

NATIONAL SANITATION POLICY 2016



WATER IS LIFE - SANITATION IS DIGNITY



water & sanitation

Department:
Water and Sanitation
REPUBLIC OF SOUTH AFRICA



PREAMBLE

With advancements in the sanitation sector since the approval of the White Paper on Water Supply and Sanitation (1994); the White Paper on a National Water Policy of South Africa (1997); the White Paper on Basic Household Sanitation (2001); the Strategic Framework for Water Services (2003) and based on several years of implementation, a number of challenges and unintended consequences have been identified that require a sanitation policy review, and consequent legislative amendment. It has become increasingly evident that there is a need to revise current sanitation policy to accommodate aspects of the changed service delivery environment and priorities, and to address gaps identified by the sector.

This National Sanitation Policy Review provides policy positions to address the identified policy gaps and challenges, as well as to address the country's new national and international development imperatives.

This policy review adopts many of the strategic policy positions outlined by the Strategic Framework for Water Services (SFWS) of 2003. It is envisaged that the SFWS will in future be replaced by a water and sanitation strategy. This policy review thus includes the SFWS policy positions which must be sustained to ensure a sustainable sanitation sector in the country.

The sanitation sector is a diverse sector made up of a number of stakeholders and institutions. The key institutions which are affected by this policy review include the local government sector, public sector, research and innovation sector, non-governmental and private sector.

The policy also endorses the national sanitation targets, as outlined in the National Development Plan (NDP) and Medium Term Strategic Framework (MTSF).

In addition, it gives effect to the International Sustainable Development Goals, 2015 (SDG).



Contents

PREAMBLE	i
Contents	iii
ACRONYMS	vi
1 SANITATION POLICY FRAMEWORK.....	2
1.1 INTRODUCTION	2
1.2 PURPOSE.....	3
1.3 VISION.....	5
1.4 SANITATION POLICY PILLARS.....	5
1.5 SANITATION SERVICES PRINCIPLES.....	5
1.6 SANITATION DEFINITIONS	7
2 INTERGRATED PLANNING OF SANITATION SERVICES.....	12
2.1 POSITION 1: UNIVERSAL ACCESS TO SANITATION IN HUMAN SETTLEMENTS	12
2.2 POSITION 2: FREE BASIC SANITATION	15
2.3 POSITION 3: SANITATION AT PUBLIC AND PRIVATE INSTITUTIONS.....	15
2.4 POSITION 4: EMERGENCY SANITATION	16
2.5 POSITION 5: SANITATION DURING DISASTERS	17
3 INSTITUTIONAL ARRANGEMENTS FOR SANITATION SERVICES.....	20
3.1 POSITION 6: ROLE AND RESPONSIBILITY OF THE DEPARTMENT OF WATER AND SANITATION	20
3.2 POSITION 7: ROLE AND RESPONSIBILITY OF DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS.....	21
3.3 POSITION 8: ROLE AND RESPONSIBILITY OF THE WATER SERVICES AUTHORITY	22
3.4 POSITION 9: ROLE AND RESPONSIBILITY OF THE WATER SERVICES PROVIDER.....	24
3.5 POSITION 10: SOUTH AFRICA’S INTERNATIONAL SANITATION OBLIGATIONS	25

3.6	POSITION 11: ROLES AND RESPONSIBILITIES OF CBOS/NGOS AND THE COMMUNITY	26
3.7	POSITION 12: BULK SANITATION INFRASTRUCTURE AND ESTABLISHMENT AND FUNCTIONS OF REGIONAL WATER AND SANITATION UTILITIES.....	27
3.8	POSITION 13: NATIONAL WATER AND SANITATION ADVISORY COMMITTEE.....	28
4	PARTICIPATION IN SANITATION SERVICES	30
4.1	POSITION 14: HYGIENE EDUCATION	30
4.2	POSITION 15: END-USER EDUCATION.....	31
4.3	POSITION 16: OWNERSHIP OF SANITATION SERVICES.....	32
4.4	POSITION 17: GENDER, YOUTH AND DISABLED IN SANITATION SERVICES.....	33
5	CAPACITY AND RESOURCES FOR SANITATION SERVICE DELIVERY.....	36
5.1	POSITION 18: HUMAN RESOURCES AND SKILLS FOR SANITATION SERVICES.....	36
5.2	POSITION 19: RESEARCH AND INNOVATION FOR SANITATION SERVICES	37
5.3	POSITION 20: COMMUNITY CAPACITY TO PARTICIPATE IN SANITATION SERVICES.	38
6	FINANCIAL EFFECTIVE AND EFFICIENT SANITATION SERVICES	40
6.1	POSITION 21: ECONOMICALLY AND FINANCIALLY SUSTAINABLE SANITATION SERVICES	40
6.2	POSITION 22: FUNDING MODELS OF SANITATION SERVICES.....	41
6.3	POSITION 23: FUNDING OPERATION AND MAINTENANCE OF SANITATION SERVICES.....	42
7	SUSTAINABLE SANITATION SERVICES.....	44
7.1	POSITION 24: APPROPRIATE SANITATION TECHNOLOGIES	44
7.2	POSITION 25: GREY-WATER MANAGEMENT IN SANITATION SERVICE PROVISION .	45
7.3	POSITION 26: REDUCE, REUSE, RECYCLE, RECOVER AND RECLAMATION IN THE SANITATIONS SECTOR	46
7.4	POSITION 27: EFFLUENT MANAGEMENT	48
7.5	POSITION 28: OPERATION AND MAINTENANCE	49
7.6	POSITION 29: LABOUR INTENSIVE SANITATION SERVICES PROVISION	50

8	REGULATION OF SANITATION SERVICES	52
8.1	POSITION 30: SANITATION SERVICES NORMS AND STANDARDS	52
8.2	POSITION 31: INCENTIVE-BASED REGULATIONS OF SANITATION SERVICES	53
8.3	POSITION 32: REGULATION THROUGH MONITORING AND EVALUATION AND INFORMATION SYSTEMS.....	55
8.4	POSITION 33: ENFORCEMENT OF SANITATION REGULATIONS	56
9	WAY FORWARD.....	58
9.1	FUTURE POLICY POSITIONS:.....	58
10	REFERENCES	60
11	APPENDIX 1: RELATED ACTS, POLICIES, STRATEGIES AND GUIDELINES	62

ACRONYMS

AMCOW	African Minister's Council on Water
CBO	Community-based Organisation
CoGTA	Department of Cooperative Government and Traditional Affairs
DEWAT	Decentralised Wastewater Treatment
DWA	Department of Water Affairs
DWAF	Department of Water Affairs and Forestry
DWS	Department of Water and Sanitation
FBS	Free Basic Services
FBSan	Free Basic Sanitation
IDP	Integrated Development Plan
MDGs	Millennium Development Goals
MFA	Municipal Finance Act (No. 56 of 2003)
MSA	Municipal Systems Act (No. 32 of 2000)
NGO	Non-governmental Organisation
NSTT	National Sanitation Task Team
SALGA	South African Local Government Association
SDGs	Sustainable Development Goals
SFWS	Strategic Framework for Water Services
TRA	Temporary Relocation Area
TRU	Temporary Relocation Unit
WASH	Water, Sanitation, Hygiene
WSA	Water Services Authority
WSDP	Water Services Development Plan
WSP	Water Services Provider

SANITATION POLICY FRAMEWORK



1 SANITATION POLICY FRAMEWORK

1.1 Introduction

It is not all about flushing

“We must introduce new technologies that appreciate that water is a scarce resource and as such provide solutions to dispose of effluent via alternative methods. It’s not all about flushing”....“We must begin by challenging the property development sector through regulation and licensing requirements to invest itself in developing properties less reliant on water for sanitation in order to ensure we introduce the alternative solutions to low, middle and high income areas”

The Minister of Water and Sanitation, Ms. Nomvula Mokonyane, National Sanitation Indaba (DWS, 2015)

Sanitation is a public good – while sanitation is an intensely private social sphere of the water value chain, it is also a public good with environmental and public health protection benefits accruing well beyond the household boundary. Addressing backlogs in access to sanitation must be through holistic public interventions.

Sanitation is one of the basic necessities, which contributes to human dignity and quality of life and is an essential pre-requisite for success in the fight against poverty, hunger, child deaths, gender inequality and empowerment. South Africa has in the past 22 years focussed on ensuring universal access to sanitation. Significant progress has been made, however, basic services are not yet available and accessible to all citizens, in particular the indigent.

South Africa is also expected to experience increased urbanisation in future, posing great challenges to urban sanitation systems. Changing settlement patterns are also introducing new challenges to wastewater treatment in rural areas. Sanitation services in future will need to place more emphasis on appropriate sanitation systems in human settlement, where significant considerations of available resources such as water determine sanitation system choices.

The Constitution of the Republic of South Africa (No. 108 of 1996), particularly in Chapter 2: Bill of Rights; provides the right of all people in South Africa to dignity and the right of access to an environment that is not harmful to their health or well-being and is sustainable and protected from pollution and degradation. The right to sanitation is implied in the above rights.

The sanitation sector in the country is currently regulated by three policy documents, namely:

- 1) the White Paper on Water Supply and Sanitation (1994);
- 2) the White Paper on a National Water Policy of South Africa (1997); and
- 3) the White Paper on Basic Household Sanitation (2001).

These policy documents provide a suite of procedures, rules and allocation mechanisms for sanitation in the country, which are implemented through the policy instrument of laws and regulations; economic measures; information and education programmes; and assignment of rights and responsibilities for providing services. Implementation of the South African sanitation policy is guided by the Strategic Framework for Water Services (2003), which provides the 10-year roadmap for addressing the country’s sanitation service delivery imperatives.

The Department of Human Settlements, in conjunction with sanitation stakeholders, reviewed the above White Paper on Basic Household Sanitation and developed the 2012 Draft National Sanitation Policy to regulate sanitation in the country. Although completed to the stage of extensive consultations, the 2012 Draft National Sanitation Policy was never submitted to Cabinet for approval. In this policy review, the 2012 Draft Policy was considered and the policy positions which are relevant are included in this policy. This National Sanitation Policy Review thus supersedes any previous draft sanitation policy.

The White Paper on Water Supply and Sanitation (1994) was legitimised through the Water Services Act (No. 108 of 1997), the definitive legislative instrument for the water supply and sanitation sector. The purpose of the Act is to legitimise, for sanitation:

- a) the rights of access to basic sanitation;
- b) the setting of national standards and of norms for sanitation;
- c) water services development plans;
- d) a regulatory framework for sanitation institutions and water services intermediaries;
- e) the monitoring of sanitation and intervention by the Minister or by the relevant Province;
- f) financial assistance to water services institutions;
- g) certain general powers of the Minister; gathering of information in a national information system and the distribution of that information; and
- h) the repeal of certain laws.

The Water Services Act was followed by the introduction of the National Water Act (No. 36 of 1998) which has the purpose to provide for fundamental reform of the law relating to water resources; to repeal certain laws and to provide other water resources matters in the country. The National Water Act regulates the water resources of the country. These water resources fundamentally impact on and are impacted by sanitation services in the country. Sanitation services are reliant on water resources to address basic hygiene needs such as washing hands, in food preparation and to cleaning of households and sanitation systems. Water resources also play a vital role in the sustainable operation of many of the sanitation systems which are utilised in the country.

Despite this strong legislative environment, the departmental sanitation regulatory responsibilities have been unclear over the past few years, shifting between departments, while responsibility for provision of sanitation services devolved to local government, as required by the Constitution of South Africa (South Africa, 1996). This has resulted in significant changes to the sector.

Since 2014, the sanitation mandate of the Department of Water and Sanitation has been affirmed, with the mandate including the regulation of the sanitation sector in the country, as well as provision of macro planning, regional bulk services and monitoring, in accordance with the Constitution. This requires capacity to establish national policy guidelines, national water and sanitation strategy, the authorisation of waste discharge, the formulation of conditions for State subsidies, the development and enforcement of regulations, the setting of minimum services standards as well as monitoring and regulating sanitation service provision. National and provincial government, according to the Constitution, have the legislative and executive authority to see to the effective performance by municipalities of their functions in respect of matters listed in Schedules 4 and 5, by regulating the exercise by municipalities of their executive authority referred to in section 156(1).

