or oversee) the construction of water and sanitation infrastructure on behalf of other departments in the province. Typically this will include setting design standards for water and sanitation facilities in schools, hospitals and clinics. Nevertheless, client departments remain ultimately responsible for the water supply and sanitation services within their own facilities, including the associated costs of bulk water and sanitation infrastructure where appropriate.

3.6.4 The role of other government departments with respect to water services

Other national government departments have the general responsibility to support DWAF, as the water services sector leader, in fulfilling its policy, regulatory, support and information management roles. In addition to this general responsibility, certain national government departments have the following specific responsibilities with respect to water services.

National Treasury monitors and regulates the finances of all public bodies. These policies are set out in the Public Finance Management Act 1 of 1999 and the Municipal Financial Management Act (to be promulgated). National Treasury's primary role in respect of local government is to manage the impact of local government fiscal activities on national economic policies and to regulate municipal financial management. National Treasury has a role to play in supporting DWAF and other departments in fulfilling their support and regulatory roles insofar as these roles relate to fiscal and financial matters.

The **Department of Provincial and Local Government (DPLG)** has overall responsibility for the affairs of local government. This includes policy, legislation, capacity building, grant allocation and regulation as these apply to the integrated aspects of municipal services provision, including governance, administration, municipal finance and integrated planning. Many of these responsibilities are exerted through provincial government. DPLG has the following significant responsibilities related to water services:

- DPLG regulates **municipal service partnerships** in terms of the White Paper on Municipal Partnerships and the Municipal Systems Act. Where water services

authorities partner with (or contract out to) an external provider, this must be done in terms of national policy and relevant legislation. See section 3.4.4.

- DPLG requires municipalities to undertake **integrated development planning**. Water services development plans need to be integrated with the integrated development planning (IDP) process as set out in the Municipal Systems Act. See section 5.2.1.
- DPLG **allocates funds** to local government including the local government equitable share, the municipal infrastructure grant and the capacity building grant. See section 4.
- DPLG **regulates municipal affairs and intervenes** (together with provincial government and the relevant sector departments) in the case of non-performing municipalities. See section 7.3.2.

The **Department of Health** is responsible for health policies and practices. It is also responsible (together with the provincial departments) to ensure that all hospitals and clinics are provided with adequate water and sanitation facilities and that these facilities are operated sustainably and are adequately maintained. The effectiveness of water and sanitation services in promoting healthy and sustainable livelihoods is dependent on effective health and hygiene education which is co-ordinated with the construction and delivery of water and sanitation infrastructure and related services. **District municipalities** have the primary responsibility for health and hygiene education related to water and sanitation services. National and provincial departments will assist in the training of staff to do this work, and in the training and support of community-based hygiene educators and health promoters on water and sanitation projects. Health policies and health and hygiene education are particularly important in the context of the greater vulnerabilities of individuals and groups affected by HIV/Aids.

The **Department of Education** is responsible for developing national education curricula which need to include appropriate health and hygiene education (related to water and sanitation), and the wise use of water. The national department (together with the provincial departments) is also responsible to ensure that all schools are provided with adequate water and sanitation facilities and that these are operated sustainably and are adequately maintained.

The national **Department of Housing** sets national housing policy. The provincial departments of housing set provincial housing policies and allocate housing subsidies. Housing policies must recognise the right of water services authorities to establish, for new housing developments, service level policies which are both affordable and sustainable to the municipality in the long term. (See section 5.2.1.) Housing policies must promote water-use efficiency and be aligned to service level policies of local government with regard to water and sanitation.

The national **Department of Public Works** acts as the implementing agent on behalf of national government departments when facilities are constructed or rented. The Department's activities include the planning of projects to construct facilities (usually buildings), the administration of projects and the management of facilities for client departments. The Department thus has an important responsibility in ensuring that adequate provision is made for water and sanitation facilities in government and public buildings, in line with national policy. The Department of Public Works is also responsible for implementing the community-based public works programme and should co-ordinate with water services authorities to align priorities and approaches in this respect.

The **Department of Environment and Tourism** (DEAT) is responsible for national environmental policies. The sound management of water is central to environmental sustainability. DEAT has a role to play with regard to water and sanitation services insofar as environmental impact assessments are required for water services infrastructure projects, and

in participating in joint ventures that promote conservation, cleaner technologies and waste minimisation.

3.6.5 Co-operative government

The Constitution of the Republic of South Africa lays down the principles of co-operative government and intergovernmental relations. All three spheres of government must apply these principles. An Act of Parliament will be promulgated providing for structures and institutions to promote and facilitate intergovernmental relations. Pending this legislation, the relevant spheres of government and organs of state involved in the water sector will strive to facilitate effective and efficient co-operation on all issues related to the water sector. DWAF will play a leading role in ensuring that co-operative government is effective in the water sector.

3.7 Sector collaboration and co-ordination

Key challenges. Decentralisation, institutional reform and transformation will be key driving forces for the water services sector over the next few years. This creates a complex environment in which many institutions and role-players are involved. The principle challenge is to create an enabling and supporting environment which fosters collaboration, mutual support and learning. Much can be learned from experience to date with the Masibambane (“Let’s work together”) programme and initiative. This has taught us that sector collaboration is not merely about structures or joint programmes but is rather about a different way of working. Communications and information are key to sector collaboration in order to create a sector identity, common ownership and united voice.

Context. Formal decision making rests with government. As both national and local spheres of government are responsible for water services, joint decision making through a range of formal structures is necessary and desirable. In the interest of bringing together sector members, including those outside of government, forums and other structures have been established, most of which have not been formalised. These have been set up to agree on common goals and strategies and to improve co-ordination. However they also bring together decision makers who are thus better informed as a result of the collaboration. These forums and structures will evolve as the need dictates and will be reviewed from time to time in order to ensure continued relevance and to avoid duplication with other formal bodies.

National co-ordination. Decision making at the national level is co-ordinated through the Social Cluster. The water and forestry MinMEC (political representation) and the MinTech (official representation) also play a crucial role in co-ordination between different spheres of government. A challenge for the water services sector is that no formal water services specific co-ordination structure is representative of the sector as a whole. DWAF, as sector leader, has the responsibility to engage with local government through the Local Government MinMEC and the Municipal Infrastructure Task Team (MITT). A national sanitation task team (NSTT) has been set up as a working group reporting to the MITT. Its main purpose is to coordinate sanitation initiatives in the sector.

National programmes. At a programme level a number of joint structures have been established to drive key programmes collaboratively, such as the national sanitation programme, the free basic water policy and strategy process, Masibambane and the transfers.

The **National Water Advisory Council**, established in terms of the National Water Act and appointed by the Minister, advises the Minister on both water resources and services issues and has an important role to play in strengthening the voice of civil society at national level.

Provincial and regional co-ordination. Various structures have been established in provinces for the purpose of co-ordination. Provincial liaison committees (PLCs) provide a forum for liaison between DWAF and other provincial departments with respect to water-

related matters. They identify priorities and advise on the implementation of water and sanitation services investments. Provincial Sanitation Task Teams (PSTTs) have been set up in each province, composed of representatives from provincial departments and municipalities, to co-ordinate the provincial sanitation effort. Successful co-ordination depends on active participation and co-operation rather than on the form of the co-ordination structure. Provinces and regions may establish co-ordination mechanisms that are appropriate to their particular needs.

The **Water Services Sector Leadership Group** is a national forum representative of sector partners. Its purpose is to guide the water services sector, to facilitate the building of a well informed and organised sector and to promote sector collaboration and effective co-ordination of water services. There has been a conscious decision not to formalise this body, in the belief that the test of its success and impact will not depend on formal recognition but rather on its relevance and performance.

Provincial sector forums. Water services authorities play a central role in these forums where the purpose is to assist in the decentralisation and transformation of the water services sector. Various task teams have been established including ones for transfers, planning and project selection, institutional development and the PSTTs mentioned above. These are responsible for implementation and are accountable to the sector forum. Provincial strategies can assist the water services sector to take responsibility for planning, implementation and monitoring of the water services component of the municipal infrastructure grant.

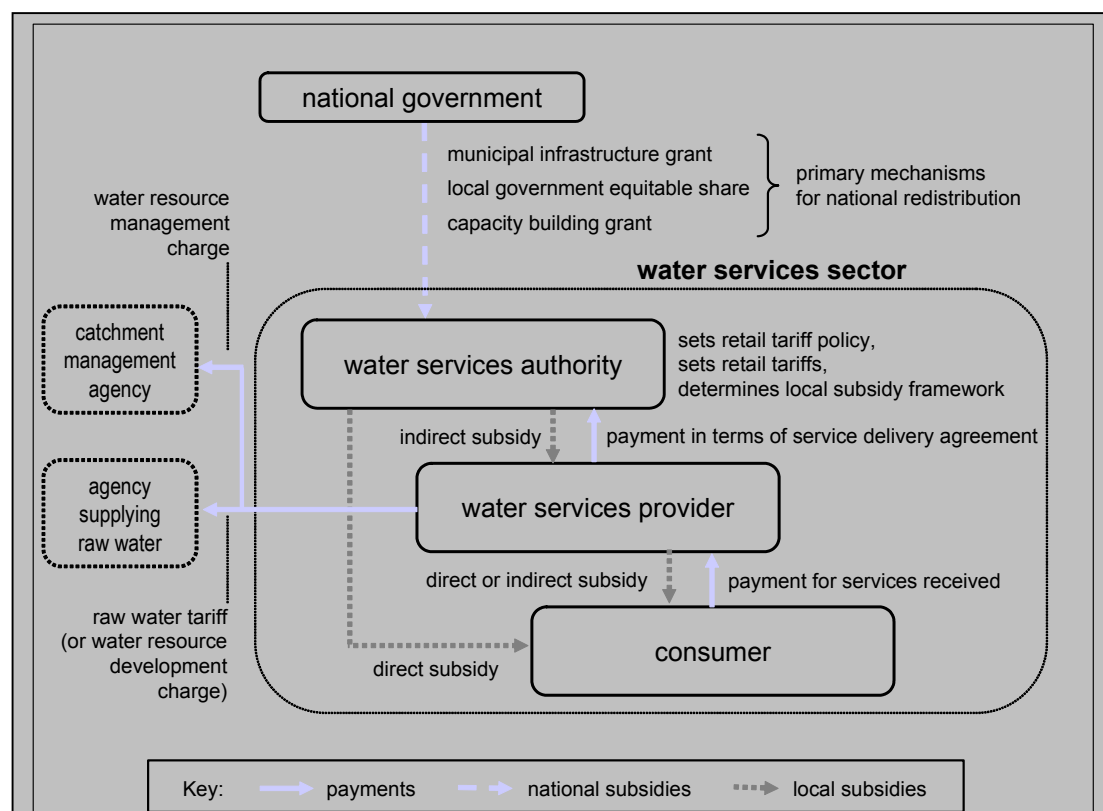
3.8 The role of civil society

A vibrant and durable democracy needs a strong civil society. Government is committed to promoting the active involvement of civil society in the provision of sustainable and affordable water services, in research and in other related activities. This will be done through:

- engaging civil society organisations in policy development, research and advocacy, and assisting with planning, implementation and management of programmes and projects at community level;
- supporting the development of capacity in civil society organisations;
- encouraging civil society organisations to help monitor sector performance at all levels;
- engaging civil society organisations in creating a link between government and local communities;
- engaging capacitated community-based organisations to manage water services projects at the local level, where appropriate; and
- assisting in the mobilisation of funds for non-government and community-based organisations where appropriate.

4. The financial framework

4.1 Vision and key principles



A new financial framework for the water services sector will be established during the next few years. The key elements of this framework are described below.

Primary redistributive mechanisms. The primary redistributive mechanisms are the municipal infrastructure grant (a conditional capital grant), the local government equitable share (an unconditional operating grant) and the capacity building grant. These are national grants that support the provision of basic municipal services by local government.

Achieving national objectives. National government will set conditions for the use of the municipal infrastructure grant to ensure that national objectives are achieved.

Decentralised fiscal framework. Discretion with respect to how the municipal infrastructure grant and the local government equitable share are allocated by local government is primarily at the local level. This highly decentralised fiscal framework is a significant feature of intergovernmental relations.

Local subsidies. There is local discretion (at the water services authority level) for the establishment of a local subsidy framework for the provision of water services.

Retail tariffs. Water services authorities establish retail water services tariff policies and set retail tariffs for water services within the framework provided by DWAF.

National regulation. National government can set conditions for the use of the municipal infrastructure grant and can set national norms and standards for the setting of tariffs. (See sections 6 and 7.)

Key principles informing the vision

In South Africa, we treat water as both a social and economic good. Once social needs have been met, we manage water as an economic good, as is appropriate for a scarce natural resource. (Minister Kasrils, Hlathi-Manzi, April 2003)

1. **The right to access to a basic water and sanitation service (the first step).** Everyone has the right to have access to sufficient water, to an environment that is not harmful to his or her health or well-being and to have the environment protected, for the benefit of present and future generations. The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of these rights. National government will continue to provide subsidies to the water services sector to promote the realisation of the right to a basic water supply and sanitation service.
2. **Higher levels of service (moving up the ladder).** As economic affordability increases and the backlog in the provision of basic services reduces, it will become possible for more and more households to be provided with higher levels of services. National government will increase the resources made available for the provision of water services in real terms over time.
3. **Consumer responsibility.** The right to basic water supply and sanitation services comes with a corresponding responsibility, namely, to use water and sanitation services responsibly and with due care, and to pay for services provided over and above services provided in terms of the free basic water and free basic sanitation policies.
4. **Ownership of assets.** Water is an important social good ("Water is life") and it is government's responsibility to protect this public interest. Water services infrastructure built with public funds and for public benefit will not be alienated from public ownership (privatised).
5. **User charges (retail).** Charging for water services is essential in order to generate funds for operating, maintaining and investing in water systems. However, tariffs must take into account the affordability of water services for the poor. User charges will be based on the volume of water used and wastewater generated wherever practical and will reflect full financial and economic costs, taking into account the subsidies necessary to ensure the affordability of water services to poor households.
6. **Operating in accordance with sound business principles.** Water services must be run in accordance with sound business principles within a sound subsidy framework. Failure to do this will substantially increase the risk of the service not being sustainable. Sound business principles include good governance, independence of action, sound accounting, adequate provisions for depreciation, adequate spending on maintenance and replacement of assets, effective and efficient use of resources, and income (including subsidies) which covers expenses.