South Africa's developmental path has been reviewed and refined over the past 22 years. The most recent development plan for South Africa is the National Development Plan (NDP), which is implemented through the Medium Term Strategic Framework (MTSF). These developmental documents will steer the sanitation sector for the next 14 years.

Similarly, one of the main outcomes of the Rio+20 Conference (United Nations Conference on Sustainable Development) was the agreement by member states to launch a process to develop a set of Sustainable Development Goals (SDGs), which will build upon the MDGs and converge with the post 2015 development agenda. These SDGs will require a shift in focus from reporting access to improved sanitation as was reported by the MDGs, to reporting access to adequate and equitable sanitation and hygiene and progress with addressing the needs of women and girls. Reporting will also need to focus on wastewater system performance and the recycling/reuse from and efficiency of these systems. There is also a need to report on capacity building efforts and participation of local communities in sanitation management. Many of these sanitation efforts require a review of South Africa's sanitation policies.

1.2 Purpose

Since 1994 the sanitation context and landscape has change significantly both in South Africa and internationally. The Water Services Act (Act 108 of 1997) and the National Water Act (Act 36 of 1998) made important policy advances specifically with respect to the institutional framework. The local government elections in 2000 represented the final phase in the local government transformation process that commenced in 1993. With the enactment of the Municipal Systems Act (Act 32 of 2000) it became possible for local government to assume full responsibility for ensuring water and sanitation services, as provided for in the Constitution.

With these advancements, and based on several years of implementation, a number of challenges and unintended consequences have been identified that require a sanitation policy review, and consequent legislative amendment. It has become increasingly evident that there is a need to revise current sanitation policy to accommodate aspects of the changed service delivery environment and priorities since 2001, and to address gaps identified by the sector. This National Sanitation Policy Review provides policy positions to address these gaps and challenges, as well as to address our new national and international development imperatives.

This policy review considers sanitation policy positions across the entire sanitation value chain – namely – the collection, removal, disposal or treatment of human excreta and domestic wastewater, and the collection, treatment and disposal of industrial wastewater (Figure 1).

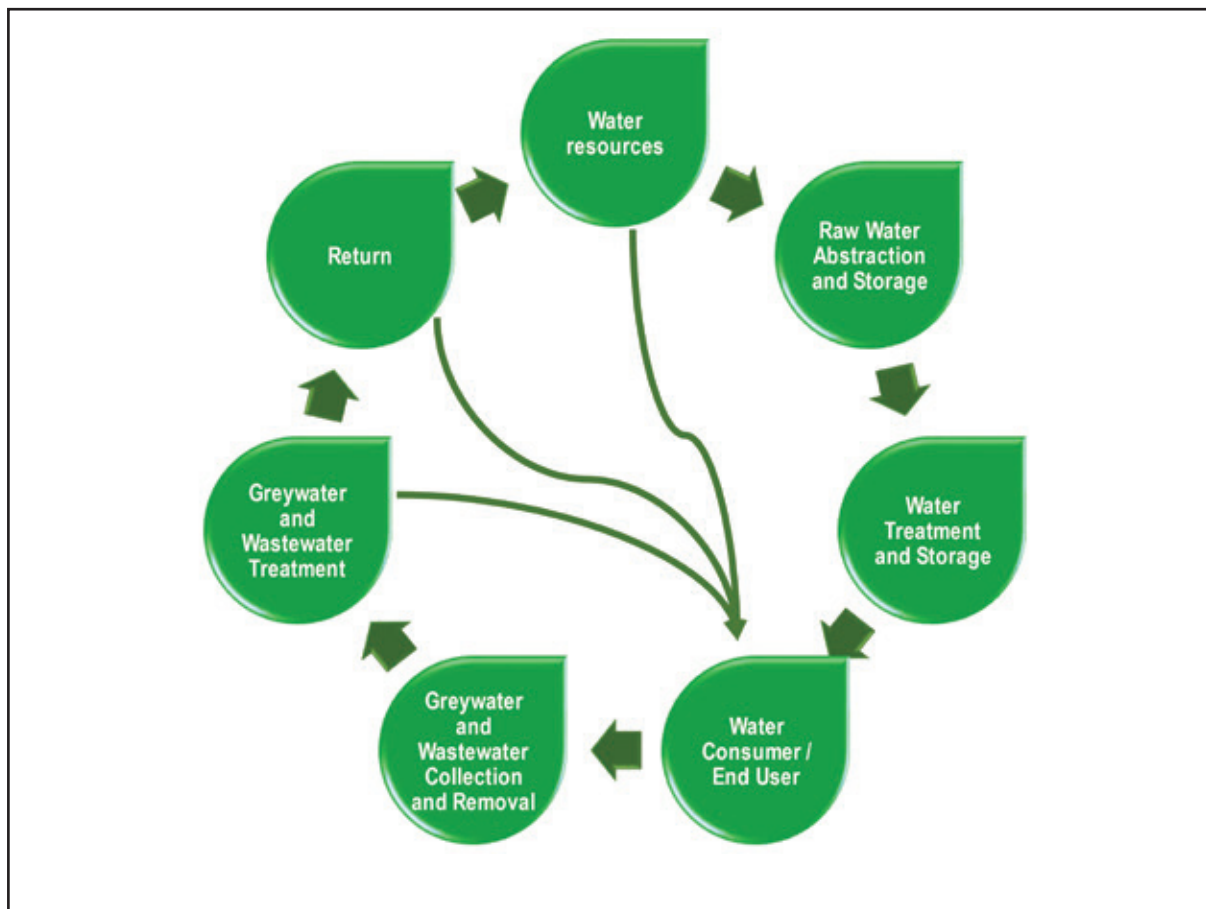


Figure 1: Water and Sanitation Value Chain

There has also been an increased need to elevate and strengthen sanitation within current water policies of the country.

All policy positions in current sanitation policy (1994; 1997 and 2001) which are not highlighted in this document for amendment remain valid.

This policy review adopts many of the strategic policy positions outlined by the Strategic Framework for Water Services (2003). It is envisaged that the SFWS will in future be replaced by a water and sanitation strategy. This policy review thus includes the SFWS policy positions which must be sustained to ensure a sustainable sanitation sector in the country.

The policy also endorses the national sanitation targets, as outlined in the NDP and MTSF.

1.3 Vision

Sanitation services in South Africa contribute significantly to public health and are hygienic, equitable, sustainable and efficient for all people.

1.4 Sanitation Policy Pillars

The policy positions outlined in this review are categories under the 7 pillars of sanitation services policy:

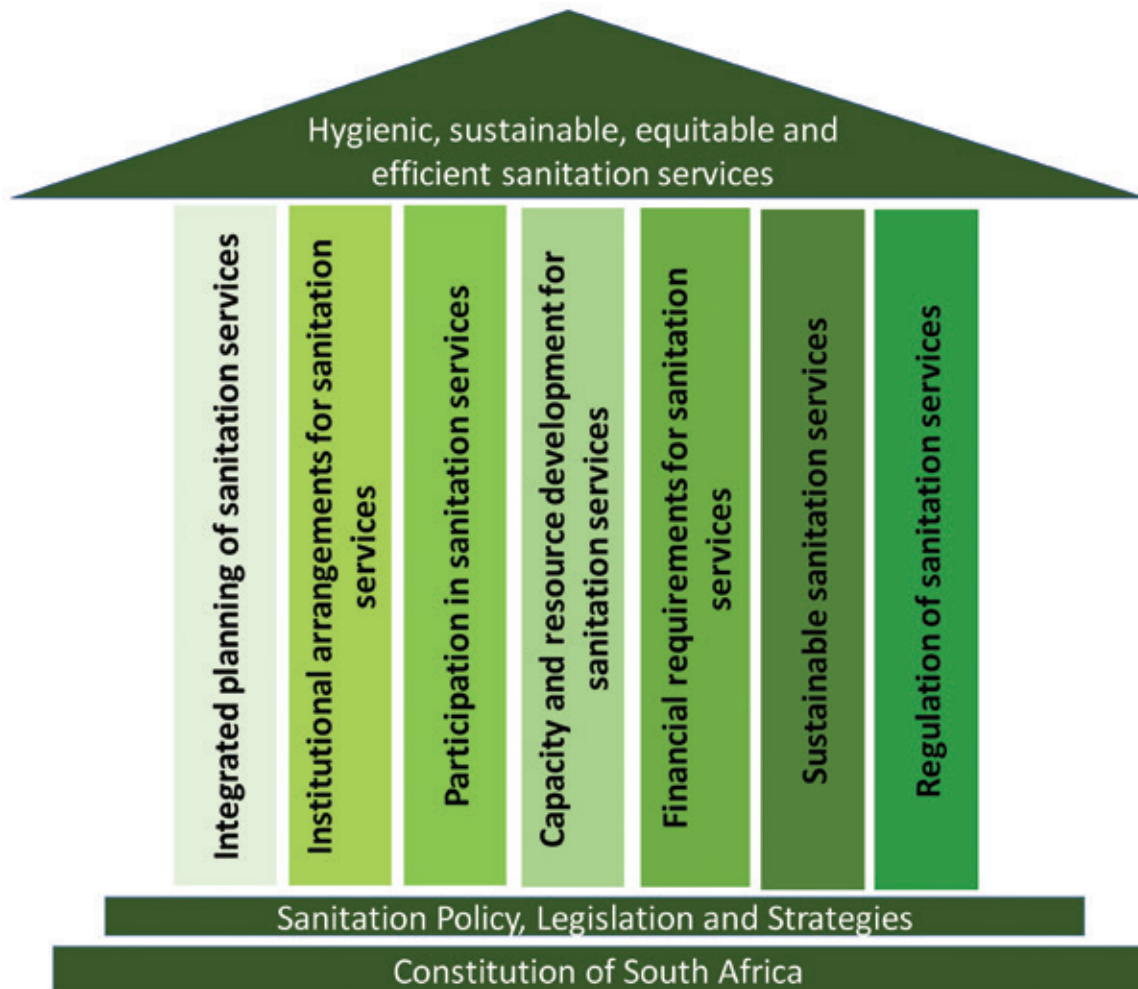


Figure 2: Seven pillars of sanitation services policy

1.5 Sanitation Services Principles

The values underpinning future sanitation services in the country will be to place greater emphasis on applying the principles of 'polluter pays', 'user pays' and on increasing the recognition of the economic value of sanitation, as these are crucial to sustainable sanitation services provision in this changing environment.

Sanitation services delivery in South Africa acknowledges the Batho Pele principles of consultation, service standards, access, courtesy, information, openness and transparency, redress and value for money.

Sanitation service provision in the country is based on the principles of:

- **The right to access to basic sanitation**

Ensuring universal access to basic sanitation is recognised as a Constitutional responsibility of the national sphere of government, with Constitution responsibility of provision of basic sanitation services at the local sphere of government. Local government must take reasonable measures to realise this right.

- **Prioritising hygiene and End-user Education in sanitation service provision**

Hygiene Education is crucial to maximise the public benefit of sanitation service provision. Sanitation improvement must prioritise Hygiene Education in planning and implementation. End-user Education is necessary for consumers to understand their sanitation rights, responsibility and water conservation and demand management requirements. End-user education must also be prioritised in sanitation improvement. Hygiene and End-user Education must be continuous, have varying emphasis based on local needs and address all geographic areas of the country.

- **Prioritising basic sanitation services to vulnerable people and unserved households**

Provision of basic sanitation services must be prioritised and supported for vulnerable people and unserved households. Basic sanitation service provision to vulnerable people must accommodate the special access requirements of these individuals and households.

- **People-centred and demand-driven sanitation service provision**

Provision of sanitation services must be people-centred and demand-driven. This requires that sanitation services must recognise sanitation as a right, consider consumer's expectations and needs in planning and implementing sanitation services to maximise benefits to the local economy through local job creation and use of local enterprises. Decision making and control will be devolved as far as possible to accountable local structures. There is a reciprocal obligation on communities to accept responsibility for their own development and governance.

- **Polluter pays principle**

The principle of "the polluter pays" must be upheld. Any reduction of receiving water quality should have a value assigned to it and must be addressed through legislative processes and procedures. Water quality management shall include the use of economic incentives and penalties to reduce pollution; and the possibility of any environmental degradation as a result of pollution shall be prevented.

- **User pays principle**

Beneficiaries of the water management system shall contribute to the cost of its establishment and maintenance on an equitable basis. This is a central principle to ensure sustainable and equitable development, as well as efficient and effective management. Implementation, regulation and enforcement of the user pays principle are central to sustainable sanitation service provision. In the instance of sanitation services to indigents, beyond a Free Basic Sanitation Service, the user pays principle also applies.

- **Sanitation has economic value**

The way in which sanitation services are provided must reflect the growing scarcity of good water quality in South Africa in a manner which reflects their value and does not undermine long term sustainability and economic growth. The public and economic benefit of improved sanitation must be recognised and valued. The economic value of sanitation by-products should be recognised and the reuse of these products should be encouraged, particularly as a resource in energy generation. The economic value of sanitation is recognised concurrently with recognition of the social value of sanitation.

- **Integrated development**

Sanitation developments are not possible in isolation from development in other sectors. The public health benefits of improved sanitation are maximised when sanitation is planned and provided in an integrated manner with other basic services. Co-ordination is necessary with all tiers of government and other involved parties and maximum direct and indirect benefit must be derived from development in, for instance, education and training, job creation and the promotion of local democracy. The Integrated Development Plan process is the primary level at which coordination should take place.

- **Equitable regional allocation of development resources**

The limited national resources available to support the provision of basic services should be equitably distributed among regions, taking account of population and level of development. Equitable allocation to regions should include aspects of infrastructure maintenance and development.

Recognising the value of sanitation by-products

The value of sanitation by-products needs to be fully realised and reinvested into the system so as to foster increased investments and generate efficiency gains. A stronger focus is needed on maximising recovery, use, reuse and recycling of sanitation by-products. This could deliver efficiency gains along the entire sanitation value chain, as the by-product would become a valuable resource instead of a cost that needs to be minimised or avoided.

• Prioritising operation and maintenance

Every infrastructural development requires a long term sustainability plan which addresses the total life-cycle operating and maintenance requirements. Sufficient resources must be allocated to maintain the sanitation services infrastructure and related systems adequately. Operation and maintenance provisions for sanitation must be prioritised in local and provincial government budgets. The planning of capital expenditures must also be integrated with the associated operation and maintenance requirements and expenditures.

• Integrated waste management

Human waste is only one of a range of wastes emanating from households, including solid waste, grey-water and human waste. Management, reuse and recycling of these household waste streams must be in an integrated and coordinated manner to ensure safe storage, removal and management of all household waste (including the recycling and treatment of waste water).

1.6 Sanitation Definitions

One of the key gaps in the current sanitation policies is the divergent sanitation definitions which are gazetted. New national and international developments in the sanitation sector have also resulted in new and changing sanitation definitions for various components of the sector.

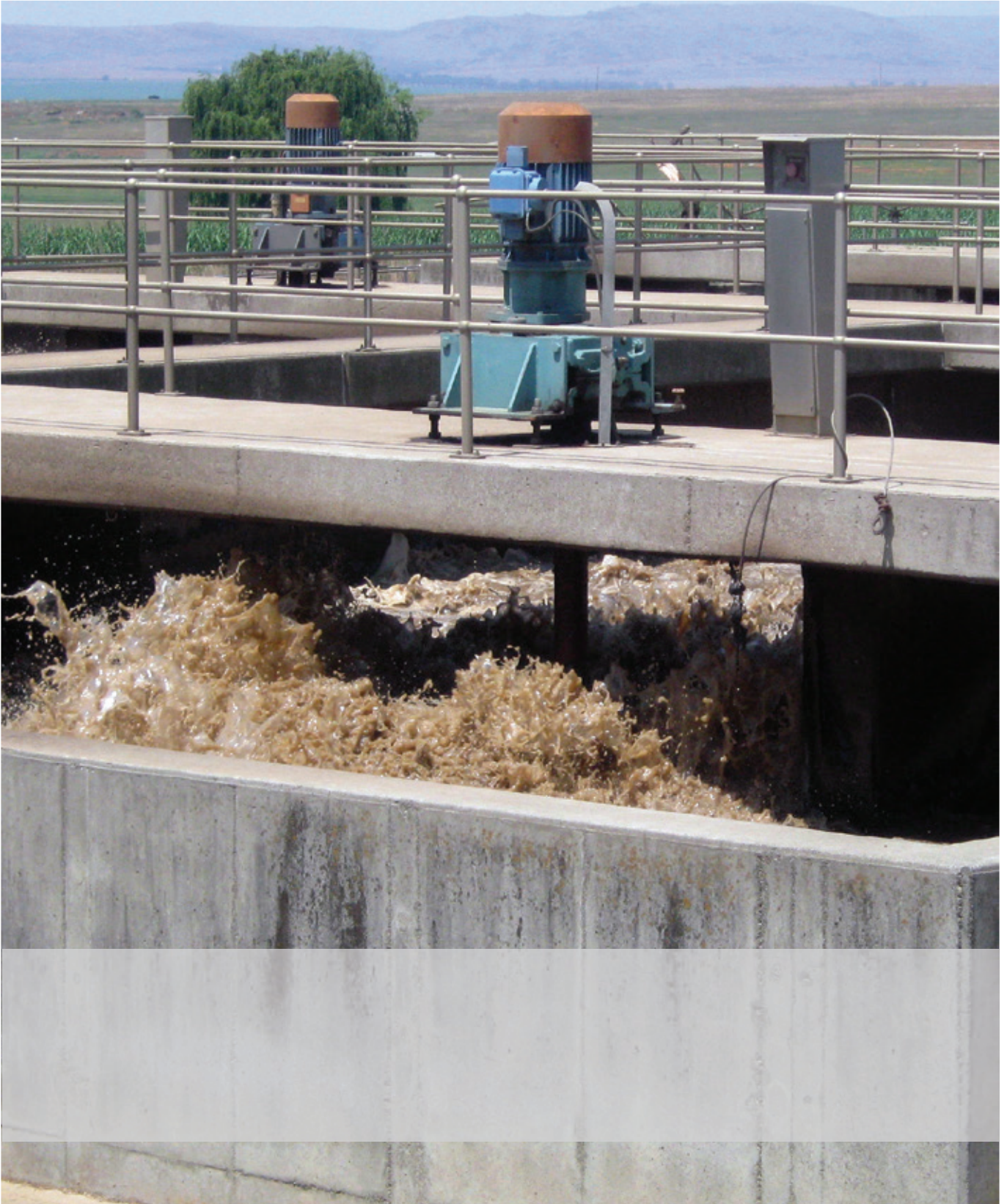
Terminology	Policy Position
Appropriate Technology (AT)	The sustainable application or operation of a technology (process, tool and/or device) to meet national imperatives within the local institutional, financial, social, cultural, ethical, economic and environmental requirements and constraints experienced by the authority or consumer responsible for the technology.
Backyard dwelling	Different types of residential units, including (SALGA, 2013) <ul style="list-style-type: none"> • room sharing, generally within the primary dwelling, by a separate household; • secondary shacks (constructed from temporary materials, such as corrugated iron, wood, cardboard, plastic, etc.) and rooms (constructed from conventional materials such as brick or block and mortar, as well as by less conventional means such as concrete panels and prefabricated systems), having access to external, generally-shared ablutions; • self-contained units (basic living units having private access to basic services such as toilet and basin); • second dwelling units, such as the “garden cottage” and “granny cottage” often associated with middle and upper-income neighbourhoods, workers’ quarters, converted garages; and • small-scale tenements (multi-room structures, generally comprising rooms with shared ablutions, either single or multi-storey constructions and at times replacing the primary structure on the site) but still controlled and maintained by private individuals.
Basic Sanitation	The minimum acceptable basic level of sanitation is: <ol style="list-style-type: none"> a) appropriate health and hygiene awareness and behaviour; b) the lowest cost, appropriate system for disposing of human excreta, household waste water, grey-water, which considers resource constraints, is acceptable and affordable to the users, safe including for children, hygienic and easily accessible and which does not have a detrimental impact on the environment; c) a toilet and hand washing facility; d) to ensure clean living environment at a household and community level; and e) the consideration of defecation practices of small children and people with disabilities and special needs.

Terminology	Policy Position
Basic sanitation facility	The infrastructure which considers natural (water; land; topography) resource protection , is safe (including for children), reliable, private, socially acceptable, skilled and capacity available locally for operation and maintenance , 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, facilitates hand washing and enables safe and appropriate treatment and/or removal of human waste and wastewater in an environmentally sound manner.
Basic Sanitation Services	The provision of a basic sanitation facility which is environmentally sustainable , easily accessible to a household and a consumer , the sustainable operation and maintenance of the facility, including the safe removal of human waste, grey-water and wastewater from the premises where this is appropriate and necessary, and the communication and local monitoring of good sanitation, hygiene and related practices.
Community	A body of people having a common interest or living in the same geographic place under the same laws and regulations.
Consumer	Any end-user who receives sanitation services from a water and/or sanitation institution.
Disaster	From the Disaster Management Act (2002) of South Africa is defined as <i>a progressive or sudden, widespread or localised natural or human-caused occurrence which:</i> <ul style="list-style-type: none"> a) <i>causes or threatens to cause-</i> <ul style="list-style-type: none"> i) <i>death, injury or disease;</i> ii) <i>damage to property, infrastructure or the environment; or</i> iii) <i>disruption of the life of a community; and cope with its effects using only their own resources;</i> b) <i>is of a magnitude that exceeds the ability of those affected by the disaster to manage.</i>
Emergency sanitation	<i>A situation declared as such in terms of a law and which is likely to cause injury or loss of life.</i> Emergency sanitation services may vary from area to area due to varying geographical and other conditions. An emergency measure to provide privacy to the user, is safe, be readily accessible and in close walking distance, and provide for the safe disposal of human waste. Including hygiene and End-user Education.
End-user Education	Ongoing consumer education on sanitation services rights, responsibilities, facility operation and maintenances; and water conservation and demand management including reduce, reuse, recycle and recover principles.
Faecal sludge management	The management of human waste from on-site systems, excluding package plants, from contaminants, collection, transport, treatment and disposal.
Free Basic Sanitation	Provides affordable ongoing services to at least the basic level of sanitation for indigent households.
Greywater	Wastewater resulting from the use of water for domestic purposes, but does not include human excreta.
Human settlement	The totality of human community—whether a city, town or a village—with all social, material, organisational, spiritual and cultural elements that sustain it.
Hygiene	Personal and household practices that serve to prevent infection and keep people and environments clean. The conditions and practices that help to maintain health and prevent the spread of diseases.
Hygiene Education	Relates to all activities that aim to increase an individual's knowledge about issues relating to personal habits and practices that affect one's health, particularly in relation to water and sanitation services. Hygiene Education includes personal hygiene, water hygiene , food hygiene, human waste hygiene and environmental Hygiene Education to ensure appropriate sanitation practices for the protection of human waste.