4.2 Investing in water services infrastructure

Ownership of assets. In future, all water services assets will be owned by water services authorities, with the following possible exceptions:⁶

- where assets are owned by a municipal or public entity;

⁶ Where water services authorities need to construct water services infrastructure across land not owned by themselves, they must register servitudes.

- where the private ownership of assets is time-limited through concession, build-operate-transfer or related contracts;
- where water services assets are located on private land and are privately funded; (e.g. mining and industry owned towns; and farms)
- where water services assets are provided on private land with public funds for the purposes of meeting basic needs;⁷
- where, through the process of institutional reform outlined in section 3, water services assets of a regional nature are retained in full or partial ownership by national government or an organ of state.

Responsibility and planning. Water services authorities are responsible for ensuring that adequate investments are made in water services infrastructure and that these investments are sustainable over time. The water services development plan (discussed in section 5.2.1) is an important tool to assist the water services authority to develop a realistic long-term investment plan which prioritises the provision of basic water services, promotes economic development and is affordable and sustainable over time.

Basic services (the first step). As a priority, it is the responsibility of the water services authority to make sure that adequate and appropriate investments are made to ensure the progressive realisation of the right of *all* people in its area of jurisdiction to receive at least a basic level of water and sanitation services. The grants provided by national government in the form of the municipal infrastructure grant (MIG) will be adequate to ensure universal provision of at least a basic water supply facility and a basic sanitation facility within a reasonable period of time. This is called a universal service obligation and is the most important policy priority.

Higher levels of service (stepping up the ladder). The provision of basic water services is only the first step up the ladder of service provision as set out by national government in the Reconstruction and Development Plan in 1994. Whilst this is the most important and immediate priority, water services authorities are expected to provide intermediate and higher levels of services (for example, water on-site) wherever it is practical and provided it is financially viable and sustainable to do so. National government will need to increase the amount of resources made available to local government through the municipal infrastructure grant and the local government equitable share over time and in real terms commensurately with economic growth in order to assist households to step up the services ladder. In addition, water services authorities should put in place appropriate financing mechanisms to make this possible (see below). (See also section 5.2.1.)

Revising the definition of basic (raising the threshold). In time, the definition of what constitutes a basic water service will be revised by national government. The resources made available to local government from national government will increase commensurately with economic growth and the increased costs of providing a higher level of service in accordance with any revised definition of a basic water supply and sanitation service. (See also section 6.5.)

Capital grants. The primary source of capital grants for the provision of water services infrastructure is the municipal infrastructure grant. This is a conditional grant administered by DPLG. DWAF will work closely with DPLG to see to the establishment of appropriate conditions for the use of the grant and monitoring to ensure compliance.

Financing. The appropriate financing structure for each water services authority will be determined through the development of a financial plan as part of the water services

⁷ See section 4.2 (sub-heading: Investments on private land, the case of intermediaries).

development plan (see section 5). DWAF will work with National Treasury, DPLG, SALGA and other institutions to design appropriate financial instruments and to provide guidelines to water services authorities for the development of financial plans. The key to the successful application of any financing mechanism is always to ensure that there is adequate income to support the proposed investments.

Investments on private land, the case of intermediaries. The ownership of water services assets may be in the hands of the person owning the land where an “on-site” water or sanitation facility is provided to a household. There is no legal impediment to the use of government grants to fund infrastructure for a poor household on private land not owned by that household, provided that the intermediary (the private land owner) makes a financial contribution. (This is because the intermediary becomes the owner of the infrastructure once it is installed.) Specific policies regarding the appropriate level of contribution and other conditions will be developed in collaboration with other relevant government departments.

Asset management. A water services authority must maintain a register of water services assets and put in place a system to manage these assets in terms of the maintenance and rehabilitation plan (see below).

Maintenance and rehabilitation. It is essential for water services authorities to protect their assets by ensuring that an appropriate maintenance and rehabilitation plan is developed and implemented. This plan must be based on the principle of preventative maintenance in order to ensure, as far as this is practical, that damage to assets is prevented before it occurs. The water services authority must ensure that the maintenance and rehabilitation plan is part of the water services development plan and that this plan is implemented. Assets must be rehabilitated and/or replaced before the end of their economic life and the necessary capital funds must be allocated for this purpose.

4.3 Ensuring viable and sustainable operations

The water services authority is ultimately responsible to ensure that the provision of water services is financially sustainable (enabling the ongoing operation of services and adequate maintenance and rehabilitation of assets).

The water services authority can influence the financial viability of water services and water services providers through the following mechanisms:

- investment choices (see section 4.2);
- choices related to the use of the local government equitable share (see section 4.6);
- tariff policy and the setting of tariffs (see section 4.5);
- credit control policies and revenue management (see section 4.5.8); and
- the contract (service delivery agreement) between the water services authority and an external water services provider, specifically the service obligations and the financial conditions of the agreement (see sections 3.4.4 and 4.1).

The key financial responsibilities of water services providers are to operate water services effectively and efficiently, to be financially viable, and to honour the services delivery agreement with the water services authority. The financial viability of external water services providers is dependent on an appropriate services delivery agreement (contract) with the water services authority. The contract should match service delivery obligations (and the associated costs) with the ability to generate the required revenue, taking into account any available subsidies.

4.4 Free basic water and sanitation services

4.4.1 Providing free basic water

Purpose. The primary purpose of the free basic water policy is to assist in promoting sustainable access to a basic water supply by subsidising the ongoing operating and maintenance costs of a basic water supply service. (Policies related to the provision of the necessary basic infrastructure are discussed in section 4.2.)

Enhancing sustainability. Prior to the introduction of the local government equitable share as part of the local government financial system, the “user pays” principle was one of the cornerstones for achieving the sustainability and viability of water services. The adoption of the free basic water policy has not negated this principle. On the contrary, the free basic water policy strengthens the principle in that it clearly requires consumption in excess of the basic water supply service to be paid for while enabling free access by the poor to a *basic water supply service* necessary to sustain life. This policy thus supports the constitutional rights described in section 4.1.

The right of access to sufficient water is dependent on the state taking reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of these rights. It is also subject to specific obligations such as payment for services (over and above the basic amount) and the limitation and disconnection of the service in certain circumstances (see section 4.5.8).

Application. In terms of the free basic water policy, the provision of the basic amount consumed by poor households per month is free of charge. The policy allows water services authorities to decide how they will apply the policy specifically and practically. However, municipalities must implement the policy with immediate effect. If municipalities are unable to implement the policy immediately, they must be able to explain to DWAF why they are unable to do so and provide a plan for implementing the policy. Implementation of this policy will be ensured through national regulation and support. The mechanisms for enforcement are discussed in section 7.3

Affordability. The cost associated with providing free basic water to poor households is not large for a country of our economic size and strength. Free basic water services can be financed from the local government equitable share as well as through cross-subsidisation between users within a system of supply or water services authority area where appropriate. For 2003/2004, a separate window within the local government equitable share grant has been created for the funding of free basic services (electricity, water, sanitation and refuse). This additional grant over and above the equitable share allocation will enable municipalities to accelerate the provision of free basic services to poor communities.

Increasing the free basic amount. Where sustainable, water services authorities should give consideration to increasing the basic quantity of water provided free of charge (25 litres per person per day), aiming for the free provision of at least 50 litres per person per day to poor households. National government will give consideration to increasing the national subsidy over time to make this feasible in all water services authority areas.

The **key challenges** of the free basic water policy are as follows:

- The provision of the infrastructure (facilities) necessary to provide access to water to all households. (See section 4.2.)
- The development of subsidy mechanisms which benefit those who most need it (including households in remote rural areas, especially those served by small local systems and vulnerable groups such as female- or child-headed and HIV/Aids-affected households). (See section 4.6.)

- The equitable treatment of large households and multiple households sharing one connection.
- Collecting revenue for services rendered over and above an allocated free basic amount. (See section 4.5.8.)

DWAF has developed a **free basic water strategy** together with a set of **guidelines** to assist water services authorities to implement the free basic water policy. (See section 9.)

4.4.2 Providing free basic sanitation

Purpose. The primary purpose of the free basic sanitation policy is to assist in promoting affordable access by poor households to at least a basic level of sanitation service.

The challenges of providing free basic sanitation are threefold:

- **Infrastructure provision.** The key challenge with respect to the provision of free basic sanitation is the provision of the sanitation facility itself to poor households (together with the necessary supporting infrastructure). Therefore the free basic sanitation policy is directly linked to the policies for infrastructure provision which are discussed in section 4.2.
- **Health and hygiene promotion** must be provided in a co-ordinated manner and must be properly managed and adequately funded if free basic sanitation is to become a reality. This requires close collaboration between the district municipality responsible for environmental health, the water services authority and the water services provider.
- **Subsidising the operating and maintenance costs.** If the basic service is to be provided free to the poor then the water services authority must ensure that the costs of providing the service are covered by the local government equitable share and/or through cross-subsidies within the water services authority area. These funds must be paid to the water services provider who operates the service or directly to the households. All water services authorities must develop a policy to define how this will be addressed.

Choice of technology. The definition of a basic sanitation service (see section 6.3.1) does not define the technology to be used in providing such a service. This decision, made by the water services authority, is the key to success in providing free basic sanitation services in a sustainable manner. The selection of technology is strongly dependent on settlement conditions. Water services authorities must typically address the following situations:

- In urban areas, where many businesses are located and where residential densities are high, waterborne sanitation is generally the most appropriate technical solution and should be regarded as a basic level of service for the purposes of the free basic sanitation policy.
- In rural areas, where housing densities are low and few businesses are located, on-site technical solutions are an appropriate basic level of service (see box on page 47).
- In intermediate areas (for example, peri-urban areas or rural areas where settlement densities are high), a water services authority must decide on an appropriate technology which is financially viable and sustainable. In most instances, on-site sanitation systems are likely to be the most appropriate solution. Care must be exercised when choosing waterborne sanitation systems in this context. The water services authority must ensure that the water services provider will be able to maintain and operate this system sustainably over time with the available funds.

Operating the service. The arrangements for operating the sanitation service must be properly understood before the financial arrangements for subsidising the operating costs of

free basic sanitation can be addressed. In many rural areas it is unlikely in the foreseeable future that water services providers operating in these areas will have the capacity to empty or relocate Ventilated Improved Pit toilets (VIPs) and hence it will often be necessary for households to manage the sanitation facilities themselves. The subsidy arrangements need to take these factors into account.

Subsidy arrangements. Subsidies for free basic sanitation should cover the hygiene promotion costs and the operating costs of providing a basic sanitation service to households. Ideally, the subsidy for operating costs should be calculated as a subsidy per household per month for each settlement type and technology used. This subsidy is then paid to the water services provider or directly to the household. These subsidies should be applied in an equitable and fair manner, both in the present context and over time.

The decision-making process. Water services authorities must first assess what level of subsidy (overall) they are able to provide on an ongoing and sustainable basis for sanitation. This is based on the allocation of money for free basic sanitation from the local government equitable share and an assessment of the feasible and sustainable cross-subsidy from other consumers. Water services authorities must then decide on the appropriate technical solutions, allocate subsidies between households based on settlement type and technology (see subsidy arrangements above) and work out what consumer charges will be necessary to sustain the service over time. If these charges are not sustainable or not acceptable, then the decision-making process must be revisited.

Flexibility in application. Local circumstances will vary greatly between water services authority areas. Therefore it is appropriate that the application of the free basic sanitation policy be flexible and able to take into account the factors identified above as well as any other relevant considerations.

Guidelines. DWAF will develop a free basic sanitation strategy together with a set of guidelines to assist water services authorities to implement the free basic sanitation policy.

4.5 Tariff and credit control policies

4.5.1 The cost of water services

The structure of the full cost of water supply and sanitation services and the related tariffs and charges are shown in Figure 1.

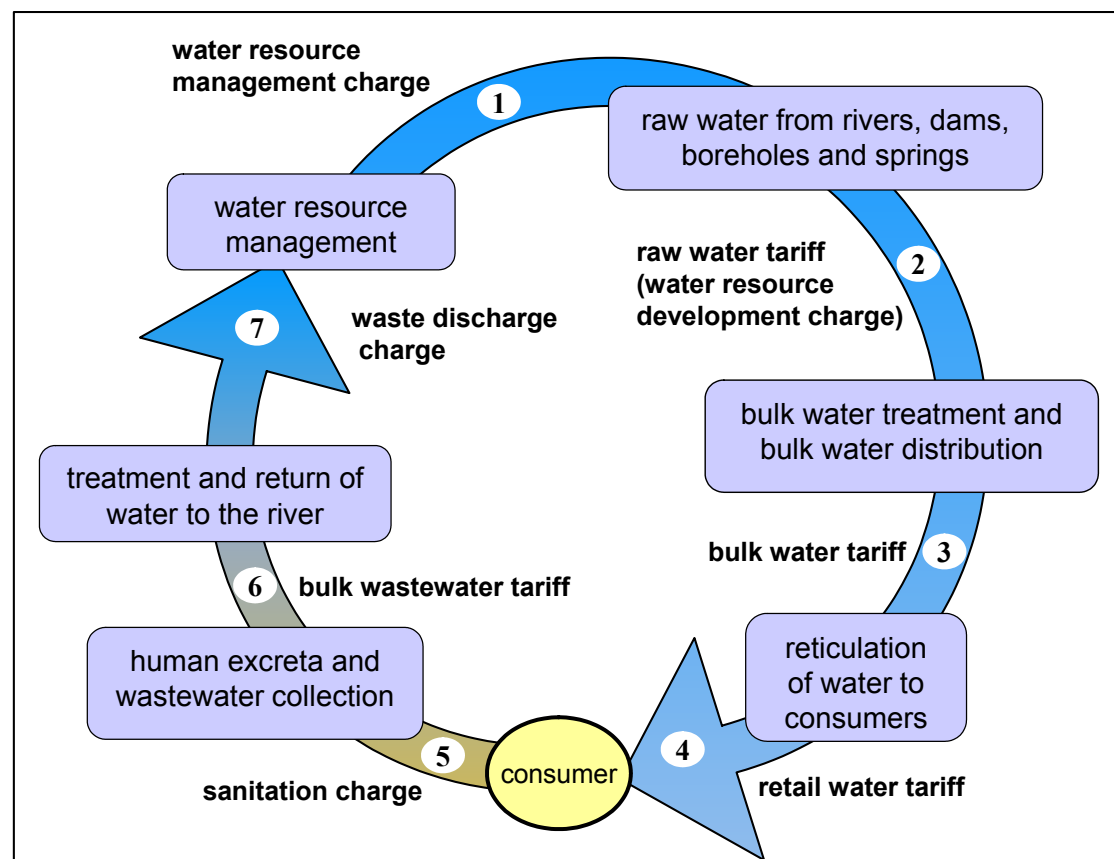


Figure 1: Water cost and pricing chain

4.5.2 Responsibility for setting tariffs

The responsibilities for setting water and sanitation tariffs are summarised in Table 1.

Table 1: Responsibilities for tariff setting

Tariff / charge	Responsibility for setting tariff and source of authority	Responsibility for regulating the tariff (and comments)
Water resource management charge. (Recovers the costs of water resources management.) ⁸	Catchment management agency in terms of National Water Act.	DWAF. Where there is no catchment management agency, DWAF also sets the tariff (self-regulation).
Raw water tariff (water resource development charge). (Recovers the infrastructure and operating costs of schemes.)	DWAF in terms of the national raw water pricing strategy and in consultation with water users including local government.	DWAF (subject to National Treasury oversight). (Note: raw water tariffs are also implicitly set by water services authorities and water boards where these organisations manage raw water systems.)

⁸ Includes evaluating and issuing licences, monitoring water resource quality against the water resource objectives, detecting and prosecuting unlawful use, promoting water conservation and demand management and removing and managing alien vegetation.

Tariff / charge	Responsibility for setting tariff and source of authority	Responsibility for regulating the tariff (and comments)
Bulk water and wastewater tariffs. (Recovers the cost of conveying and treating bulk water and wastewater.)	Negotiation between water board and water services authority (or its appointed provider) in the case of a water board. Water services authority where bulk function undertaken itself, or by an entity owned by the water services authority. Consultation between water services authority and external provider of service (for example, another municipality).	DWAF (direct regulation of water boards). Water services authority. DWAF. (These are subject to National Treasury oversight.)
Retail water tariff and sanitation charges. (Includes the bulk water and wastewater tariff and recovers the retail costs.)	Water services authority in terms of the Water Services Act and Municipal Systems Act.	Water services authority (subject to DWAF oversight). DWAF sets national norms and standards for the setting of retail tariffs.
Waste discharge charge (proposed). (A water resource charge based on the "polluter pays" principle.)	Catchment management agency in terms of National Water Act, in consultation with water users including local government. DWAF where there is no CMA.	DWAF (subject to National Treasury oversight).

4.5.3 Tariff principles

Retail tariff policies must be based on the following tariff principles:⁹

- Tariffs should be applied **equitably and fairly**.
- The amount individual users pay for services generally should be in **proportion to their use** of that service.
- Water and sanitation tariffs for domestic use should be pro-poor in their orientation, that is, they should seek to ensure that a minimum *basic* level of water supply and sanitation service is **affordable** for all households, especially vulnerable groups such as female- or child-headed and HIV/Aids-affected households.
- Tariffs must **reflect** all of the **costs** reasonably associated with rendering the service.
- Tariffs must be set at levels that facilitate the **financial sustainability** of the service, taking into account subsidisation from sources other than the service concerned.
- The economical, **efficient** and effective use of resources, the reduction of leaks and unaccounted-for water, the recycling of water, and other appropriate environmental objectives must be encouraged.
- A tariff policy may **differentiate** between different categories of users, debtors, service providers, services, service standards, geographical areas and other matters as long as the differentiation does not amount to unfair discrimination.
- All forms of subsidies should be **transparent** and fully disclosed.

⁹ These tariff principles are consistent with those set out in the Municipal Systems Act and the Water Services Act.

4.5.4 Retail water and sanitation tariff policies – water services authorities

Retail water and sanitation tariff policies must be developed by water services authorities. These must conform to the following requirements.

Revenue requirements. When determining the revenue requirements for water services, a water services institution must take into account at least the following: realistic operating and maintenance costs (including any relevant and applicable overheads, charges and levies), interest costs, depreciation charges, a reasonable rate of return on assets (where appropriate), and provisions for bad debt and other future costs (including infrastructure expansion). In addition, a water services institution must determine the cash needs to maintain a financially viable and sustainable operation over time, taking into account any available and secure operating subsidies. A water services institution may take into account a contribution to the general municipal rates fund (where appropriate).

Costs. All water services authorities must plan to provide all households with at least a basic level of water supply and sanitation service (see section 5). In the first instance, national government subsidies in the form of the municipal infrastructure grant and the local government equitable share should be used to assist in the provision of these services (see sections 4.2 and 4.4). Taking these sources of subsidy into account, any additional costs associated with the provision of basic water supply and sanitation services (including the implementation of free basic water supply and sanitation policies) must be included in the revenue requirements outlined above. The costs of rehabilitation and system expansion must be taken into account. Water losses and unaccounted-for water must be managed down to acceptable levels. The allocation of funds for maintenance must be sufficient to maintain the water services infrastructure and related systems adequately.

Contributions. The contribution to the rates and general fund should be limited to less than ten percent of gross revenue from the sale of water. Income from sanitation charges should not be used to subsidise other services.

Consumer categories. Retail water and wastewater tariffs shall distinguish between at least three categories of consumers: domestic, industrial and other. (See definitions of industrial water and industrial wastewater given in Annexure 3.)

Levels of service. Retail water and wastewater tariffs shall distinguish between significantly different levels and standards of service provided and between at least the following: a communal water service (water services provided to more than one household); where a controlled (limited or restricted) volume of water is supplied to a household; where an uncontrolled volume of water is supplied to a household (that is, the volume of water supply is not limited for all practical purposes); where a household is connected to a sewer and where a household is not connected to a sewer.

Cross-subsidies. Tariffs shall support the viability and sustainability of water supply services to the poor through cross-subsidies (where feasible) and discourage wasteful or inefficient use.

Metering. All connections providing an uncontrolled volume of water supply shall be metered and tariffs shall be applied in proportion to water use.

Marginal domestic tariff above the basic amount. Where domestic consumers consume just more than a defined basic amount, water services authorities shall not be entitled to recoup the full financial cost of providing the basic amount in the marginal tariff for the next small increment consumed. In other words, if the free basic water allocation is 6 kl per month, then a water services authority may not require a consumer who uses 7 kl per month to pay for the full financial costs for the supply of 7 kl per month.

Domestic water tariffs for water consumed significantly in excess of a defined basic amount shall at least recover the full direct financial costs of the service provided in excess of the

defined basic amount, and may take into account any external economic costs and benefits (externalities) associated with the provision of the service including, where appropriate, the average incremental costs that would be incurred to increase the capacity of the water supply and wastewater infrastructure to meet an incremental growth in demand.

Industry and non-domestic. Water and sanitation tariffs for industrial and other categories of non-domestic consumer shall at least recover the full direct financial costs of the service provided, and may take into account any external economic costs and benefits (externalities) associated with the provision of the service including, where appropriate, the average incremental costs that would be incurred to increase the capacity of the water supply and wastewater infrastructure to meet an incremental growth in demand.

Tariff increases. Water services authorities must strive to keep tariff increases to below the rate of inflation. Tariff increases must be based on the efficient use of resources and the actual input cost increases incurred (for example, chemical and energy costs). Where there have been no recent expansions in infrastructure, then it should be possible to keep tariff increases to well below the rate of inflation due to the fact that fixed depreciation and financing costs are likely to make up a significant share of total costs. Conversely, when system expansion has occurred and this has resulted in increased depreciation and financing costs, then tariff increases in excess of inflation may be necessary in order to maintain the financial viability of the service. Where current tariffs do not adequately cater for system rehabilitation and maintenance, then tariffs will need to be increased appropriately.

Subsidies. Where subsidies for water services are applied, these shall be prioritised for the provision of basic water supply and sanitation services in terms of the free basic water and free basic sanitation policies. (See sections 4.4.1 and 4.4.2.)

Special tariffs. Water services authorities may implement special tariffs during periods of water restrictions to reduce water use to within sustainable levels.

Regulations and guidelines. DWAF will exercise a regulatory oversight role over water services authorities with respect to the setting of tariff levels for water services. The national regulations setting out norms and standards for tariffs will be revised and updated to be consistent with the policies in this Strategic Framework. DWAF will develop guidelines on the development of water and sanitation tariff policies and on setting tariffs. These will include guidelines for determining a reasonable rate of return on assets. DWAF will also develop a set of sample water and sanitation tariff policies reflecting best practice for use by water services authorities.

4.5.5 Retail water and sanitation tariffs – external water services providers

Where retail water services are provided by an external water services provider, the following policies apply:

- The tariffs must comply with the tariff policy of the water services authority as applicable.
- The method of determining the tariff and the mechanisms for tariff review and dispute resolution must be clearly set out in the contract (service delivery agreement) between the water services authority and the water services provider.
- There must be full disclosure to the water services authority of the tariffs applied and the calculations used in determining the tariffs.

4.5.6 Bulk water and sanitation tariffs – external bulk water services providers

Any bulk water services provider will need to implement bulk water and/or wastewater tariffs. These tariffs must comply with the following policies:

- The method of determining the tariff and the mechanisms for tariff review and dispute resolution must be clearly set out in the contract (service delivery agreement) between the bulk water services provider and the water services authority or provider to whom it is rendering a service.
- There must be full disclosure to the water services authority or provider of the tariffs applied and the calculations used in determining the tariffs.
- The tariffs must be published and made available to DWAF.
- Tariffs may only be increased after consultation with the Minister of Water Affairs and Forestry (in the case of water boards and any other organ of state whose primary activity is the provision of water services), the relevant water services authorities and organised local government.

The regulation of tariffs is set out in section 7.

4.5.7 Raw water tariffs

Raw water tariffs from schemes owned by national government are set in terms of the national raw water pricing strategy. The supply of water from these schemes must be made in terms of a contract.

4.5.8 Credit control

(The framework set out here should be read in conjunction with sections 4.4.1 and 4.4.2 which set out the policies on free basic water supply and sanitation services.)

Effective credit control is a critically important component of providing a reliable and effective service to all communities and consumers. Failure to consistently apply fair credit control policies can result in consumers and whole communities going without water.

Water services authorities have the responsibility to develop a credit control policy. This policy must provide for credit control procedures which are fair and equitable, provide for warnings and adequate notice, provide for consumer representations, allow alternative payment arrangements, and set out a fair procedure that will be applied in the event of non-payment. Where a consumer continues to fail to pay for services provided after the application of such procedures and a fair warning, a municipality must be able to take actions that will limit its financial loss and promote good payment habits.

When a municipality formulates its credit control policy it must take into account the impact of credit control mechanisms (and the lack thereof) on the community, the existing service delivery context, the need for financial viability to support the sustainable provision of services and the effectiveness of the proposed credit control mechanisms.

The following principles must be incorporated in the credit control policy:

- **Compassion.** Local government must develop and implement a credit control policy which is compassionate, especially towards poor and vulnerable households. This means that priority should be given to providing a reliable, secure, sustainable and affordable water supply and sanitation service to all households including the poor. Policies and procedures should seek to avoid the accumulation of bad debt and the high costs associated with restrictions or disconnections and reconnections.
- **Communication.** Consumers must be *informed* with respect to water consumption, credit control, debt collection and disconnection policies, credit control procedures and consumer responsibilities. Communication must be clear and accessible and, wherever practical, in the home language of the consumer.

- **Fair process.** All restrictions and disconnections must be done in terms of a fair and transparent process and as a result of the failure of a consumer (or consumers) to fulfil their obligations in terms of a consumer contract.
- **Warning.** Domestic consumers must receive a warning prior to any credit control action. Such a warning must be clear about the time allowed for payment, alternative methods of payment (such as instalments), and consequences of non payment.
- **Restricting domestic connections.** In the first instance, and after following due process (including a warning), domestic water supply connections must be *restricted and not disconnected, ensuring that at least a basic supply of water is available*.

(Only where the costs associated with restricting water services in this manner would have a substantial and significant impact on the sustainable provision of water services to the broader community, may water services be disconnected after proper procedures have been followed.)

- **Tampering.** Disconnection (after a warning) may be appropriate where services equipment has been tampered with, since tampering may jeopardise the health of consumers and the proper functioning of the system.
- **Interference.** Where a domestic consumer's access to water services has been restricted (in terms of an appropriate policy and procedure) and that consumer interferes with the restriction in a manner that renders the limitation less effective, the municipality may disconnect such a consumer (after a warning) until such time as the consumer has made an arrangement for settlement of the outstanding amount and has paid any fine that the water services provider may impose.
- **Disconnecting water supplies.** A water services provider has the right to disconnect water services of domestic water consumers only where all of the above provisions have been followed. A water services provider has the right to disconnect water services of non-domestic water consumers whenever a non-domestic consumer has breached its contract with the water services provider, provided a fair process is followed.