Terminology	Policy Position
Hygiene promotion	Systematic approaches to encourage the widespread adoption of safe hygiene practices in order to reduce diarrhoeal and other water- and sanitation-related diseases. Hygiene promotion focuses on determinants of behaviour change, which may not necessarily be directly related to knowledge of the health consequences of poor hygiene.
Indigent	Indigent means “lacking the necessities of life”. The definition of indigent from the National Framework for a Municipal Indigent Policy outlines sanitation as one of the necessities of life. The National Treasury definition of a ‘poverty line’ is also acknowledged to determine indigence.
Institutional sanitation services	Basic sanitation service provision at public and private institutions including (but not limited to) schools, academic institutions, clinics, hospitals, crèches and day-care centres, libraries, old-age homes, churches, cemeteries, sporting facilities, police stations and correctional facilities, public areas and public spaces and government buildings.
Interim sanitation services	An interim measure to provide privacy to the user, is safe, readily accessible and in close walking distance and provides for the safe disposal of human waste, including hygiene and End-user Education.
Privately owned land	According to the DWS Water Services On Privately Owned Land (DWA, 2011) includes, amongst others: <ul style="list-style-type: none"> • Commercial farms; • Mine owned land; • Church owned land; • Industrial owned land including privately owned enterprises; • Sectional title / residential complexes & estates; • Tribal and communal owned land; and • Game parks
Registered Environmental Health Practitioner	Means, subject to the provisions of the Health Professions Act, 1974 (Act No. 56 of 1974) as amended, any person registered as such with the Health Professions Council of South Africa, and includes an Environmental Health Practitioner doing Compulsory Community Service.
Sanitation services	The collection, removal, treatment and/or disposal of human excreta, and domestic public institution wastewater, and the collection, treatment and/or disposal of municipal, agricultural, mining and industrial wastewater. This includes all the organisational arrangements necessary to ensure the provision of sanitation services including, among others, consideration of natural resources, social acceptance , appropriate health, hygiene and sanitation-related awareness and technologies , the measurement of the quantity and quality of discharges where appropriate, apply the polluter pays principle , the associated billing, collection of revenue and consumer care. Water services authorities have a right, but not an obligation to accept industrial, agricultural and mining wastewater within their area of jurisdiction.
Water Services	Water supply services and/or sanitation services or any part thereof.
Water Services Authority	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 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 contract.

Terminology	Policy Position
Water Services Provider	A water services provider is: <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 (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.

INTEGRATED PLANNING OF SANITATION SERVICES



2 INTERGRATED PLANNING OF SANITATION SERVICES

Provision of sanitation in South Africa is particularly fragmented and uncoordinated, largely due to the vast array of institutions involved in provision of this service. Situations arise of beneficiaries receiving subsidised services from both the municipal grant and through the low-cost housing programmes, the provision of services to households and institutions without consideration of impacts on municipal sewer and sewage systems and the provision of different levels of service in the same areas of jurisdiction.

The health, social and environmental benefits of improved sanitation are maximised when sanitation is planned for and provided in an integrated manner with other municipal services. The mechanism to achieve integrated planning and development is the Integrated Development Planning (IDP) process, of which the Water Services Development Plan (WSDP) is a component.

The policy co-ordination of the various public organisations involved in the planning and delivery of basic services is essential. It is necessary to consider at least four mutually related factors required for development:

- physical infrastructure such as water supply, sanitation, roads, electricity and communications.
- social infrastructure including schools, hospitals, clinics and welfare organisations.
- economic infrastructure which is the employment, production and trading base including access to markets and finance.
- institutional infrastructure being organisational and civil administration structures at all levels. These should provide access to ordinary people to the processes of democratic local, regional and national government.

2.1 Position 1: Universal Access to Sanitation in Human Settlements

2.1.1 Problem Statement

South Africa has the intent of addressing the “universal service obligation” which is to ensure provision of at least a basic level of sanitation service to all individuals.

The manner in which sanitation services are provided is strongly dependent on the arrangement in which people have settled, with the range from high rise, high density settlements to sparsely settled rural areas. This often means that sanitation needs to be provided as part of a package of municipal services associated with housing, including water supply and roads.

Populations living in informal urban settlements experience the same suite of interrelated problems: they have no access — or limited access only — to basic services, and they have no security of tenure. Their situation is precarious as they usually belong to the poorest segment of the urban population. A 2010 report by the DWA indicates that *arguably, this is the single greatest challenge facing the water and sanitation sector in South Africa. The latest data shows that between one and two million households live in informal settlements in South Africa.* Similarly, it is difficult for local government to provide basic services to these individuals as secure land tenure is a defining requirement for provision of services in their jurisdiction.

An estimated four million South Africans reside on land which they do not own (mostly commercial farming land) (DWA, 2011). Many of these individuals are also not employed by the land owner. It is yet to be determined how many of these people do not have access to a basic level of water service. Residents living on privately owned land without sanitation services or using unsafe and inadequate sanitation services are at higher risk from sanitation-related disease. There is a major challenge in terms of Water Services Authorities (WSAs) planning for and providing sustainable water services to these dwellers since the mechanism for enabling and assisting water services provision may not be relevant in such circumstances (DWA, 2011).

Similarly, one of the largest housing sub-sectors in South Africa is that of backyard dwellers (SALGA, 2013). The sector successfully provides accommodation to non-qualifiers for subsidized housing, migrants or temporary workers not seeking home ownership, and any other households wishing to rent but who cannot afford formal rental accommodation available (SALGA, 2013). It is estimated that almost half of backyard structures may be informal and not have access to basic sanitation.

Additional problems with sanitation services in backyard dwellings are over-use of existing infrastructure networks. The number of people utilising toilets, taps, drains and cooking facilities on a specific site can stretch the carrying capacity of the existing infrastructure. Despite clearly legislated water services responsibilities, in many cases, it is evident that Water Service Authorities do not see provision of sanitation services on privately owned land as a priority.

Lack of provision of hygienic, efficient, effective and sustainable sanitation services in human settlements of the country can pose serious public health risks, particularly to health of downstream users of water resources. Lack of sanitation services can also have significant impacts on the natural resources of the country. Planning of human settlements for provision of hygienic, efficient, effective and sustainable sanitation services is thus crucial.

2.1.2 Current policy and legislative positions

The 1994 White Paper is underpinned by two principles related to universal access to sanitation, namely:

- **Basic services are a human right.** This will be interpreted, in terms of the Constitution, as a right to a level of services adequate to provide a healthy environment. They do not imply the right of an individual person or community to demand services at the expense of others.
- **“Some for All”, rather than “All for Some”.** To give expression to the constitutional requirements, priority in planning and allocation of public funds will be given to those who are presently inadequately served.

The 1994 White Paper on Water Supply and Sanitation has a strong focus on sanitation planning and financing in urban areas, designating that *since sanitation is provided at household level, consistency with urban and rural housing policy is essential, both to ensure consensus on standards and strategies and to avoid double subsidies and that the cost of internal services and reticulation within a township’s boundaries are generally considered to be part of the development costs of the property.* The White Paper takes the positions that services in economically viable urban areas must be managed in a financially viable and sustainable way, whilst ensuring that adequate services are provided to the whole population.

The 2001 sanitation policy has a strong focus on basic sanitation services and provision of these to households in rural areas of the country. The provision of sanitation services to the non-indigent and urban/peri-urban households in the country is largely not addressed in the policy. The White Paper of Basic Household Sanitation (2001) does indicate that beneficiaries who enjoy informal land rights to the property they occupy may also access the subsidy.

The Strategic Framework of Water Services (2003) provides that *“Water service authorities have a responsibility to ensure that all people living within their jurisdiction (including those residents living on privately owned land) are progressively provided with at least basic water and sanitation services (first step up the ladder)”*. This policy thus defines responsibilities in the provision of water services to residents living on privately owned land.

Sanitation policies currently provides no guidance on provision of sanitation service to backyard dwellings in the country or informal settlements beyond the confines of private property models for housing delivery.

The Upgrading of Informal Settlements Programme (UISP) is instituted in terms of section 3(4) (g) of the Housing Act and is contained in the National Housing Code. The UISP provides funding to municipalities to upgrade informal settlements *in situ*, providing security of tenure and improved access to services in collaboration with communities (Tissington, 2011). The norms and standards for services in the UISP indicate that housing programmes for the upgrading of informal settlements would include provision of:

- interim services as a first phase to alleviate immediate/emergency need to access potable water, sanitation services and certain preventative measures to curtail the occurrence of disasters.
- the upgrading of such interim services into permanent services and/or the provision of permanent services from the outset of the project as may be required by local project circumstances.

2.1.3 Policy Positions

Basic services are a human right and “Some for All”, rather than “All for Some”.

Universal access to sustainable sanitation services in all human settlements. All individuals are obligated to ensure hygienic and sanitary practices are maintained in order that provision is feasible.

The provision of sanitation systems which minimise the use of water resources and the negative impacts on water resources and the natural environment are required.

Improving public health and addressing environmental standards for sanitation will be the two outcomes that human settlement areas must seek to ensure for citizens.

Universal access to sanitation in human settlement areas need to be planned and implement as part of the holistic human settlement-wide plan.

Sanitation services plans need to be aligned to other national, provincial and local developmental plans.

Spatial Planning and Land Use Management Act, (Act No. 16 of 2013) places the responsibility on the province to ensure that the spatial and land use plans are developed by the municipalities. Sanitation infrastructure plans must consider these spatial and land use plans.

Priority in planning and allocation of public funds in human settlements will be given to those who are presently inadequately served with sanitation, including those with access to systems that require extension; have access to aging infrastructure or infrastructure that requires replacement and those that are unserved.

Sanitation should be integrated into programmes for the provision of other basic needs. The co-ordination of the various public and private organisations involved in the planning and delivery of basic services is therefore essential.

Recognising the pivotal role that the public and private institutions play in the provision of sanitation services. Integrated planning of sanitation services and human settlements is crucial.

Sanitation services provision and regulations must be a coordinated effort by local government, Dept. of Water and Sanitation, Dept. of Health and other institutions responsible for provision of sanitation (i.e. Dept. of Education; Dept. of Human Settlements etc.)

A Water Service Authority has a responsibility to ensure that sanitation services are provided to individuals living on privately and traditionally owned land.

The use of the grants to provide basic sanitation services to households on private and tradition land is supported.

Reaffirming the MIG position that in order to address the needs of farm dwellers; MIG funding can be used to provide basic services to indigent households living on private land, without servitudes, subject to certain conditions. One of these conditions is that the landowner must make an appropriate contribution to the capital cost.

Operation and maintenance and capital development of sanitation services on privately owned land remains the responsibility of the property owners.

Ownership of sanitation assets provided on private land may pass into the hands of the person owning the land in the following circumstances (1) where an "on-site" sanitation facility is provided to a household; and (2) where assets are required for services to consumers served by a water services intermediary who owns the land on which the consumers reside and where that intermediary has made an appropriate contribution to financing the cost of the assets.

Municipal by-laws must address sanitation services to backyard renters. Recognise the SALGA recommendation that by-laws could regulate sub-letting, the enforcement of maintenance standards and allow for a system of penalties if landlords did not follow the rules. Municipalities should consider incentive based regulations. These are also relevant to controlling unsuitable uses of back yard structures, such as polluting industries occurring within residential areas.

Sanitation service specifications for new developments will include specifications for addressing excess capacity as a result of growth in informal rental, planning of separate services for tenants and separate metering for each rental unit and household.

Property owners who rent to backyard dwellers are considered to be an intermediary in sanitation service provision and are responsible for provision and maintenance of this service.

The property owner must declare to the WSA any additional sanitation systems.

Interim basic sanitation services should be provided in temporary informal settlements. These sanitation services should be appropriate, affordable, and practical in accordance with a progressive plan that addresses both land tenure and basic services.

Where permanence of informal settlement is recognised, local government is obligated to ensure access to basic sanitation services.

Sanitation services should be provided in informal settlements in consultation and with participation of the community.

Community engagement process and mechanisms should be utilised in order to promote in situ upgrades of sanitation services in informal settlements.

Community-based planning, implementation and operation and maintenance of interim informal settlements sanitation solutions is encouraged.

Labour-intensive provision of sanitation in informal settlements is encouraged. Alignment with Expanded Public Works and Community Works programmes should be pursued to support labour-intensive sanitation provision.