In addition to the above, various alternative or complementary credit control mechanisms could be considered where appropriate.

Responsibility for implementing credit control. Water services providers have the responsibility of implementing credit control (in terms of the credit control policy established by the water services authority) where they assume the financial risk and have the responsibility for collecting user charges. Where this is not the case, then the water services authority has the responsibility to implement credit control itself. In order to protect the financial viability of a water services provider, a water services authority must give the water services provider the right to restrict and disconnect water services connections subject to the credit control policy established by the water services authority and developed in terms of the policies set out in this Strategic Framework.

Balancing rights and responsibilities. The limitation and disconnection of water services is a sensitive issue that requires the balancing of rights and obligations. Consumers have a right to a basic water supply and sanitation service. However, this right also embodies the obligation to exercise that right reasonably and in accordance with general limitations placed on that right. At the same time, water services authorities must ensure sustainable provision of water services and safeguard the financial viability of the water services provider. These rights and responsibilities must be clearly communicated to consumers.

Monitoring and intervention. DWAF will monitor the implementation of credit control by water services authorities. Where water services authorities fail to ensure that credit control is

implemented in a manner which is consistent with the approach and policies set out in this Strategic Framework, DWAF will intervene. (See section 7.3.2.)

Credit control in the case of bulk water services providers. DWAF will provide guidelines with respect to credit control policies and procedures in the case of bulk water services providers.

4.6 Local subsidy policies

In most cases, it is necessary for a water services provider to have access to a share of the local government equitable share subsidy in order for it to provide free basic water supply and sanitation services in a financially viable and sustainable manner.

Water services authorities must develop a local subsidy framework based on the following principles:

- **Maximising public benefit.** The allocation of the local government equitable share between services should seek to maximise the public benefit derived from applying the subsidy.
- **Targeting the poor.** The subsidy should be targeted to poor and vulnerable households.
- **Equity.** The subsidy should be allocated in a way which benefits all consumers in the same circumstances equally.
- **Sustainability.** The subsidy framework must be forward looking to ensure that the subsidies are sustainable as more households are provided with basic or higher levels of services.
- **Transparency.** All consumers and providers must understand how the allocation of subsidies works.
- **Administrative efficiency.** The subsidy system should be cost-effective and administratively efficient.

DWAF, in consultation with DPLG, will develop practical **guidelines** for the development of local subsidy policies which facilitate the provision of free basic services, promote sustainable service delivery and assist water services authorities to meet their universal service obligations.

4.7 Financial provisions in contracts

The nature of the specific financial provisions in a contract between water services institutions must distinguish clearly between the following circumstances:

- **Service contracts:** where a water services agent provides support services to a water services authority or water services provider.
- **Lease contracts:** where assets owned by the water services authority are operated by another entity on the basis of a lease or revenue-sharing type agreement (but where there are no investments in infrastructure on the part of the lessee or operator).
- **Enhanced lease contracts:** where assets owned by the water services authority are operated by another entity on the basis of a lease or revenue-sharing type agreement (but where there are some, but not very significant, investments in infrastructure on the part of the lessee or operator).

- **Concession contracts:** where significant investments in assets are made by an external water services provider and where these assets will revert to the ownership of the water services authority at the end of the contract period.
- **Externally regulated contracts:** where a water services authority is reliant on services provided by an external water services provider that is an organ of state and where these assets are owned in perpetuity by that water services provider.

An appropriate sharing of responsibilities, risks and rewards consistent with the nature of contract (as outlined above) must be specified in the contract.

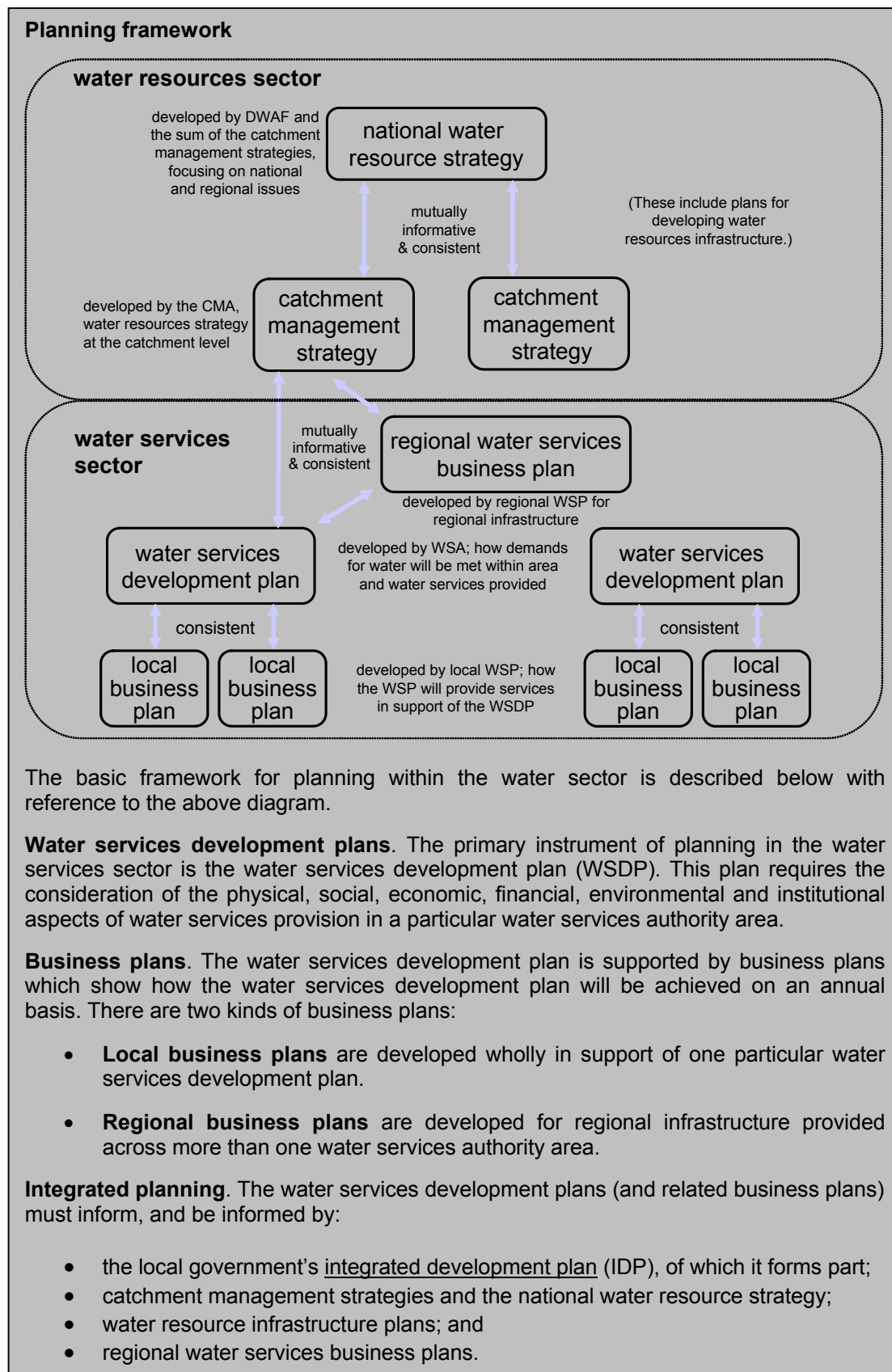
Furthermore, the financial components of contracts must take into account at least the following:

- the investments necessary to provide basic services in a progressive manner to meet the relevant water services authority's universal service obligations;
- how national government subsidies will be used to support these investments;
- the investments necessary to support economic demand;
- how these investments will be financed;
- the tariffs necessary to maintain the financial viability of the water services provider and the efficient operation of water services; and
- the final incidence of any subsidies applied on users.

Guidelines will be developed by DWAF on the form of the financial provisions in contracts to ensure the appropriate sharing of responsibilities, risks and rewards for each of the types of contract identified above, any likely variations in these contracts and the additional considerations given above.

5. The planning framework

5.1 Vision and key principles



Key principles informing the planning framework

1. The **purpose of planning** is to assist agencies to plan for and respond to a constantly changing environment so as to achieve defined goals in as effective and efficient a manner as possible. Planning is essentially a management tool. It is not primarily an instrument of regulation though it may also be used for this purpose.
2. **Integrated planning** will result in alignment between water services and water resources and between the water sector and other spheres of economic and social activity as captured in the integrated development plan and other planning activities.
3. Water services should be planned and implemented in response to **effective demand** which is linked to consumers' willingness and ability to pay the appropriate charges in the context of the prevailing subsidy and pricing framework.
4. Water and sanitation programmes should be designed to **support sustainable livelihoods and local economic development**. The provision of water supply and sanitation services has significant potential to alleviate poverty through the creation of jobs, use of local resources, improvement of nutrition and health, development of skills, and provision of a long-term livelihood for many households.
5. In the **choice of technology**, a trade-off must be made between effectiveness, affordability, capacity to operate and maintain, life-cycle costs, consumer acceptability and environmental impact. Users should be fully informed of the available technical choices and related financial and operational implications. Water and sanitation technologies should be considered together.
6. A **strong and active civil society** has an important role to play through the identification of local priorities in the planning process and through holding water services authorities accountable to the implementation of their plans.
7. **Water demand management** is necessary to ensure efficient and effective water services delivery. Water demand management should be given as much attention as supply expansion in water services and water resources planning.
8. Water services planning should take into account **environmental impacts** and seek to minimise any negative impacts through appropriate preventative and/or remedial measures. Integrated and sustainable management of the environment, now and in the future, is the basis of sustainable development.
9. The planning of water resources, water supplies and regional or bulk infrastructure by water institutions within the supply chain should be aligned and integrated. This should be accomplished through **integrated water resources management** which promotes the co-ordinated planning, development and management of water, land and related resources, in order to maximise the resultant economic and social welfare in an equitable manner without compromising the sustainability of vital ecosystems.
10. Planning should be **gender-sensitive**.

5.2 Water services planning

5.2.1 Water services development plans

The primary instrument of planning in the water services sector is the *water services development plan*. The following policies apply to the water services development plan. These policies are set out with the intention of assisting water services authorities to carry out their functions in the most effective manner.

- All water services authorities must develop a water services development plan (WSDP).
- A new plan must be developed every five years and the plan should be updated as necessary and appropriate in the interim years.
- The WSDP must be integrated with the integrated development plan of the municipality, as required in terms of the Municipal Systems Act.
- The WSDP must integrate water supply planning with sanitation planning.
- The WSDP must integrate technical planning with social, institutional, financial and environmental planning. The planning of capital expenditures must also be integrated with the associated operation and maintenance requirements and expenditures.
- The WSDP must be informed by the business plans developed by water services providers and with the plans of any regional water services providers, as relevant.
- The plan must take into account the impact of HIV/Aids on future water demand.
- The WSDP must integrate with the catchment management strategy.
- The planning process must take into account the views of all important stakeholders, including communities, through a consultative and participatory process. Every effort must be made to ensure the adequate and meaningful participation of women in consultation forums.
- The draft plan must be made available for public and stakeholder comment and all comments made must be considered when preparing the final plan.
- The contents of the WSDP must be communicated to all important stakeholders, including DWAF.
- A water services authority must report annually and in a public way on progress in implementing the plan.

The purpose of the water services development plan

The primary purpose of the water services development plan is to assist water services authorities to carry out their mandate effectively. The requirement that water services authorities regularly update their plans and report annually on progress against their plans will assist local communities and DWAF to assess how well water services authorities are performing relative to their stated intentions and their capacity. Mechanisms for regulating water services authorities are set out in section 7.

Water sector plans. A municipality that is not a water services authority is not required to develop a water services development plan. Where a district municipality is not a water services authority, the district should develop a “water sector plan” addressing the district-wide issues arising from the local WSDPs and include this in the district’s integrated development plan (IDP). Where district municipalities have district management areas, the district must develop a WSDP for these areas. Where a local municipality is not a water services authority, the local municipality should summarise the implications of the district level WSDP for its own area in a “water sector plan” and include it in its integrated development plan (IDP).

Planning for basic levels of service. The primary constitutional obligation resting on water services authorities is the provision of at least a basic level of service to all people living within their area of jurisdiction. The WSDP must show how the water services authority plans to meet this universal service obligation.

Planning for higher levels of service. Notwithstanding the primary constitutional obligation of basic services provision set out above (the first step), water services authorities are expected to plan to move households up the services ladder by providing higher levels of service wherever these are practical, financially viable and sustainable. (See section 4.2.)

Planning for higher service levels

Wherever practical, infrastructure should be designed to accommodate mixed levels of service within communities, allowing consumers to elect a level of service which suits their needs, is affordable to them (within the prevailing subsidy framework) and can be upgraded over time.

Wherever practical, financially viable and sustainable, preference should be given to water supply services which make available 50 litres per person per day in close proximity to domestic dwellings (in the yard). Where housing densities are low, low pressure yard tanks could prove to be the most cost-effective means of achieving this.

Where housing densities are low, on-site sanitation systems are likely to be most appropriate. Some form of waterborne sanitation system is likely to be most appropriate where housing densities are high, for example, in urban areas.

Housing. It is essential for housing policies and plans to be consistent with service level policies and plans contained in water services development plans.