2.2 Position 2: Free Basic Sanitation

2.2.1 Problem statement

Providing Free Basic Sanitation (FBSan) services to all South Africans places a significant burden on the state and on the WSA's, especially where individuals are able to afford these services. WSAs have limited resources to provide free services to individuals in their jurisdiction and the practice of providing a free service to all households in the WSA jurisdiction is often not sustainable. There is a need to ensure that limited resources are targeted to those in most need, in a sustainable and equitable manner.

According to Statistics South Africa (Stats SA) in 2011, it is estimated that there were 3 million registered indigent households identified by municipalities, of which only 1.7 million households (57.9%) received Free Basic Sanitation (FBSan) (Tissington, 2013).

2.2.2 Current policy and legislative position

In 2000, the government announced that it would implement a Free Basic Services (FBS) policy to ensure basic services to households who could not afford to pay for them (Tissington, 2013).

The Municipal Systems Act (No. 32 of 2000) provides the machinery and procedures to enable municipalities to give priority to the basic needs of the community. The Act also states that municipalities must develop their own indigent policies in order to target FBS to poor households.

The White Paper on Basic Household Sanitation (2001) indicates that current government policy requires that the very poor be given access to a free basic level of service.

2.2.3 Policy Positions

FBSan refers to the cost associated with the ongoing operation and maintenance of any type of sanitation system as well as the ongoing Hygiene Education. Free Basic Sanitation will be targeted to indigent households.

FBSan provides support of water for flushing of waterborne systems and for ongoing operation and maintenance of on-site systems.

FBSan should be provided as part of the basket of social services available to support and assist indigent households.

The determination of beneficiary households should be based on targeting approaches by WSA's.

2.3 Position 3: Sanitation at Public and Private Institutions

2.3.1 Problem statement

Due to the dual implementation of sanitation services, with household provision being the responsibility of Water Service Authorities (WSAs) (including the wastewater treatment works) and provision at public institutions being the responsibility of various national departments and private institutions, situations have occurred where public institutional sanitation is planned and implemented without consultation with the WSA. This has resulted in sanitation services being provided to schools, clinics etc. without consideration/planning for these additional connections to the WSA managed wastewater treatment works.

The policy and strategy does not currently address sanitation in privately owned institutions such as crèches and day-care centres; churches and old age homes.

The policy position also remains weak related to public institutional sanitation.

2.3.2 Current policy and legislative position

The White Paper on Basic Household Sanitation (2001) indicates that *the policy will focus mainly on the improvement of health and the provision of adequate sanitation facilities in households, schools and clinics as well as the collection, removal and disposal of waste and the related health and hygiene practices. From the perspective of health and hygiene the policy indicates*

that educational programmes are required on national, provincial and local levels with strong media coverage, publicity and promotion in schools and clinics.

The SFWS (2003) designates that the national departments (Dept. of Education; Dept. of Health) (together with the provincial departments) are responsible to ensure that **all schools, clinics and hospitals** are provided with adequate water and sanitation facilities and that these are operated sustainably and are adequately maintained but that 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.

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 cost of bulk water and sanitation infrastructure where appropriate.

2.3.3 Policy Positions

All public and private institutions are responsible to provide sanitation services. Sanitation services at these institutions must include hand washing facilities, hygiene and End-user Education as well as the collection, removal and disposal of wastewater.

All public and private institutions are responsible for operation, maintenance and refurbishment of sanitation systems.

Provision of sanitation services at public and private institutions must recognise the role of local government and the planning, construction and altering of sanitation services to public and private institutions must be done with prior consent of the WSA (local authority), as required by other regulatory requirements.

2.4 Position 4: Emergency Sanitation

2.4.1 Problem statement

Current sanitation policies do not address this issue. Temporary Relocation Areas (TRAs) - sometimes called transit camps – have been established by some municipalities to shelter people who have been affected by an emergency e.g. evictions, displacements.

In the *Joe Slovo* eviction case, the Constitutional Court ordered the relocation of residents of Joe Slovo informal settlement to Temporary Relocation Units (TRUs) in Delft, stipulating the standards of the TRUs (Tissington, 2011) as being *situated within reasonable proximity of a communal ablution facility; make reasonable provision for toilet facilities, which may be communal, with waterborne sewerage; and make reasonable provision for fresh water, which may be communal.*

2.4.2 Current policy and legislative position

The Water Services Act (No. 108 of 1997) mandates the Minister to provide water services in emergency situations, which are defined as *situations declared as such in terms of a law and which is likely to cause injury or loss of life.* WS Act 4 (3) (ii) provides for the procedure to limit or discontinue water services in case of emergency situation.

2.4.3 Policy Positions

Emergency sanitation services should be limited to very short term interventions that last a few days to a few weeks, depending on the nature and duration of the emergency situation.

Emergency sanitation services must be appropriate to the emergency situation.

Emergency sanitation services will be provided to reflect the vulnerabilities, needs and preferences of the affected population.

Key risks to public health need to be identified in consultation with the affected population.

WSAs can access assistance through grants to respond rapidly to sanitation emergencies.

Where appropriate, users, communities and their leaders should be involved in the management and maintenance of emergency sanitation services.

Provision of sanitation in emergency situations must be a coordinated effort and budgeted for between all spheres of government and private institutions.

2.5 Position 5: Sanitation during Disasters

2.5.1 Problem statement

WSAs are not proactively planning for disasters. During certain disaster situations (such as drought), WSA do not have a structured manner to address sanitation interventions i.e. sanitation services within the context of water restrictions.

Natural disasters such as floods are expected to increase in severity and frequency in future which will pose a significant health risk to end-users. Similarly, man-made incidents like effluent spills and bacteriological contamination also pose health risks.

Water and sanitation are critical determinants for survival during a disaster (Sphere, 2011). The main objective of sanitation services in disasters is to reduce the transmission of faecal-oral diseases and exposure to disease-bearing vectors through the promotion of:

- good hygiene practices
- the provision of safe drinking water
- the reduction of environmental health risks
- the conditions that allow people to live with good health, dignity, comfort, and
- security

2.5.2 Current policy and legislative positions

The 1994 White Paper has the policy position that the *Department of Water Affairs and Forestry supports the proposal to create an inter-departmental structure to take responsibility for long term national disaster management and mitigation strategies.*

The Water Services Act (1997) in Section 21(2) (e) (i) mandates that every water services authority must make bylaws which may provide for the general limitation or discontinuation of water services where (i) *national disasters cause disruptions in the provision of services or (ii) sufficient water is not available for any other reason.*

The Disaster Management Act (2002) mandate in Section 56 (1) and (2) that Sections 16 and 25 of the Public Finance Management Act, 1999, provides for the use of funds in emergency situations and when a disaster occurs the following principles apply:

- a) *National, provincial and local organs of state may financially contribute to response efforts and post-disaster recovery and rehabilitation.*
- b) *The cost of repairing or replacing public sector infrastructure should be borne by the organ of state responsible for the maintenance of such infrastructure.*

2.5.3 Policy positions

Affected communities must be provided access to at least an interim sanitation services during disasters.

During disaster affected communities must be engaged and consulted in planning and implementation of sanitation services to identify culturally and socially acceptable interventions which will be effective and sustainable.

Disaster risk management (and in particular risk assessments) needs to be an integral component of sanitation development plans. Risk-informed sanitation planning that minimise increase in exposure and vulnerability need to be adopted.

Key risks to public health need to be identified in consultation with the affected population.

Responsibilities and action to address sanitation services in a disaster need to be aligned and clear to all stakeholders and institutions.

Designing, building and maintaining sanitation systems must include simple modifications to address disasters.

INSTITUTIONAL ARRANGEMENT FOR SANITATION SERVICES



3 INSTITUTIONAL ARRANGEMENTS FOR SANITATION SERVICES

3.1 Position 6: Role and Responsibility of the Department of Water and Sanitation

3.1.1 Problem statement

Despite this strong legislative environment, the departmental sanitation regulatory responsibilities have been unclear over the past few years, shifting between departments, while responsibility for provision of sanitation services devolved to local government, as required by the Constitution of South Africa (South Africa, 1996).

3.1.2 Current policy and legislative positions

Since 2014, the sanitation mandate of the Department of Water and Sanitation has been affirmed, with the mandate including the regulation of the sanitation sector in the country, as well as provision of macro planning, regional bulk services and monitoring, in accordance with the Constitution. National and provincial government, according to the Constitution, *have the legislative and executive authority to see to the effective performance by municipalities of their functions in respect of matters listed in Schedules 4 and 5, by regulating the exercise by municipalities of their executive authority referred to in section 156(1).*

The SFWS indicates the department responsibilities as *the custodian of the water resource and overall leader of the water sector. It will not itself be involved in operating any water services infrastructure. DWAF will oversee the activities of all water sector institutions and will regulate water resources and water services. 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).
- **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).
- **Support** to water services and related institutions will be undertaken in terms of the Constitution and the principle of co-operative government.
- **Information management.** DWAF will manage information to be used for support, monitoring, regulation and planning.

3.1.3 Policy positions

The sanitation role and responsibility of the DWS is:

- The management of water resources,
- The development and revision of national sanitation services policies,
- The development and oversight of all legislation impacting on sanitation services (including the setting of national norms and standards),
- The co-ordination with other national departments on sanitation-related policy, legislation and other sector issues,
- National communication related to sanitation services,
- To develop policy with regard to international sanitation issues,
- To establish national policy guidelines,
- To develop national water and sanitation strategies,
- The authorisation of waste discharge,
- The formulation of conditions for State subsidies,
- The development and enforcement of regulations, including monitoring sanitation sector performance (including conformity to national sanitation norms and standards) and making regulatory interventions (to improve sanitation performance and/or to ensure compliance)
- The setting of minimum sanitation services standards,
- To provide support to other spheres of government,
- To intervene where there is a lack of capacity to provide safe and hygienic sanitation services, and
- To provide advocacy and guidance to the sanitation sector.

In compliance with the Intergovernmental Relations Act (No. 13 of 2005), DWS will fulfil the above mandated by:

- a) taking into account the circumstances, material interests and budgets of other governments and organs of state in other governments, when exercising their statutory sanitation services powers or performing their statutory sanitation services functions;
- b) consulting other affected organs of state in accordance with formal procedures, as determined by any applicable sanitation legislation, or accepted convention or as agreed with them or, in the absence of formal procedures, consulting them in a manner best suited to the circumstances, including by way of-
 - i) direct contact; or
 - ii) any relevant intergovernmental structures;
- c) co-ordinating their sanitation actions when implementing sanitation policy or legislation affecting the material interests of other governments;
- d) avoiding unnecessary and wasteful duplication or jurisdictional contests in the sanitation sector;
- e) taking all reasonable steps to ensure that they have sufficient institutional sanitation services capacity and effective sanitation services procedures
 - i) to consult, to co-operate and to share sanitation services information with other organs of state; and
 - ii) to respond promptly to requests by other organs of state for consultation on sanitation services,
- f) co-operation and information sharing; and participating-
 - i) in intergovernmental sanitation services structures of which they are members; and
 - ii) in efforts to settle intergovernmental sanitation services disputes.

3.2 Position 7: Role and Responsibility of Department of Co-operative Governance and Traditional Affairs

3.2.1 Problem statement

There is a disjoint of the regulatory role of DWS and local government regulations role of CoGTA, which has resulted in difficulties in regulation of the sector at a local level. Local government perceived their reporting responsibility to CoGTA and not to DWS. Similarly, CoGTA had responsibility for determining WSAs, while DWS was responsible to ensure compliance and performance of these organizations in fulfilling their water services Constitutional responsibility. This hindered regulation at a local level by DWS.

3.2.2 Current policy and legislative positions

Department of Co-operative Governance and Traditional Affairs is the regulator of the Local Government: Municipal Systems Act (Act 32 of 2000) and the Local Government: Municipal Structures Act (Act 117 of 1998).