Unauthorised and informal settlements. The provision of services to people living on land without permission of the owner of the land poses a challenge to water services authorities. Water services authorities should seek to address the security of tenure issues expeditiously. Interim basic water and sanitation services should be provided as appropriate, affordable, and practical in accordance with a progressive plan that addresses both land tenure and basic services. DWAF will provide best-practice guidelines to assist water services authorities.

Guidelines. Guidelines to assist local government in the preparation of water services development and water sector plans which are practical and useful will be developed and revised by DWAF from time to time.

5.2.2 Business plans

All water services providers must develop a water services provider business plan. This plan is an annual *operational* plan which shows how the activities of the water services provider will support the achievement of the desired outcomes of the WSDP.

The business plan should address, as and where appropriate, the following (amongst others):

- technical plan (sometimes called a master plan);
- investment plan (including backlogs);
- sustainable financial plan;
- replacement and rehabilitation programme;
- scheduled maintenance programme and emergency maintenance plan;
- consumer care plan;
- water demand management plan;
- human resources development plan addressing employment and gender equity and HIV/Aids;
- basic services communication plan; and

- water quality assurance plan and programme.

Business plans – a new requirement

The requirement that all water services providers develop a business plan is new. Even community-based water services providers must develop (basic) business plans.

Fit for purpose. Business plans should be appropriate to the circumstances. They are a tool to assist in effective operation and management and are not an end in themselves.

Contracts. Where a water services authority contracts an external water services provider, the contract must require the water services provider to develop a water services provider business plan to support the fulfilment of the service delivery agreement.

Reporting. Water services providers must report on progress in relation to the business plan at least annually and provide any information required by the water services authority for monitoring purposes.

Guidelines. Guidelines to assist water services institutions in the preparation of practical and useful business plans will be developed and revised by DWAF from time to time.

5.3 Water resources and water services planning

Water services must be provided in a manner that is consistent with the broader goals of integrated water resources management. There is therefore a need for an **integrated planning approach** between the development of water services and water resources. The catchment management agency is responsible for the development and implementation of a catchment management strategy. This catchment management strategy must take into account the water services development plans and the business plans of water services providers.

Assurance of supply (that is, the availability of an adequate and sufficiently reliable quantity of raw water) to water services authorities is the joint responsibility of DWAF, catchment management agencies, water services authorities and regional water services providers. Water services authorities have a responsibility to ensure that water is used effectively and efficiently.

All water services institutions must develop an appropriate **water conservation and water demand management** (WDM) strategy. The WDM strategies developed by water services authorities must be reflected in the WSDP.

WDM strategies should be based on the following principles:

- Water institutions should strive to supply water in an efficient and effective manner, minimising water losses and promoting WDM to their consumers.
- Consumers should not waste water and should strive to use water efficiently.
- WDM should be considered as part of the water resources and water services planning process.

DWAF will develop **guidelines** to assist water services institutions to develop appropriate WDM strategies and programmes.

6. National norms and standards

6.1 Vision and key principles

Vision

National norms and standards are developed and implemented to protect the social and economic interests of all consumers, especially poor and vulnerable households, and to protect the environment.

Key principles informing the vision

1. **Universal service obligation.** Norms and standards protect the constitutional right of consumers to receive at least a basic minimum standard of service which is safe and reliable and which promotes a healthy living environment.
2. **Diversity.** National norms and standards take into account the diverse contexts within South Africa.
3. **Technology.** National norms and standards are not prescriptive in the specific choice of technology to be used to achieve a specified or desired outcome.
4. **Assessment.** The costs and benefits of new regulatory initiatives and revised norms and standards are assessed prior to adoption and implementation wherever practical.
5. **Affordability.** The necessary resources are available to meet the defined national norms and standards.

6.2 Purpose and scope

DWAF, as sector leader and as part of its policy making function, will define (and revise from time to time) a set of compulsory norms and standards.¹⁰ The purpose of these standards is to protect the interests of consumers by ensuring that certain basic minimum standards are met.

The framework relating to selected technical norms and standards are set out below. The scope of the national norms and standards are not limited to those set out here.

The approach to regulating water services authorities and water services providers with respect to meeting these standards is discussed in section 7.

6.3 Minimum technical norms and standards

6.3.1 Provision of basic water services

Every water services authority has a duty to ensure that at least a *basic water supply and sanitation service* is provided to every household within its area of jurisdiction. This **universal service obligation** is subject to the availability of resources and to the “progressive realisation” of rights contemplated in the Constitution.

Revised **definitions of basic water supply and sanitation services** are set out in Table 2 below.

¹⁰ Technical norms and minimum standards are currently set out in regulations made in terms of Section 9 of the Water Services Act.

Changes to the definitions of basic water supply and sanitation services

Components of service. The new definitions distinguish between the *facility* (the infrastructure), the *sustainable operation* of the facility and the *communication* of good health, hygiene and water-related practices. This is necessary for the purposes of clearly identifying responsibilities, adequately measuring progress in the sector and making the links between basic services and *free* basic services clearer.

Water minimum flow. The minimum flow requirement has changed.

Water availability. The availability requirement for water supply has changed.

Basic sanitation facility. This definition has changed. A Ventilated Improved Pit toilet (VIP) complies with both the old and revised definitions of a basic sanitation facility.

Sanitation service. The new definition includes the safe disposal of wastewater (as appropriate and necessary) as part of a basic sanitation service.

Table 2: Definitions of waters supply and sanitation services

basic water supply facility	The infrastructure necessary to supply 25 litres of <u>potable water</u> per person per day supplied within 200 metres of a household and with a minimum flow of 10 litres per minute (in the case of communal water points) or 6 000 litres of potable water supplied per formal connection per month (in the case of yard or house connections).
basic water supply service	The provision of a basic water supply facility, the sustainable operation of the facility (available for at least 350 days per year and not interrupted for more than 48 consecutive hours per incident) and the communication of good water-use, hygiene and related practices.
basic sanitation facility	The infrastructure necessary to provide a sanitation facility which is safe, reliable, private, protected from the weather and ventilated, keeps smells to the minimum, is easy to keep clean, minimises the risk of the spread of sanitation-related diseases by facilitating the appropriate control of disease carrying flies and pests, and enables safe and appropriate treatment and/or removal of human waste and wastewater in an environmentally sound manner.
basic sanitation service	The provision of a basic sanitation facility which is easily accessible to a household, the sustainable operation of the facility, including the safe removal of human waste and wastewater from the premises where this is appropriate and necessary, and the communication of good sanitation, hygiene and related practices.

Future revision. These definitions will be revised in future once greater progress has been made in addressing the existing backlog in services provision and as affordability increases as a result of economic growth. National government will provide additional funds for the provision of basic water services in terms of any revised definition. See section 6.5.

6.3.2 Potable water quality

Water supplied by water services providers intended to be used for drinking or domestic purposes (potable water) must be of a quality consistent with SABS 241 (Specifications for Drinking Water), as may be amended from time to time.

6.3.3 Metering and flow control

All unrestricted water connections must be metered or controlled to a basic level. Where appropriate, water services providers should consider the benefits of offering households

controlled flow connections (for example, yard tanks) that can provide a basic supply of water cost-effectively. Where pre-payment meters are installed, these must take into account the free basic water services policy and allow for access to a basic amount of water at zero tariff.

6.3.4 Eradication of bucket toilets

The bucket system is an unsuitable and inappropriate level of service. All water services authorities must identify and implement programmes for the eradication of all bucket systems by 2006.

Choosing appropriate sanitation technologies

Communities and municipalities must agree about the system to be used to replace buckets, Ventilated Improved Pit toilets (VIPs) in rural areas or low flush waterborne systems in dense peri-urban settlements. Properly built VIPs are a first class design and the full flush system that everyone wants will not work where not enough water is available or the community cannot afford the expanded water supplies and wastewater treatment which national government cannot yet fund. (Minister Kasrils, Budget Speech, 6 June 2003)

National government will support the development and dissemination of appropriate and environmentally friendly technology to support the provision of affordable and reliable water and sanitation services to all South Africans. This will assist water services authorities to examine the full suite of options available before deciding on a particular technology for delivery of water and sanitation.

6.4 Other national norms and standards

DWAF, together with sector role-players, will also set and revise other national norms and standards for water services. These will include (but not be limited to) the following:

- the specification of norms and standards for *contracting* with external water services providers (see section 3);
- the specification of norms and standards for *tariffs* (see section 4);
- the specification of certain *planning requirements* by water services authorities and water services providers (see section 5); and
- the specification of *reporting* requirements (see section 5.2).

6.5 Process for setting and revising norms and standards

Norms and standards will be set and revised through a consultative process. They will take into account the diverse contexts within South Africa. The costs and benefits of new regulatory initiatives and revised norms and standards will be assessed prior to adoption and implementation wherever practical. The existing norms and standards will be revised and updated to be consistent with the policies in this Strategic Framework.

7. The regulatory framework

7.1 Vision and key principles

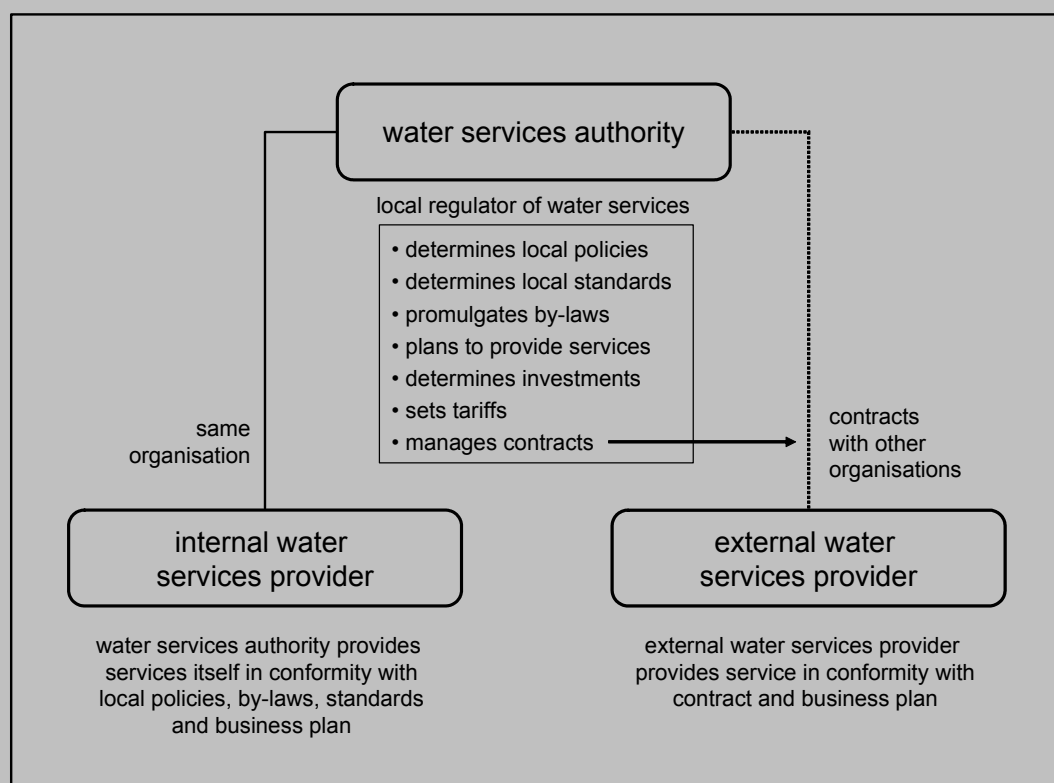
Objectives and vision

The overall objective of regulation is to protect consumer and public interests by:

- ensuring compliance with minimum national norms and standards;
- ensuring good performance and the efficient use of resources; and
- ensuring good contracting practice.

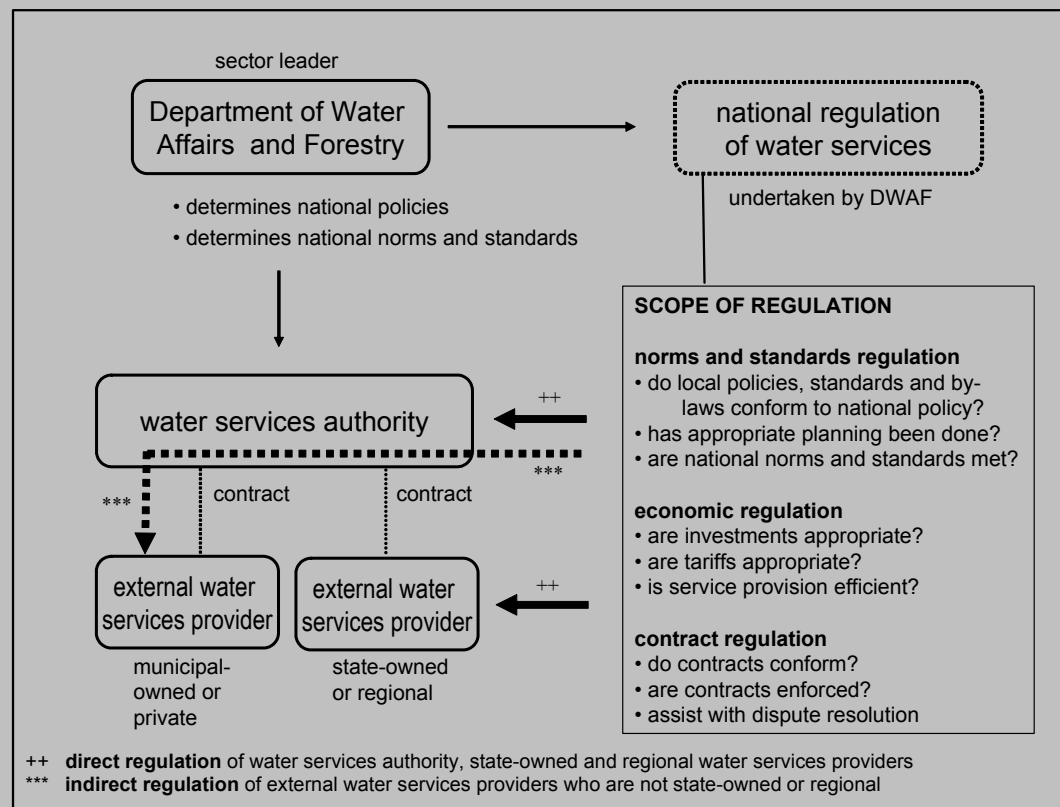
Vision: Water services are effectively regulated to achieve the above objectives.