The SFWS (2003) recognises that CoGTA has *the 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.*

3.2.3 Policy positions

CoGTA has the following significant responsibilities related to sanitation services:

- Regulating of the local government: municipal systems act (act 32 of 2000) and the local government: municipal structures act (act 117 of 1998).
- Requiring water services authorities to undertake integrated development planning. Water services development plans need to be integrated with the integrated development planning process as set out in the municipal systems act.
- Allocating funds to local government including the local government equitable share, the municipal infrastructure grant and the capacity building grant.
- Regulating municipal affairs and interventions (together with provincial government and the relevant sector departments) in the case of municipalities not performing their sanitation services mandates.
- Working with dws, establishing appropriate conditions for the municipal infrastructure grant and monitor compliance with these conditions.
- Providing support to local government to address their sanitation services mandate, co-ordinated with DWS and provincial government.

CoGTA will support the development and implementation of comprehensive infrastructure and maintenance plans in municipalities, with at least 7% of sanitation operational budgets going to maintenance of infrastructure. This will include infrastructure audits.

CoGTA will develop and implement real-time systems to monitor sanitation service delivery interruptions.

CoGTA will provide institutional support to improve sanitation expenditure, to target sanitation backlogs and to ensure municipalities acquire relevant skills for sanitation infrastructure management.

3.3 Position 8: Role and Responsibility of the Water Services Authority

3.3.1 Problem statement

The ineffectual interpretation and implementation of the Section 78 of the Municipal Systems Act (No. 32 of 2000) process has contributed to municipalities primarily keeping the sanitation provision function in-house, even when the capacity to do so adequately was lacking. They are not appropriately implementing Section 78 provisions. WSAs are not responding to key responsibilities assigned to them in legislation and the SFWS.

Where a WSA has contracted a WSP to provide sanitation services, the responsibility of the two parties is not always clear in the contracts. There is a need for effective contract regulation.

3.3.2 Current policy and legislative positions

Section 152(1) of the Constitution mandates the objects of local government as -

- a) to provide democratic and accountable government for local communities;
- b) to ensure the provision of services to communities in a sustainable manner;
- c) to promote social and economic development;
- d) to promote a safe and healthy environment; and
- e) to encourage the involvement of communities and community organisations in the matters of local government.

The Water Services Act (1997) introduces the Water Services Authority to the water services sector, defining a WSA as *any municipality, including a district or rural council as defined in the Local Government Transition Act, 1993 (Act No. 209 of 1993), responsible for ensuring access to water services.*

The Act outlined the legislative responsibilities of a WSA as having *a duty to all consumers or potential consumers in its area of jurisdiction to progressively ensure efficient, affordable, economical and sustainable access to water services (Section 11 (1)).*

The SFWS assigned the role of the Water Services Authority (WSA) as having the *constitutional responsibility for ensuring access, planning and regulating provision of water services within their area of jurisdiction (DWAf, 2003).*

3.3.3 Policy positions

Water Services Authorities have the following responsibility:

- Implementation of the Municipal Systems Act (Act 32 of 2000) and Water Services Act (Act 108 of 1997) provisions.
- Prepare sanitation plans such as WSDPs etc., aligned to national sanitation planning.
- Ensure the realisation of the right to access to sanitation services, particularly basic sanitation services, subject to available resources. This includes people living on privately-owned land, in recognised permanent informal settlements and vulnerable groups and others who are provided services by Water Services Intermediaries. Wherever practical and sustainable, Water Services Authorities are expected to plan for and provide higher levels of service.
- Ensure the provision of effective, efficient and sustainable sanitation services. The provision of sanitation services also includes communication activities related to, amongst other things, Hygiene Education, end-user education and the wise use of water.
- Develop an asset management strategy, a maintenance and rehabilitation plan and a register of sanitation services assets and must then put in place a system to manage these assets.
- Provide information concerning the provision of sanitation services as reasonably requested by the Provincial or National governments, end-users and / or organisations.
- Develop an appropriate institutional structure to adequately respond to key WSA functions and responsibilities.
- Account, as per the Municipal Finance Management Act (No. 56 of 2003), to the province and National Treasury for resource allocation (financial, human etc.).
- Provide sanitation hygiene and end user education.

Water Services Authorities have a right but not an obligation to accept industrial, agricultural and mining wastewater within their area of jurisdiction.

Water Services Authorities must adhere to the following requirements in a transparent manner and in close contact with end-users:

- Sanitation services must be designed, planned and implemented to consider operations and maintenance requirements and to reduce the environmental impact of unmanaged grey-water, human excreta and wastewater disposal.
- Sanitation services must be appropriate and minimise impact on and use of water resources. Wsa should strive for systems which utilise minimal water resources.
- Sanitation technologies which consider settlement types.
- Geo-hydrological testing before use of on-site groundwater sources or on-site sanitation services. Exceptional situations may require independent review and advice.
- Technology choices must be appropriate and affordable.
- Roles and responsibility for payments for operations and maintenance must be clear.
- Only appropriate sanitation technologies must be adopted.
- The quality of all building materials used for construction must be durable and fully compliant with the requirements, norms and standards
- Local availability of materials and skills must be part of the choice of technology or construction method. The design of sanitation services facilities must maximise the use of local resources.
- Sanitation technology selection should include resources to develop the necessary local institutional capacity to manage the day to day and future operational needs. In some circumstances there may be considerable merit in engaging a sanitation services provider to carry out certain functions on behalf of a local authority. Government does encourage local authorities to consider various options in this regard.
- Social and cultural practices and preferences should be considered in the selection of appropriate sanitation technology.

WSA must have the billing systems in place to raise sufficient revenue for sanitation services.

WSA must ensure sufficient funds are transferred for a WSP to perform the agreed functions.

WSA must regulate all aspects of sanitation services provision locally.

The WSA is accountable to its citizens.

Sanitation services planning by WSAs should be in conjunction with municipal Environmental Health Practitioners, as well as other stakeholders and departments involved in the sector.

3.4 Position 9: Role and Responsibility of the Water Services Provider

3.4.1 Problem statement

Where district municipalities are the WSA, they have in some cases delegated the sanitation provision function to a WSP. These delegations have in some cases been poorly defined, specially related to financial arrangements for provision of sanitation services. WSA do not always make sufficient funds available for sustainable service provision by WSPs, negatively impacting on sanitation services particularly the sustainable operation and maintenance of sanitation.

WSAs which also perform the WSP function create a challenge in not accounting these functions separately. Managing the dual function of provision and regulation by a single structure (i.e. unit, person, directorate), negatively affects sanitation services provision. Systems of accountability are weak.

3.4.2 Current policy and legislative positions

Water Services Authorities may also appoint Water Services Providers to provide sanitation services in accordance with the Constitution of the Republic of South Africa (Act 108 of 1996), the Water Services Act and the bylaws of the Water Services Authority and in terms of any specific conditions set by the Water Services Authority in a contract.

The SFWS indicated that a local water services provider was those which provide water services to (or on behalf of) only one water services authority, while a regional water services provider 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.

The Municipal Systems Act (No. 32 of 2000) provides, in Section 77, a municipality with the mandate to review and decide on the appropriate mechanism to provide a municipal service. Through the process outlined in Section 77 and Section 78 of the Act, the municipality may decide on an appropriate internal mechanism to provide the service; or may decide to provide the service through an external mechanism. These external mechanisms may include making use of a Water Services Provider.

3.4.3 Policy positions

A WSP has the following role and responsibilities in the water services institution:

- Provide water services in accordance with the constitution, the water services act, municipal system 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.
- Provide water services in an effective and efficient manner, striving to meet and exceed recognised best-practice benchmarks.
- Publish a consumer charter which was consistent with by-laws and other regulations, approved by the water services authority and that includes the duties and responsibilities of both the water services provider and the consumer, including the conditions of the sanitation services and payment.
- Communicate the contents of the consumer charter with all consumers to whom they provide services.
- Present consumers with accounts which are clear and easy to understand.
- Develop a business plan for sanitation services.

Provide information concerning the provision of sanitation services as reasonably requested by the Provincial or National governments, end-users and / or organisations

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 with the WSA. During the course of conflict resolution sanitation services must not be interrupted.

Where a Water Services Provider fails to meet its obligations with respect to the end user, the end user has recourse to the Water Services Authority. Where this is ineffective, the end-user has recourse to the national water services regulator.

3.5 Position 10: South Africa's International Sanitation Obligations

3.5.1 Problem statement

The Millennium Development Goals (MDGs) served as the United Nations (UN) targets for 25 years from 1990 to 2015. The aim was to halve the backlogs in water and sanitation during that period. Goal number 7 was to “ensure environmental sustainability” and had as a target (number 7.C) to “halve, by 2015, the proportion of people without sustainable access to safe drinking water and basic sanitation” The indicator by which sanitation progress was tracked was whether households were “using an improved sanitation facility”. The proportion of the population which received improved water supply since 1990 is 36%, which indicates that the MDG for water supply has been met (UNICEF and World Health Organisation, 2015). However, only 31% of the population received access to an improved sanitation facility, which according to UNICEF and World Health Organisation (2015) is moderate progress¹ towards meeting this MDG target. South Africa has thus met the water MDG but did not meet the sanitation target.

3.5.2 Current policy and legislative positions

Policy is currently limited on international sanitation obligations. However, sustainability is a threat throughout the SFWS (2003), with the strategy indicating that:

- 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.
- It is time 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).
- 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.
- More emphasis is placed on sustainability, financial viability and efficiency.

3.5.3 Policy positions

National standards for sanitation will be developed to reflect the legal content of the human right to sanitation. Standards will follow international guidelines such as those of the WHO, taking into account existing service levels and local context such as settlement types and the availability of water resources.

National standards for sanitation must ensure that basic sanitation facilities can be safely used and provide targets for the collection, treatment and disposal or safe reuse of sewage and other faecal waste.

South Africa will pursue achievement of the SDGs, focussing sanitation services provision on ensuring sustainability. The sanitation SDGs are supported, including:

- Achieving access to adequate and equitable sanitation and hygiene for all and end open defecation, paying special attention to the needs of women and girls and those in vulnerable situations
- Improving water quality by reducing pollution, eliminating dumping and minimizing release of hazardous chemicals and materials, halving the proportion of untreated wastewater and substantially increasing recycling and safe reuse globally
- substantially increasing water-use efficiency across all sectors and ensure sustainable withdrawals and supply of freshwater to address water scarcity and substantially reduce the number of people suffering from water scarcity
- expanding international cooperation and capacity-building support to developing countries in water- and sanitation-related activities and programmes, including water harvesting, desalination, water efficiency, wastewater treatment, recycling and reuse technologies
- Supporting and strengthening the participation of local communities in improving water and sanitation management

¹ Moderate progress according to UNICEF and World Health Organisation (2015) if change in coverage between 1990 and 2015 is 1/3 to 2/3 of target.

Information on the standards and targets set by national and local governments must be available to the public, in an accessible format and language that is easy to understand.

Sanitation strategies will be devised to reach the most disadvantaged individuals and groups and remove discriminatory practices.

The government of South Africa will continue to honour its commitment and international obligations to WASH.

The government of South Africa will continue to honour its international obligations and commitments, which include the Sustainable Development Goals, the recommendations of the World Summit on Sustainable Development and the United Nations Habitat Agenda.

3.6 Position 11: Roles and Responsibilities of CBOs/NGOs and the Community

3.6.1 Problem statement

The participation and use of CBOs and NGOs in provision of sanitation services has largely been abandoned. This has largely been due to local government assuming the role of WSA-WSPs and the complex labour environment which had evolved over this period. There have been examples where the use of CBOs and community employees has led to the perception of perpetuating temporary labour brokering, leading to the insistence that these individuals be absorbed into the WSA institutional structure.

The AMCOW Country Status Overview study for South Africa indicated that although South Africa has good experience with community-based operations of rural water supply systems, there appears to have been a tendency for municipalities to take over these operations itself. Ironically, the decentralization of service delivery to municipalities seems to have been accompanied by a 'centralization tendency' among the municipalities themselves (WSP, 2010).