Regulatory framework: local regulation



Local regulation. The water services authority (municipality) is the local regulator of water services. It determines local policies and standards (which must conform to national minimum norms and standards), promulgates by-laws, plans the provision of water services (water services development plan), determines how investments in water services are undertaken and sets tariffs. Where the water services authority is also the water services provider, there is self-regulation. The accountability of the water services authority to the local electorate is an effective regulating mechanism for the provision of water services in this context.

Regulation by contract. Where water services are provided by an external water services provider, the water services authority regulates the provision of services by means of a contract (service delivery agreement).

Regulatory framework: national regulation

Setting standards. National policy objectives and the related national norms and minimum standards are set by DWAF, the sector leader.

National regulation of water services will extend to the following:

- **Norms and standards regulation:** monitoring compliance with (and relative performance with respect to) national policies and national minimum norms and standards (see section 6). These are not only technical standards. (In the international literature, this is often called *technical* regulation.)
- **Economic regulation:** review of investment decisions of water services providers and tariffs. Are investments appropriate (not over-investment and not under-investment)? Are prices appropriate (neither too high nor too low)? Are services provided efficiently?
- **Contract regulation:** ensuring that all contracts established between water services authorities and water services providers conform to national regulations. Oversight of the management and enforcement of contracts, including support related to dispute resolution and interventions in terms of the contract.

The role of DWAF as regulator. Until such time as it is considered appropriate for an independent regulatory function to be created, DWAF will fulfil the role of the national regulator of the water services sector. The mechanisms for enforcement are discussed in section 7.3

Key principles informing the vision

The following principles of good regulatory practice inform the vision and the more specific policies related to regulation.

1. **Separation of regulatory and operational responsibilities.** Wherever possible and practical, the roles of regulation and operation should be clearly separated and preferably fulfilled by separate institutions.
2. **Integration with local government regulatory framework.** The regulation of water services and the general regulatory framework for local government will be aligned.
3. **Incremental regulation.** The regulatory framework will be matched to the capabilities of water services authorities and water services providers. A “one size fits all” regulatory approach is not appropriate in the South African context. The regulation of a large metropolitan water services provider poses an entirely different set of challenges compared to the regulation of a community-based water services provider managing local water and sanitation services in a small rural community.
4. **Strategic regulation.** The implementation of regulation will be strategic, focusing initially on priority areas where most gains can be achieved in the context of limited capacity and resources.
5. **Implementation or regulatory impact assessments.** An appropriate balance needs to be struck between desirable standards and the full economic costs associated with meeting these standards. The costs and benefits of new policy objectives and regulatory initiatives will be assessed prior to adoption and implementation.
6. **Regulation of outcomes.** Wherever practical and appropriate, emphasis will be placed on regulating outcomes rather than absolute compliance with stated regulations. This is a more flexible model and is more appropriate to the South African context.
7. **Dispute resolution.** The primary mechanism for the regulation of external water services providers is by contract. Wherever practical, contractual disputes should be resolved through existing arbitration mechanisms rather than relying on the costly and lengthy process of litigation.

7.2 Implementing the new regulatory framework

The need for balance between regulation and support. In South Africa there are significant disparities in the capacity of water services institutions. In this context, it is important to strike the appropriate balance between support (in order to develop capacity to meet sector objectives) and regulation (in order to ensure that policy objectives are met and standards are complied with). Over the next five or more years, national government will focus on supporting water services authorities and water services providers so as to promote the effective delivery of water services and the achievement of the sector goals and targets (see section 8). Nevertheless, it is still necessary to regulate water services authorities and to have oversight of the contractual relationships between water services authorities and water services providers. This is especially the case where there is adequate capacity.

A national regulation strategy. DWAF will develop a regulation strategy to implement the regulatory framework, seeking to achieve the appropriate balance discussed above. The short term strategy will address priority issues that need urgent attention. The medium term strategy will strengthen DWAF’s regulatory function so as to develop effective national regulation in line with the principles and approaches set out in this Strategic Framework (whilst at the same time maintaining a focus on support). The efficacy of establishing an independent national regulatory function for water services will be evaluated. Guidelines for the practical application of regulation to water services will be developed in tandem with these strategies.

The regulation of one sphere of government by another. The Constitution assigns the executive authority for water supply and sanitation services to local government, an independent sphere of government. National and provincial government are obliged to support and strengthen the capacity of municipalities and to ensure effective performance. National government may not undermine the executive authority of local government but can set national norms and standards (policy function) and enforce legislation (regulatory function). In exercising these roles, national government must apply the principles of co-operative government. These principles require all spheres of government and organs of state to co-operate with one another in mutual trust and good faith by assisting and supporting one another, and by making every reasonable effort to settle disputes and exhaust all other remedies before approaching a court to resolve a dispute.

7.3 National regulation

7.3.1 Scope of regulation

DWAF, as the national water services regulator, will regulate water services authorities in terms of the following scope:

- **Norms and standards regulation:** monitoring compliance with (and relative performance with respect to) national policies and national minimum norms and standards (see section 6). These are not only technical standards. (In the international literature, this is often called *technical* regulation.)
- **Economic regulation:** review of investment decisions of water services providers and tariffs. Are investments appropriate (not over-investment and not under-investment)? Are prices appropriate (neither too high nor too low)? Are services provided efficiently?
- **Contract regulation:** ensuring that all contracts established between water services authorities and water services providers conform to national regulations. Oversight of the management and enforcement of contracts, including support related to dispute resolution and interventions in terms of the contract

The norms and standards regulation above includes “social regulation”, that is, the regulation of universal service obligations:

- **Provision of basic services (universal service obligation).** The national water services regulator will assess the progress of water services authorities in taking reasonable steps to realise the right of everyone to have a basic water supply and sanitation service, with specific emphasis on people in dire need.¹¹ In undertaking this assessment, the national regulator will take into account the constraints facing water services authorities.
- **The right to basic services.** The national regulator will seek to protect consumer rights with respect to access to services by ensuring that credit control procedures are consistent with the policies set out in this Strategic Framework.

7.3.2 Regulating performance and compliance

Where a water services authority fails to conform to legislative requirements, then DWAF, as the national water services regulator, will follow the process outlined below:

- In the first instance, DWAF must **request compliance**. If the water services authority expresses the intention to comply but at the same time an inability to comply due to real constraints, then the water services authority will be supported in terms of the

¹¹ Cf. the Grootboom Constitutional Court ruling.

policies set out in section 8. Where a water services authority fails to respond to a request for compliance, yet has the necessary capacity to comply, then DWAF (working together with provincial government as necessary) may initiate any of the following initiatives aimed at securing compliance.

- The failure to comply can be published (possibly together with a league table of relative performance in the relevant area) in appropriate media to encourage the water services authority to comply through increased public pressure (“**name and shame**”).
- DWAF (together with National Treasury, DPLG and provincial government as appropriate) could encourage compliance by applying **financial pressure** on the water services authority through the retention or holding back of capital funds (as contemplated in the Public Finance Management Act and the Division of Revenue Act).
- Where the previous two initiatives fail, or in cases where it is deemed serious enough to warrant **direct intervention**, DWAF could intervene (together with National Treasury, DPLG and provincial government as appropriate). Interventions could include running the water services for a limited period of time. Intervention by national and provincial governments is supported by the Constitution and provided for in legislation (Constitution, Sections 100 and 139; the Water Services Act, the Municipal Systems Act and the draft Municipal Finance Management Act). Where interventions are undertaken, these must be co-ordinated through provincial government and DPLG. Section 63 of the Water Services Act needs to be reviewed to improve its effectiveness.
- If, despite all efforts, the local authority refuses to comply (or is negligent in compliance), DWAF may resort to **legal action**. It is likely that this action will be of a civil rather than criminal nature. This will allow for a range of remedies that may prohibit municipalities from undertaking certain actions or oblige municipalities to undertake certain actions. Legal action should be regarded as a last resort.

DWAF will develop an **intervention strategy** which conforms to the policies set out in this Strategic Framework and other relevant national policies and legislation.

Monitoring. See “Monitoring to regulation” in section 8.4.3.

7.3.3 Independent regulation

The efficacy of independent regulation of water services at the national level will be assessed.

7.4 Local regulation

7.4.1 Scope of regulation

Water services authorities are ultimately accountable to their citizens for the effective delivery of services to meet their citizens’ needs. Nevertheless, a water services authority must also ensure that water services are provided within its area in conformity with national policies, norms and standards.

Water services authorities regulate all aspects of water services provision locally. More specifically, the scope of regulation extends to the following:

- The primary mechanism for the local regulation of water services is a set of **by-laws** that a water services authority must promulgate. These by-laws set out the general rights, duties and responsibilities of water services providers, intermediaries, water services agents and consumers with respect to water services.

- Where a water services authority contracts with an external water services provider, the water services authority regulates the water services provider by **contract**. Any contract developed must be consistent with national norms and standards. All contracts are subject to national regulatory oversight.
- The water services authority must **monitor the performance** of all external water services providers within its area of jurisdiction to ensure compliance with national norms and standards and with the contract.
- Water services authorities will regulate (in terms of the contract) the investments, tariffs and operating efficiency of local external water services providers (**economic regulation**).

7.4.2 Regulating performance and compliance

Economic regulation includes the approval of investment plans and tariffs. The allowed tariffs are related to both the investment programme and the operational efficiency of the water services provider. The specific form of economic regulation will depend on the nature of the contract. (See section 4.7.)

Where an external water services provider fails to meet its contractual obligations, the consequences and remedies must be provided for in terms of the contract (service delivery agreement).

Where a water services provider fails to meet its obligations with respect to the consumer, the consumer has recourse to the water services authority. Where this is ineffective, the consumer has recourse to the national water services regulator.

The relevant by-laws and consumer contract must set out or provide for consequences and remedies when a consumer breaks a by-law or fails to meet the contractual obligations with the water services provider.

7.5 Regulation of regional water services providers

The specific nature of the future regulation of water boards and regional water services providers will depend on the future role of water boards and regional water services providers (see section 3.4) as well as the broad framework for the regulation of state-owned enterprises. Nevertheless, DWAF, as national water services regulator, will regulate water boards (and any other public or private water services providers of a regional nature) in the following respects:

DWAF will ensure compliance with relevant national **norms and standards**.

Water services authorities that are provided with water services by a water board or regional water services provider, will agree the investment plans and tariffs of the water board or regional water services provider (**economic regulation**). In the event of a dispute between the water services provider and any of the water services authorities, this will be resolved by DWAF as the national water services regulator. Notwithstanding the above, DWAF has the right to undertake the direct economic regulation of water boards and regional water services providers with a view to protecting consumer and public interests. This economic regulation may extend to the approval of business plans and the approval of tariffs, taking into account any existing contracts.

The water services authority will **regulate the contract** between itself and the water board (or regional water services provider). In the event of a dispute between the water services provider and any of the water services authorities, this will be resolved by DWAF as the national water services regulator. In the short term, water boards are required to enter into contracts with water services authorities in terms of a mutual obligation and by negotiation.

These contracts must not pre-empt the institutional reform envisaged in section 3.4. All existing agreements will be respected. However, all new contracts must take into account the likelihood of restructuring in terms of the institutional reform process. DWAF will exercise a national oversight role over all contracts between water services authorities and external water services providers including water boards and other regional water services providers.

7.6 Links with water resources regulation

The two key linkages between water services regulation and water resources regulation are as follows:

- Licensing and regulation of water use; and
- Licensing and regulation of waste discharge.

The institutional arrangements for water resources regulation are described in 3.1.

8. The support and monitoring framework

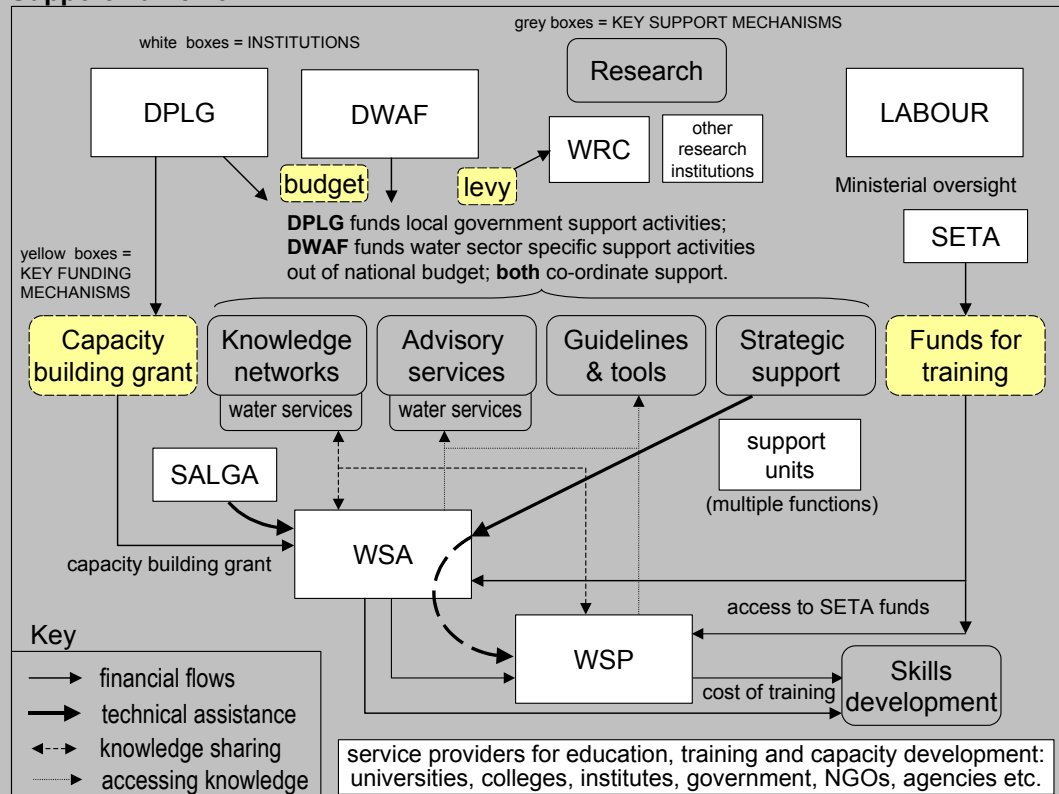
8.1 Vision and key principles

Support vision and framework

Vision and objectives

1. To ensure the establishment and functioning of capable, effective and efficient water services institutions.
2. To ensure the development of adequate skills and competencies required in the water services sector.
3. To enable all sector role-players and partners to fulfil their roles effectively.

Support framework



Mechanisms of support. Support is provided through six key mechanisms:

- **Capacity Building Grant.** Direct support for the establishment, coordination and sustainability of local government, of which water services is a key component.
- **Knowledge networks.** Peer to peer networks are managed and facilitated.
- **Advisory service.** Expertise is made available.
- **Guidelines and tools.** Practical tools and guidelines are developed.
- **Strategic support initiatives.** Direct technical assistance is provided strategically.
- **Skills development.** Education, training and capacity building is provided.

Research also plays an important part in underpinning support.

Funding. Support is funded through the *capacity building grant* administered by DPLG, the *skills development levy* administered by the Sector Education and Training Authority (SETA), *government budgets* for funding knowledge networks, advisory services, guidelines and tools, strategic support initiatives and training, *water services institutions budgets* and a *levy on water* to fund water research.

Key principles informing the support framework



The following principles inform the vision and support framework.

1. **Outcomes based support.** Support initiatives and activities will primarily focus on outcomes and not on inputs.
2. **Institutionalisation of capacity.** Support initiatives will seek to develop capacity within the institutions that require it so that reliance on external support is reduced over time.
3. **Demand-driven.** Wherever practical, support should be responsive to needs and demands.
4. **Alignment with DPLG capacity building strategy.** The support strategy for water services will be aligned with and contribute to DPLG's capacity building strategy for local government.
5. **Strategic.** National support should be strategic to meet sector priorities and seek to maximise the outcomes for a given set of limited resources.
6. **Holistic.** Support for the water services function should be addressed as part of *overall* municipal services support – as all underpin the viability of local government.
7. **Transformation.** Through the institutional reform process, assisted by the support framework, water services institutions will be transformed in order to ensure effective, efficient and sustainable services provision, and taking cognisance of the need to reflect the cultural, gender and racial diversity in South Africa.

8.2 Challenges

There are five key challenges which inform the support framework:

- establishing and/or developing effective water services institutions;
- accelerating the expansion of water supply and (especially) sanitation services, including health and hygiene education, particularly in the context of the transition to the new decentralised fiscal framework set out in section 4, and operating and maintaining this infrastructure;
- transferring DWAF-owned water services assets to water services authorities in terms of the policy set out in section 3.4.6;
- reforming the institutional arrangements for water services provision in order to optimise the use of existing resources, realise economies of scale and create financially viable, sustainable and accountable water services providers in terms of the policies and approach set out in section 3.4; and
- addressing capacity constraints and skills shortages in the water services sector.

8.3 Implementing support

All sector stakeholders have responsibility for support, but DWAF as the sector leader will guide, coordinate and harness the resources of sector players to provide support. In many instances those providing support need support themselves.

8.3.1 Capacity building grant

The Capacity Building Grant is the primary mechanism to build local government capacity and a key mechanism for ensuring coordination of support activities. DPLG's capacity building strategy for the establishment, consolidation and sustainability of local government provides the framework for support. Within this framework, the water services sector, guided by DWAF, will define the water services requirements, including appropriate implementation strategies and the necessary funding and resources. The focus will be on: -

- **The water services authority function** - to ensure that water services authorities are able to fulfil their authority functions. Priority will be given to those who have limited capacity as well as those with high service backlogs and those who take over schemes transferred from DWAF.
- **Water service provider establishment and functionality** - where these are municipal (including municipal entities) or community-based – to ensure sustainable services and provision of free basic water and sanitation. Funding and support will be provided through the water service authority, which has the responsibility of ensuring functioning water service providers.

Where capacity is limited, it is likely that external support will be needed to initiate the capacity building process, with the ultimate aim, of all municipalities managing their own institutional development. Water services authorities should include their capacity building plans for the water services authority and provider functions in the institutional section of the water services development plan and also in the integrated development plan.

8.3.2 Knowledge networking

The purpose of knowledge networking is to ensure that the wealth of water services information and knowledge is accessible, disseminated and applied within the sector. This entails a range of activities from information management to peer learning and lesson sharing through a variety of mechanisms, such as internet-based knowledge hubs, e-mail-based newsgroups, forums, workshops etc. All sector players will be able to contribute to and access knowledge from appropriate knowledge networks. The aim is to facilitate informed decision making and capacity building, targeting water services institutions, primarily the water services authorities and providers. The approach is to build on the capital and potential of existing knowledge management centres and coordinate and optimise their contributions for the good of the sector. Water services knowledge and information must be fed into the local government knowledge network. This is an effective demand-driven mechanism for sharing knowledge and hence supporting the transfer of best practices across the water services sector.

Benchmarking can play an important role in supporting improved sector performance, through comparative evaluation, exchange and learning in order to improve efficiencies.

- **DWAF** is the custodian and manager of the national water information system, funded from the budget and is a major information/knowledge provider, disseminator and user.
- **Other role-players.** These include science councils such as WRC, CSIR & HSRC, academic institutions, water services authorities, SALGA, water utilities and service providers, non-governmental bodies, consultants and professional organisations such as the Cities Network, the Water Institute of South Africa (WISA), the Institute of

Municipal Financial Offices (IMFO), and the Institute of Municipal Engineering of Southern Africa (IMESA). Working collaboratively and linking with relevant international bodies they have a responsibility to ensure the generation, quality, integration & distribution of knowledge to meet user needs, which is well managed and maintained.

8.3.3 Advisory services

The purpose of advisory services is to make expert knowledge available to sector role-players in response to demand. Advisory services could be established at a national, provincial and/or district level and may be linked to broader local government advisory and support services or be dedicated for water services. The water services advisory services will be overseen by DWAF and will be funded from the national budget. The advisory services will seek to make maximum use of existing skills and experience in water services institutions, including secondments and mentoring.

8.3.4 Guidelines and tools

DWAF will revise and expand their series of guidelines and tools to support sector role-players with their work. The development of these guidelines and tools will be funded by the national government budget. (See section 9.1.) Other institutions may also play a significant role in developing and disseminating user-friendly guidelines and tools.

8.3.5 Strategic support initiatives

DWAF will develop capacity to undertake strategic support initiatives to both water services authorities and water services providers. Where technical assistance is given to water services providers, this will be mediated by the relevant water services authority. Technical assistance will not include the direct management or operation of water services provision. Wherever practical and appropriate, support will be driven by the needs and priorities identified by water services authorities so that support is responsive to local government challenges. As part of its developmental, regulatory and support role, and in cases where municipalities lack basic capacity to initiate capacity building processes, DWAF will initiate and implement supply led support initiatives based on national strategic objectives such as free basic water, transfer, sanitation, and so on. The costs of strategic support initiatives will be borne by the national budget (which could be augmented by donor funds).

8.3.6 Skills development

Capability building through education, training and skills development will form a major component of support to the sector. The skills development strategy for the sector will take into account the need to accelerate and expand formal and structured training and education programmes in light of the following critical priorities:

- gaps between the existing and required levels of competence to plan, implement, operate and maintain water services infrastructure;
- the shortage of skilled personnel;
- the shortage of management capacity; and
- the shortage of accredited training providers.

DWAF, together with the Local Government, Water and related services Sector Education Training Authority (LGWSETA), will assume responsibility for leadership and co-ordination of education, training and capacity building in the water services sector.

The LGWSETA will perform the following functions:

- regulate training in the local government and water sectors by setting standards for quality assurance, accreditation, recognition of prior learning, and assessments of training activities;
- co-ordinate training provision;
- develop the sector skills plan and skills development strategy;
- collect and evaluate workplace skills plans of water services institutions; and
- develop, register and manage learnerships.

Education and training institutions offer water-related courses, training needs analysis, applied research, development of course curricula and training materials, and implementation of capacity building, training and educational activities. These include public institutions, such as universities, technikons, colleges and the National Community Water and Sanitation Training Institute (NCWSTI), non-government organisations and private organisations.

Funding. The skills development levy can provide a significant source of funding for the water sector for formal training and education through the policies and processes set up by the LGWSETA. In addition to this, water services institutions and DWAF will fund training from their budgets and through other support programmes.

Addressing the constraints. The shortage of accredited training providers and slow progress in the development of work place skills plans are critical constraints to the full use of the funds available for training through the skills development levy. DWAF and sector role-players will work together with the LGWSETA to ease these constraints.

8.3.7 Donor funding

Donor funding to support the development of the water services sector in South Africa is actively sought. DWAF will work with donor agencies to ensure that this support is co-ordinated, aligned and integrated with South Africa's funding and support policies and is managed in terms of national policies and strategies for the sector as a whole.

8.3.8 Support strategy

DWAF will lead the development of a national support strategy, working with sector role-players to give effect to the policies in this Strategic Framework.

8.4 Monitoring and information management

8.4.1 Monitoring and information needs and uses

Monitoring is an essential tool needed for effective support and regulation. Relevant, timely and reliable information can make any support given more appropriate and effective by informing the nature and extent of support needed. Similarly, monitoring will help to identify instances where interventions are needed to protect the public interest.

Monitoring is also useful to inform national policy and strategy development, and to inform planning. It is a legislative requirement in some cases (for example, in terms of the annual reporting requirements of the Human Rights Commission, the annual report to Parliament and the Public Finance Management Act).

Monitoring takes place at the local, regional and national levels and involves different role-players including (but not limited to) water services providers, water services authorities, catchment management agencies, provincial governments, national departments and the water services regulator.

8.4.2 Principles

Scope and comprehensiveness. While it is tempting to develop a comprehensive all-encompassing national management information and monitoring system, this would be a mistake. Experience has shown that this ambition can be the undoing of information systems, resulting in large, complex and expensive information systems which have only partial datasets and which, as a result, fall far short of the original ambitions and objectives set. Rather, fit-for-purpose monitoring and information systems (see below) are likely to be much more cost-effective and successful in achieving the set objectives.

Fit for purpose. Monitoring and information systems should be designed with specific and defined objectives in mind, with a clear statement of how and why the data to be collected is to be used and for what purposes. Only the *necessary data* should be collected.

Bottom-up design. Monitoring and information systems should be designed and managed in a bottom-up way. Any information collected locally should be useful locally, and public participation in monitoring should be encouraged.

Compatibility. Wherever practical, monitoring and information systems should be compatible with each other to allow for easy portability of data between systems.

Duplication. Monitoring and evaluation systems should avoid duplication wherever possible.

Practicality. Information systems should be as practical and user friendly as possible.

Public domain. All information pertaining to the public provision of water services should be in the public domain and open to public scrutiny.

Management information systems should be designed with the aim of improving the performance of water services institutions.

Strategic development of systems. The development of monitoring systems should be strategic, seeking to maximise the outcomes for a given set of limited resources.

8.4.3 Monitoring strategies

Monitoring to inform national policy and strategy. The monitoring system for the purposes of evaluating overall sector progress should be designed around the sector vision, goals and targets set out in section 2 of this Strategic Framework.

Monitoring to inform planning. The basic building blocks of the water services and water resources planning system are the water services development plans and catchment management strategies, together with any other relevant plans. Information management systems for planning should be managed separately from other information systems that are needed for very different purposes.

Monitoring to inform support strategies. Monitoring systems to inform support strategies and support interventions should be strategic in nature, focusing on a few key indicators. They should be designed around the support framework set out in section 8.3.

Monitoring to regulate. Self-reporting on the part of regulated institutions for the purposes of regulation should only be used where there are credible processes to check for accuracy (for example, through audits) and credible penalties for failure to report accurately and to comply with the relevant regulations. The information system for regulation should be strategic in nature (rather than comprehensive) and focus on a few critical indicators. The process of disclosure must be reliable and there must be clear intervention policies and procedures for clearly specified cases of non-compliance. A regulatory monitoring framework should also recognise that *consumers* are in the best position to monitor the effectiveness of water services provision. They are the first to experience the effects of poor, inadequate or absent services. Therefore, the most important and effective monitoring strategy for the sector

is *strengthening the voice of consumers*. It is the responsibility of water services authorities to put into place mechanisms for facilitating, listening to and responding to consumer and citizen feedback on the quality of services provided.

8.4.4 Compatibility with other monitoring and information systems

Water services monitoring and evaluation (M&E) systems need to be compatible and where possible avoid duplication with the following other M&E systems:

- the national M&E system for all government departments;
- the National Information System for the water sector;
- municipal infrastructure grant M&E system;
- DPLG data requirements including reporting of key performance indicators; and
- National Treasury requirements.