3.6.2 Current policy and legislative positions

The intent of the policy and SFWS was that community-based organizations (CBOs) manage some small water schemes in the rural areas of the country (DWAF, 2003). The SFWS defined these CBOs as not-for-profit organisations situated within a defined community that was mandated by that community to provide a specific municipal service to that community on behalf of the municipality. Where water services were provided through smaller localized systems, the SFWS indicated that it could have been most appropriate for these services to be managed by the local community with support from the water services authority or water services agents (DWAF, 2003). The Department of Water and Forestry was tasked with engaging with other national government departments to secure the right of water services authorities to use community-based water services providers without the need to undertake competitive tendering (DWAF, 2003). When engaged, CBOs like all WSPs were required to develop business plans to guide their activities (DWAF, 2003). Community participation in water services provision was also envisaged to include the conducting of Hygiene Education within their community (DWAF, 2003).

3.6.3 Policy positions

The participation and use of CBOs and NGOs in the provision of sanitation is encouraged

Promoting the active involvement of civil society, CBOs and NGOs in the provision of sustainable and affordable sanitation services, in research and in other related activities. This will be done through:

- Engaging civil society organisations, ngos and cbos 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 ngos and cbos;
- Encouraging civil society organisations, ngos and cbos to help monitor sector performance at all levels;
- Engaging civil society organisations, ngos and cbos 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.

3.7 Position 12: Bulk Sanitation Infrastructure and Establishment and Functions of Regional Water and Sanitation Utilities

3.7.1 Problem statement

Current arrangements of the water management institution are limited in the effective development and management of Regional Bulk Infrastructure. Water Boards, originally envisaged by the Strategic Framework for Water Services 2003 to fulfil this role, are largely considered to be regional water services providers.

The cross-boundary nature of regional sanitation infrastructure precludes the management of this infrastructure by a single WSA. WSAs also have no or limited capacity for managing and developing Regional Bulk Infrastructure.

3.7.2 Current policy and legislative position

The National Water Policy Review of 2013, introduced the following policy positions related to Regional Water Utilities:

- The Minister is responsible for Region Bulk Infrastructure, including master planning and its functioning.
- The functions of the Regional Water Utility will be to plan, build, operate, support and maintain Regional Bulk Infrastructure.
- Regional Water Utility institutional arrangements will be appropriate to the area of operation.
- A Regional Water Utility must be established based on clear principles such as financial sustainability and clear funding mechanism and clarity on requirements for additional fiscal support to build, operate and maintain Regional Bulk Infrastructure in the area of need.
- The Minister may issue a directive for a Regional Water Utility to address water infrastructure development and/or maintenance needs in an area.

The Strategic Framework for Water Services (SFWS) of 2003 outlines that in some areas of the country water services may be provided by regional service providers, defined as *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*. The SFWS indicates two categories of regional water service providers, namely water boards and regional public utilities.

3.7.3 Policy Positions

Reaffirming the policy position that the Minister is responsible for Regional Bulk Infrastructure, including master planning and infrastructure functionality.

Bulk sanitation infrastructure is defined as regional infrastructure, covering large areas and addressing more than one WSA.

The Minister must direct a Regional Bulk Utility to provide some or all bulk sanitation services provision in their jurisdiction.

The functions of the Regional Water and Sanitation Utility include Bulk Sanitation Services

3.8 Position 13: National Water and Sanitation Advisory Committee

3.8.1 Problem statement

Sanitation services provision in South Africa includes a vast number of stakeholders and institutions. The sanitation efforts of these stakeholders and institutions is often uncoordinated, incompatible and in some cases conflicting, resulting in poor provision of services to areas of the country. The role of guiding and steering this sector is that of DWS. However, DWS does not always have all the specialist skills and expertise to address all the complex requirements of sanitation services provision. There is a lack of an expert advisory body within the sanitation sector to assist the Ministry of Water and Sanitation, for example, on the appropriate criteria for sanitation technologies. The establishment of a National Advisory Committee could address this need.

The National Advisory Committee is not envisaged to replace the NSTT but rather to operate as an expert committee appointed by the Minister, which will perform specific expert functions to facilitate sanitation services provision in the country.

3.8.2 Current Policy and Legislation Positions

The White Paper on Water Supply and Sanitation (1994) indicates that *the Minister of Water Affairs and Forestry establish a National Water Advisory Council in order to ensure that a wide cross-section of South African society, representing all water users, have the opportunity to comment and advise on all aspects of water in the country.* The focus of the National Water Advisory body has been on water resources, focussing little attention on sanitation services.

Chapter 9 of the National Water Act (No. 36 of 1998) empowers the Minister to establish advisory committees. Each advisory committee is established for a particular purpose, and it is therefore possible for a variety of advisory committees to be established with different purposes and functions. Although primarily advisory in nature, the Act makes provision for a committee to exercise powers which are delegated to them.

3.8.3 Policy Positions

The Minister may establish a National Water and Sanitation Advisory Committee to provide, amongst others, policy advice; ensure that equity is achieved in sanitation services, advice on appropriate and acceptable sanitation technologies using appropriate technology criteria, feed into sanitation strategies and the updating of national sanitation norms and standards.

The committee will have, as part of its membership, sanitation experts, people who come from communities which are un-served and who understand the difficulties of sustainable development, national, provincial and local government representatives, NGOs, Civil Society and other role players in the sanitation sector.

PARTICIPATION IN SANITATION SERVICES



4 PARTICIPATION IN SANITATION SERVICES

4.1 Position 14: Hygiene Education

4.1.1 Problem Statement

Despite having extensive knowledge of the importance of sanitation Hygiene Education in South Africa and having sector-specific tools and methods to support these programmes, research and reviews of sanitation programmes have shown that Hygiene Education in the country is weak and often non-existent. Hygiene Education is often carried out in a haphazard manner, with little planning or focus.

While municipalities provide hygiene awareness programmes as a once-off intervention during the implementation of basic sanitation infrastructure, they do not include ongoing Hygiene Education as a component of FBSan. Research has shown that once-off events or visits to an individual in the household are not an effective means of achieving the end-goal of behavioural change of poor sanitation practices.

Current gaps in policy as well as institutional confusion over roles and responsibilities, has meant that this aspect of sanitation has often been neglected. Clarifying roles and responsibilities around ongoing Hygiene Education is critical to ensuring that attention is given to this area (Tissington, 2011).

4.1.2 Current policy and legislative positions

According to Regulation 2 of the Compulsory National Standards published in terms of the Water Services Act, the minimum standard for basic sanitation services includes “the provision of appropriate education.”

The definition of a basic sanitation services in the Strategic Framework for Water Services also includes “the communication of good sanitation, hygiene and related practices.”

Hygiene Education is central to the definition of a sanitation services in South Africa (see definition of basic sanitation facility). The White Paper on Water Supply and Sanitation (1994) indicates that national responsibility is to support regional and local efforts, requires the development and dissemination of appropriate programmes for promotion, training, and health and Hygiene Education. Local level at a community and neighbourhood level will address context specific realities.

The White Paper on Basic Household Sanitation (2001) also indicates that there is little public awareness of the strong links between sanitation and health. This must be redressed through an information dissemination programme aimed at promoting awareness of the role of sanitation in health. Hygiene information, education and awareness programmes must be developed hand-in-hand with servicing projects. These programmes aimed at developing good hygiene behaviour must start before construction commences and continue well beyond the construction phase. Behaviour change is not automatically a result of information (knowledge) or awareness. This is a flaw of assumptions that require addressing at this late stage.

In 2004, the National Health Act 61 of 2003 was passed, delineating the responsibility for municipal health services to district and metropolitan municipalities.

Integrated planning of Hygiene Education programmes alongside water supply and sanitation projects is a prerequisite of all water supply and sanitation projects.

4.2.3 Policy Positions

Hygiene Education should be an ongoing activity during the implementation of a programme for a basic sanitation services provision, including at a minimum, a visit to the household pre-construction; during construction and at completion of construction of the sanitation facility.

Hygiene Education must be an ongoing programme, post construction and must focus on promoting good hygiene behaviour. Hygiene messages, information and education must be developed hand in hand with provision of sanitation facilities and must be targeted at all levels such as:

- Personal Hygiene: such as washing hands after going to the toilet or changing the nappies of babies and before the preparation of food.
- Household Hygiene: keeping the home clean, particularly those areas where food is stored and prepared and ensuring that food and drinking water is kept covered and uncontaminated.
- Environmental Hygiene: such as safe solid waste storage and disposal.
- Community Hygiene: vectors do not respect household boundaries. To achieve improved public health, the whole community must be mobilised to work together for better health and a cleaner environment.
- Community Participation: The involvement of the community and local leadership structures in all aspects of programmes is important to ensure their relevance and acceptability.

Sanitation Hygiene Education will include rural, peri-urban and urban areas of the country.

WSA should engage with municipal Environmental Health Practitioners for the provision of Hygiene Education.

Hygiene Education must have special focus on vulnerable individuals and groups affected by chronic disease.



4.2 Position 15: End-user Education

4.2.1 Problem statement

End-user educational programmes are required on national, provincial and local levels accompanied by strong promotional campaigns. The development and use of participatory methodologies must be promoted and encouraged. The improvement of water supplies and other services in an area frequently stimulates communities to look at other improvements needed, such as sanitation.

4.2.2 Current policy and legislative positions

Policy does not address end-user education directly, but assumes end-user education is part of Hygiene Education. End-users and households will more than likely accept responsibility and ownership for a sanitation programme if they are involved in the planning and will also benefit directly from the programme.

4.2.3 Policy positions

End-users are responsible for:

- Their own behaviour relating to good hygiene practice; and
- Operating and maintenance of their sanitation infrastructure, within the framework of Free Basic Sanitation.

It is the responsibility of each community to safeguard hygiene and to reach consensus as to the sanitation system, within the available resource of the WSA that is affordable and acceptable to the majority.

The improvements that can be made to existing systems will be promoted as part of the education process, and consideration should always be given to the potential for upgrading any option.

End-users must participate in sanitation services conceptualisation, planning, design, implementation, operation and maintenance of all sanitation projects, including at an institution level.

Sanitation grants must be allocated to ensure equitable access to basic sanitation for all end-users. Awareness of grant allocation must be provided.

Awareness of greywater management must be provided to end-users.

The development and use of participatory methods is encouraged.

The right of the end-users of access to basic sanitation services comes with a corresponding responsibility, namely, to use sanitation services responsibly and with due care and to pay for services provided over and above services provided in terms of the Free Basic Sanitation policies.

Hygiene and user-education and awareness must be part of a comprehensive user-education programme with appropriate linkages to ensuring water conservation and demand management, gender mainstreaming, mainstreaming of HIV and AIDS and solid waste disposal options with particular regard for management of menstrual waste are critical and must be implemented as a minimum requirement alongside any institutional sanitation project or programme.

4.3 Position 16: Ownership of Sanitation Services

4.3.1 Problem statement

End-users at households and institutions do not take enough responsibility for maintaining their own toilets leading to poorly operated and maintain systems. End-users and households will more than likely accept responsibility and ownership for a sanitation programme if they are involved in the planning and will also benefit directly from the programme.

4.3.2 Current policy and legislative positions

The 1994 Water Supply and Sanitation Policy mandates that the communities served by schemes must take ownership of them and take responsibility for them.

The 2001 White Paper on Basic Household Sanitation adopts the positions that:

- While promoting ownership may appear to initially slow down delivery, in the long run increased sustainability can more than outweigh the gains made from rapid early delivery.
- Communities and households will accept responsibility and ownership for the sanitation programme if they benefit directly from the programme.



4.3.3 Policy positions

End-users provided with sanitation facilities, through the grant programmes, must take ownership and responsibility for them

All end-users must be aware of the ownership responsibility linked to the sanitation services provision

Sanitation services provision must include awareness campaigns on ownership and long-term sustainable operation of the system

4.4 Position 17: Gender, Youth and Disabled in Sanitation Services

4.4.1 Problem statement

It is very important that the differences in needs and priorities of women, men, girls and boys that arise from their different activities and responsibilities; and the inequalities in access to and control over water resources and access to sanitation services are taken into account during the implementation of sanitation projects.