9. Conclusion

9.1 Implementing the Strategic Framework

DWAF will work together with other sector role-players to implement this strategic framework. DWAF, as sector leader, will assume responsibility for ensuring the development of detailed strategies to give effect to the framework. These will include the following key components (amongst others):

- review of the legislative framework affecting water services provision, including the Water Services Act and the regulations made in terms of this Act;
- development of a *national institutional reform strategy*;
- development of a *regulatory strategy*;
- development of a *support strategy*;
- development of a *monitoring and evaluation strategy*; and
- refinement and expansion of a suite of *water services guidelines and tools* (to be made available on the DWAF web-site www.dwaf.gov.za).

9.2 International co-operation

DWAF, together with other role-players in the water services sector, will seek to learn and share knowledge and experiences related to the development of water services policies and strategies in Africa in the spirit of the New Partnership for Africa's Development (NEPAD).

Water is life, sanitation is dignity.

Annexure 1

List of relevant policies and legislation relating to water services

White Papers

- Water Supply and Sanitation Policy White Paper – November 1994
- Water Policy White Paper – April 1997
- Transformation of the Health System White Paper – April 1997
- White Paper on Local Government – March 1998
- White Paper on Environmental Management Policy – April 1999
- South Africa's National Housing Policy – March 2000
- Draft White Paper on Municipal Service Partnerships – April 2000
- White Paper on Basic Household Sanitation – September 2001

Legislation

- The Health Act 63 of 1977
- Local Government Transition Act 97 of 1996
- The Constitution of the Republic of South Africa Act 108 of 1996
- Intergovernmental Fiscal Relations Act 97 of 1997
- The Water Services Act 108 of 1997
- The Local Government: Municipal Demarcation Act 27 of 1998
- The National Water Act 36 of 1998
- The Local Government: Municipal Structures Act 117 of 1998
- The Public Finance Management Act 1 of 1999
- The Local Government: Municipal Systems Act 32 of 2000
- The Division of Revenue Act (as promulgated annually)
- The National Health Act (to be promulgated and to replace the Health Act)
- The Municipal Financial Management Act (to be promulgated)

Annexure 2

Key performance indicators for water services authorities

All water services authorities must report annually on the following key performance indicators.

INDICATOR		BENCHMARK	MEANS OF VERIFICATION
Access to services			
1	Access to water. Rate of reduction in the number of households in the WSA area without a basic water supply service.	Number of households without a basic water supply service reduced by 20% each year to achieve full coverage in five years.	Reported to DWAF by the WSA. Checked by DWAF on a random basis.
2	Access to sanitation. Rate of reduction in the number of households in the WSA area without a basic sanitation service.	Number of households without a basic sanitation service reduced by 14% each year to achieve full coverage in seven years.	Reported to DWAF by the WSA. Checked by DWAF on a random basis.
Note: Where the rate of reduction in the number of households without access to basic water supply and sanitation services is below the benchmarks set out above, the WSA must show why the rate of reduction has been slower and what actions it is taking to remedy the situation.			
Quality of services provided			
3	Water quality. Number of households (and proportion of total households supplied by formal piped systems) who do <u>not</u> receive water of an adequate drinking quality.	All households supplied with water from formal piped water supply systems receive water which consistently meets the defined minimum standards for potable water as defined in SABS 241.	Sampling system in place for all formal piped water supply systems and water quality results regularly reported. Testing systems and results checked by DWAF on a random basis.
4	Continuity of water supply. Number of households (and proportion of total households supplied by formal piped systems) which experience inadequate continuity of the water supply service.	All consumers served by formal piped systems (and with at least a basic level of water supply service) experience interruptions of less than 48 hours (at any one time) and a cumulative interruption time during the year of less than 15 days.	WSA complaint and maintenance logs. Random customer surveys undertaken by DWAF to verify reporting.
Note: Where quality standards are not met, the WSA must demonstrate what actions it is taking to improve the quality of services provided and must show reasonable annual improvements in the quality of service provided so as to meet the quality standards within a period of five years.			

INDICATOR		BENCHMARK	MEANS OF VERIFICATION
Free basic services provided			
5	Free basic water. Number of domestic consumers (and proportion of total) who must pay for services even though they have access to just a basic water supply service and they use only a basic amount.	Zero (0%).	Reported by WSAs to DWAF. Random checks by DWAF to verify.
6	Free basic sanitation. Number of domestic consumers (and proportion of total) who must pay for services even though they have access to just a basic sanitation service and they use only the basic service.	Zero (0%).	Reported by WSAs to DWAF. Random checks by DWAF to verify.
<p>Note: Where free basic water supply and sanitation services are not provided in terms of the policies in this Strategic Framework, the WSA must demonstrate what actions it is taking to extend free basic water supply and sanitation services and must show reasonable annual expansion in the provision of free basic services so as to meet the benchmark as soon as is practically feasible.</p>			
Financial performance			
7	Affordability. Outstanding debt for water and sanitation services for all consumers expressed as debtor days. <i>(Note: This is also a measure of the efficacy of revenue collection.)</i>	Less than 90 days.	Reported by WSA to National Treasury as weighted average for the WSA area. Annual financial audits of financial reporting by the auditor general.
Use of resources			
8	Metering efficiency. The proportion of the total water abstracted and/or purchased which is supplied & metered.	At least 80%.	Reported by WSA to DWAF. Random checks by DWAF to verify.
Environment			
9	Quality of water discharged. Volume of water discharged to the environment (and % of total discharge) which does not meet discharge standards.	Zero (0%).	Reported by WSA to DWAF. Random checks by DWAF to verify.
<p>Note: Where financial performance, use of resources and environmental benchmarks are not met, the WSA must demonstrate what actions it is taking to meet these benchmarks and must show reasonable annual improvements so as to meet these benchmarks within a period of five years.</p>			

Annexure 3: Definitions

(Definitions in the Water Services Act will be amended accordingly.)

average incremental cost	<i>(new)</i> The discounted value of future supply costs divided by the (similarly discounted) amount of additional water/wastewater to be supplied/treated.
basic sanitation facility	<i>(revised)</i> The infrastructure necessary to provide a sanitation service which is safe, reliable, private, protected from the weather, ventilated, keeps smells to the minimum, is easy to keep clean, minimises the risk of the spread of sanitation-related diseases by facilitating the appropriate control of disease carrying flies and pests, and enables safe and appropriate treatment and/or removal of human waste and wastewater in an environmentally sound manner.
basic sanitation service	<i>(revised)</i> The provision of a basic sanitation facility which is easily accessible to a household, the sustainable operation of the facility, including the safe removal of human waste and wastewater from the premises where this is appropriate and necessary, and the communication of good sanitation, hygiene and related practices.
basic water services	A basic water supply service and/or a basic sanitation service.
basic water supply facility	<i>(revised)</i> The infrastructure necessary to supply 25 litres of potable water per person per day supplied within 200 metres of a household and with a minimum flow of 10 litres per minute (in the case of communal water points) or 6 000 litres of potable water supplied per formal connection per month (in the case of yard or house connections).
basic water supply service	<i>(revised)</i> The provision of a basic water supply facility, the sustainable operation of the facility (available for at least 350 days per year and not interrupted for more than 48 consecutive hours per incident) and the communication of good water-use, hygiene and related practices.
bulk water services provider	<i>(new)</i> A bulk water services provider is any person who has a contract with a water services authority or another water services provider to sell water to, and/or accept wastewater for the purposes of treatment from, that authority or provider.
capacity building grant	A consolidated capacity building grant administered by DPLG.
civil society	That part of the society that is not part of the state. Organisations of civil society are all formed voluntarily by citizens on the basis of common concerns and interests.
community-based water services provider	<i>(new)</i> A not-for-profit organisation situated within a defined community that is mandated by that community to provide a specific municipal service to that community on behalf of the municipality, provided that (1) all members of the governing body of the organisation are nominated members of the community and are permanently resident within the community, (2) all employees of the organisation are members of the community and are permanently resident within the community, and (3) the area constituting the community is defined by the municipality.
consumer charter	A statement by a water services provider that sets out the duties and responsibilities of both the water services provider and consumers with respect to each other.

consumer contract	<p>The contract, concluded or deemed to be concluded, between the water services authority or water services provider and an end consumer for the provision of water services, incorporating the rights and obligations of the parties as set out in the water services authority's by-laws and, where appropriate, the conditions of supply of the water services provider.</p> <p><i>(A consumer charter can take the place of individual consumer contracts.)</i></p>
economic costs	<p>The direct (financial) and indirect costs associated with the provision of the service. Indirect costs include environmental and other externalities and economic opportunity costs.</p>
financial costs	<p>All financial costs directly associated with the provision of the service including (but not limited to) operating costs, maintenance costs, depreciation costs, finance costs and necessary and prudent financial provisions (to account for bad debt, for example).</p>
formal connection	<p><i>(new)</i> A connection approved by a water services provider including any connection which is formally registered with a water services provider.</p>
industrial wastewater	<p><i>(new)</i> Wastewater arising from mining, manufacturing, electricity generation, land-based transport, construction or any related activities.</p> <p><i>(Consistent with definition of disposal of industrial effluent in the Water Services Act.)</i></p>
industrial water	<p><i>(new)</i> Water used for mining, manufacturing, generating electricity, land-based transport, construction or any related purpose.</p> <p><i>(Consistent with definition of industrial use in the Water Services Act.)</i></p>
integrated development plan (IDP)	<p>A municipal plan as defined in the Municipal Systems Act of 2000.</p>
interim sanitation service	<p><i>(new)</i> A temporary sanitation service is an interim measure and should provide privacy to the user, be readily accessible and in close walking distance, and provide for the safe disposal of human waste.</p>
interim water supply service	<p><i>(new)</i> A temporary water supply service is an interim measure and should provide, within reasonable walking distance, water of an adequate quality from a health point of view.</p>
local government equitable share	<p>A constitutionally protected unconditional grant from national government to local government to support the operating costs of basic services.</p>
local water services provider	<p><i>(new)</i> A water services providers providing water services to only one water services authority.</p>
municipal infrastructure grant	<p>A conditional grant from national government to support investments in basic municipal infrastructure.</p>
potable water	<p><i>(new)</i> Water used for drinking or domestic purposes of a quality consistent with SABS 241 (Specifications for Drinking Water) as may be amended from time to time.</p>
regional scheme	<p><i>(new)</i> A water services scheme that crosses water services authority boundaries.</p>
regional water services provider	<p><i>(new)</i> A water services provider that operates a regional scheme.</p>

retail water services provider	<i>(new)</i> Any person who has a contract with a water services authority to assume operational responsibility for providing water services to one or more consumers (end users) within a specific geographic area.
sanitation services	<i>(revised)</i> The collection, removal, disposal or treatment of human excreta and domestic wastewater, and the collection, treatment and disposal of industrial wastewater. This includes all the organisational arrangements necessary to ensure the provision of sanitation services including, amongst others, appropriate health, hygiene and sanitation-related awareness, the measurement of the quantity and quality of discharges where appropriate, and the associated billing, collection of revenue and consumer care. Water services authorities have a right but not an obligation to accept industrial wastewater from industries within their area of jurisdiction.
service delivery agreement	<i>(new)</i> A contract between a water services authority and a water services provider for the delivery of municipal services, or between water services providers.
wastewater	Used water resulting from the use of water for domestic or other purposes which may include or exclude human excreta.
water board	A water services provider which is an organ of state and whose primary function is that of bulk water services provider.
water resource	Any water resource as defined in the National Water Act.
water sector	Includes both water resources and water services.
water services	<i>(revised)</i> Water supply services and/or sanitation services, or any part thereof. <i>(The definition of what constitutes water services has been extended to include all aspects of the service necessary for the provision of an adequate service, specifically the business processes (such as billing and revenue collection) and the communication of what constitutes good hygiene and water and sanitation-related consumer practices.)</i>
water services agent	A legal entity that provides services to water services providers. The distinguishing characteristic of water services agents is that they do not assume full operational responsibility for the physical provision of water and/or sanitation services, but rather provide support services (for example, meter reading) to water services providers.
water services authority	<i>(revised)</i> Any municipality that has the executive authority to provide water services within its area of jurisdiction in terms of the Municipal Structures Act 118 of 1998 or the ministerial authorisations made in terms of this Act.
water services development plan	A plan for water and sanitation services in terms of the Water Services Act.
water services institution	<i>(revised)</i> A water services authority and/or a water services provider. <i>(It is useful to restrict the term water services institution to just a water services authority and/or a water services provider. Previously water services intermediaries were included in the definition of water services institution. The responsibilities placed on water services intermediaries are different in nature to those placed on water services providers and water services authorities and hence is it appropriate to distinguish between these in the more generic definition which is used for the sake of conciseness.)</i>

water services intermediary	Any person who is obliged to provide water services to another in terms of a contract where the obligation to provide water services is incidental to the main object of that contract.
water services provider	<p><i>(revised) A water services provider is:</i></p> <ul style="list-style-type: none"> • any person who has a contract with a water services authority or another water services provider to sell water to, and/or accept wastewater for the purposes of treatment from, that authority or provider (<i>bulk water services provider</i>); and/or • any person who has a contract with a water services authority to assume operational responsibility for providing water services to one or more consumers (end users) within a specific geographic area (<i>retail water services provider</i>); or • a water services authority which provides either or both of the above services itself.
water supply services	<p><i>(revised) The abstraction from a water resource, conveyance, treatment, storage and distribution of potable water, water intended to be converted to potable water and water for industrial or other use, to consumers or other water services providers. This includes all the organisational arrangements necessary to ensure the provision of water supply services including, amongst others, appropriate health, hygiene and water-related awareness, the measurement of consumption and the associated billing, collection of revenue and consumer care. Water services authorities have a right but not an obligation to provide industrial water to industries within their area of jurisdiction.</i></p> <p><i>(The definition of water supply services is no longer restricted to the supply of potable water but includes all water supplied by or on behalf of a water services authority.)</i></p>