Vulnerable groups and communities without access to at least a basic level of sanitation must be identified. Development programmes cannot however benefit all communities at once. Providing at least the basic level of sanitation to those vulnerable groups and communities facing the greatest health risks due to inadequate sanitation must receive the highest priority. To maximise synergy of effort, the prioritisation of vulnerable groups and communities must as far as possible be aligned with the priority backlog areas without sanitation services identified by Water Services Authorities.

4.4.2 Current policy and legislative positions

Current policy addresses gender, youth and disability in a very limited manner.

Involving women, together with men, in the management of sanitation is recognised as important internationally and nationally. Women are central to the provision, management and safeguarding of sanitation services. Global research indicates that sanitation interventions that are designed and managed with the full participation of women are more likely to be sustainable and effective.

The 1994 Water Supply and Sanitation Policy indicates that specific attention will be given by the Government to ensure gender issues are addressed in respect of training to more truly reflect the proportions reflected in our society at large. The same policy indicates that women groups will take a leading role in the planning, design, financing, construction and maintenance of improved water supplies. The policy also highlighted that all statutory bodies in the water sector shall be recommended to comprise a minimum of 30% women. This would apply at all levels, particularly in management and should be instituted within five years.

Similarly, the SFWS only address these issues in a limited manner, indicating that gender-sensitive Hygiene Education will be conducted and that water services institutions should be gender sensitive. The SFWS introduces 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.

4.4.3 Policy positions

Sanitation service provision must focus on enabling women to play a meaningful role at all levels in consultations, planning, decision making and in the operation and management of water services.

Recognising women as central in the provision, management and safeguarding of sanitation services

Specific needs of women and the vulnerable must be considered in sanitation services provision.

Providing physical access to sanitation is essential for the safety and dignity of women and girls.

Gender balanced approaches are encouraged in sanitation plans and sanitation services provision.

Design and location of sanitation systems must consider the needs of women and vulnerable groups.

Use of local women organisations in the operation and maintenance of sanitation services is encouraged.

Integrating women into existing sanitation development process through targeting their needs is essential.

Partnerships between local government, local women's groups and the private sector should be forged to overcome technical and financial barriers to women accessing urban sanitation.

Sanitation services must be provided to be safe, accessible, hygienic and appropriate for disabled and vulnerable individuals.

CAPACITY AND RESOURCES FOR SANITATION SERVICE DELIVERY



5 CAPACITY AND RESOURCES FOR SANITATION SERVICE DELIVERY

5.1 Position 18: Human Resources and Skills for Sanitation Services

5.1.1 Problem statement

The lack of key skills and the capacity gaps in the sanitation sector remains a challenge. There have been numerous reports outlining the weak capacity of the sector to perform assigned roles and responsibility. According to the 2011 Infrastructure Report Card produced by South Africa Institution of Civil Engineering SAICE), in *waste water infrastructure - which comprises 850 municipal treatment plants throughout South Africa, there was a worrying lack of wastewater monitoring in many plants due to lack of trained personnel*. Similarly, the SALGA and WRC (2014) benchmarking report indicated that a national average of 0.26 engineers per 100 000 capita (118 WSAs) was determined, indicating a chronic shortage of municipal engineers in South Africa. The same study indicated that 53% responding WSAs indicated that they did not have senior technical management with the appropriate skills, while 49% of the responding municipalities indicated not having the appropriate number of staff (SALGA and WRC, 2014). The Municipal Demarcation Board reported that coordination and skills levels are generally very low at a local government level. This lack of skills and capacity has serious concern to the provision of sanitation services.

The National Capacity Building Framework provides a three-pronged definition of capacity which includes individuals, institution and environmental capacity (CoGTA, 2008). Building capacity in the sanitation sector will need to focus on building capacity of the individuals, institutions and supporting environment of the sanitation sector.

Clear and precise direction for addressing skills gaps and needs in the sector are required. Training, capacity development and skills acquisition targets are required to track progress and to monitor the building of a well-resourced and appropriately skilled water supply and sanitation sector.

Despite the widely recognized capacity and skills challenge in the sector, the training and education opportunities to address this challenge are limited.

5.1.2 Current policy and legislative positions

Goal 4 of the SFWS indicated that all water services authorities were accountable to their citizens, have adequate **capacity** to make wise choices (related to Water Services Providers) and is able to regulate water services provision effectively.

The SFWS indicated that capability building through education, training and skills development would form a major component of support to the sector (DWAF, 2003). A skills development strategy for the sector would take into account the need to accelerate and expand formal and structured training and education programmes, particularly related to planning, implementing, operating and maintaining water services infrastructure; specialist skills required in the sector and management capacity requirements. The SFWS assigned responsibility to DWAF, together with the Local Government, Water and related services Sector Education Training Authority (LGWSETA), to provide leadership and co-ordination of education, training and capacity building in the water services sector (DWAF, 2003).

The SFWS envisaged education and training institutions, such as universities, technikons, colleges and the National Community Water and Sanitation Training Institute (NCWSTI), non-government organizations and private organizations, offering water-related courses, training needs analysis, applied research, development of course curricula and training materials, and implementation of capacity building, training and educational activities (DWAF, 2003).

The Department of Higher education and Training is responsible for improving the functioning of the Sector Education and Training Authorities as established by the Skills Development Act.

5.1.3 Policy positions

Regulations for sanitation skills and professionalising of the sanitation sector will be developed by the Minister.

All spheres of government will develop effective human resources plans for sanitation services, including succession planning.

Retention strategies will be strengthened and the induction of professional entrants is encouraged.

Level of sanitation knowledge will be elevated in the public sector to encourage the building of the capacity and skills of the sanitation environment.

Sanitation Education, training and skills development to be provided within the National Qualifications Framework.

Capability building through education, training and skills development must 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.

Capacitating of NGOs, CBOs and communities to conduct end-user and Hygiene Education is encouraged

National and provincial departments will assist in the training and support of community-based hygiene educators for sanitation services.

5.2 Position 19: Research and Innovation for Sanitation Services

5.2.1 Problem statement

Many cities are already reaching limits in terms of water available. Water demand management and interventions which set targets of the sectors are imperative. Supporting this is the need for better and improved sanitation system designs and products. Policy is needed to pro-actively stimulate the sanitation sector to move towards such objectives. Research and innovation in the sanitation sector is crucial to achieving both national and international imperatives of water conservation and demand management, water security and the public health benefits of sanitation.

5.2.2 Current policy and legislative positions

The 1994 Policy highlights that the policy of the Government is to shift the emphasis of research to gaining a greater understanding of the needs of communities and the problems associated with achieving the goals of universal basic service coverage in the country, whilst ensuring that important areas of research presently underway are continued.

5.2.3 Policy positions

Research and innovation in the sanitation sector is supported

Focus will be on developing the skills and capacity to conduct research and innovation required to address current and future sanitation sector needs

R&I capacity will focus on minimising resource use and impacts and maximise reduce, reuse, recycling and reclamation

R&I of appropriate sanitation service technology will be strengthened

5.3 Position 20: Community Capacity to Participate in Sanitation Services

5.3.1 Problem statement

Community participation in the sanitation services sector has been weak. The approach has been top-down in the sanitation sector, with little focus on bottom-up approaches.

5.3.2 Current policy and legislative positions

The SFWS indicates that training and capacity building is not only required at community level. Skilled personnel are needed across a broad spectrum. The training categories include general community awareness on water and sanitation, and related issues, including providing information packs and teaching aids to schools;

5.3.1 Policy positions

End-user involvement is essential in the sanitation services sector.

Water Services Authorities need to develop capacity to be able to involve end-user in the sanitation decision-making processes.

Capacity must be built in the local government, NGO, CBO and community to participate in the provision of sanitation services.

The use of local skills and expertise in the provision of sanitation services is encouraged.

WSAs must ensure that skills are developed to provide Hygiene Education. Where skills already exist, these must be developed further to suit the needs of the specific programme.

Gender participation, training and capacity building in sanitation services must be mainstreamed. Focus must be on building capacity and skills at a technical and managerial level.

FINANCIAL EFFECTIVE AND EFFICIENT SANITATION SERVICES



6 FINANCIAL EFFECTIVE AND EFFICIENT SANITATION SERVICES

6.1 Position 21: Economically and Financially Sustainable Sanitation Services

6.1.2 Problem Statement

Under-recovery of the full economic and financial cost of water services has resulted in water tariffs which do not capture the full cost of water services. This has potentially not changed behaviours of water consumers i.e. prices did not induce households to minimize or control their water demand.

The water services assessment report by DWA (2013) indicated that many municipalities had introduced a block tariff system for domestic, industrial and commercial water charges. Research by the DBSA indicated that since 2001, the DWAF had regulated the application of a rising-block tariff system to promote equitable access to water for all (Smith, 2009). In 2006, the DWAF undertook a survey of the block tariff system in 236 municipalities; the findings of the survey were that 183 (78%) municipalities had already implemented three or more rising-block tariffs (DWAF, 2008). However, most of the municipalities were not reporting on the criteria used in setting their tariffs.

The Benchmarking Study of the SALGA and WRC (2014) supported this, indicating that many municipalities did not *have cost reflective tariffs in place and thus revenues from tariffs do not cover operations and maintenance costs and/or debt service and depreciation costs (indication of whether the municipality has the capacity to invest in infrastructure without the grants given by government)*. The same study indicated that less than 30% of WSA felt strongly that the water tariff covered 100% of the cost of water provision in their jurisdiction (SALGA and WRC, 2014).

6.1.2 Current policy and legislative position

The SFWS has the purpose of placing greater emphasis on a sustainable, financially viable and efficient water services sector (DWAF, 2003). This requires not only the establishment of a sustainable water services institution but also the provision of water services in a manner which was financially, environmentally, institutionally and socially sustainable (DWAF, 2003).

At the core of the SFWS was a focus on the stimulation of economic activity and the development of livelihoods that were sustainable. A multidimensional perspective was necessary to fully assess this focus, including 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. In the economic context that multidimensional perspective considered affordability, efficiency, efficacy, sustainability and equity, where the specific definitions were stated as:

- **Affordability:** To be within the available financial means, in the immediate as well as over the medium to long term.
- **Efficiency:** The ratio of the outputs of a given process relative to the energy or resources expended in achieving those outputs.
- **Efficacy:** The ratio of desired outcomes versus the undesired outcomes for a given process.
- **Sustainability:** The ability or capacity of something to be maintained or to sustain itself.
- **Equity:** The appropriate distribution of goods and services among the pool of consumers and end-users.

Water Services Authorities are responsible for setting their own tariffs within these norms and standards. Sanitation tariffs should be calculated on the volumetric usage of the service as opposed to the number of toilets per household (DWAF, 2003).

The Municipal Systems Act and the Municipal Finance Management Act has laid down a robust framework for local government finance, dealing with financial management and accounting, revenue, expenditure and debt management, responsibilities of accounting officers and mayors, and financial supervision by national and provincial governments (de Visser, 2009). A central challenge for the many new institutions of local government was their capability of delivering on the principles of Section 53 of the Constitution which states that (Powell, undated):

'a municipality must structure and manage its administration and budgeting and planning processes to give priority to the basic needs of the community, and to promote the social and economic development of the community, and participate in national and provincial development programmes'.

6.1.3 Policy Positions

Recognising that sanitation has economic value

User and polluter pay principles will be implemented, regulated and enforced. Regulations, national and local, must be developed for the polluter pays principle.

Hygiene and end-user education must be part of the basic sanitation subsidy and financial implementation must be monitored.

Sanitation revenue allocations must be priorities for sanitation services provision.

Economic regulation will be applied throughout the water and sanitation value chain.

Water Services Authorities are responsible to ensure that the provision of sanitation services is financially sustainable (enabling the on-going operation of services and adequate maintenance and rehabilitation of assets).

WSAs must ensure financial stability by cost recovery for sanitation services. Social equity must be considered when defining cost-recovery mechanisms.

6.2 Position 22: Funding Models of Sanitation Services

6.2.1 Problem statement

The provision of sanitation services, particularly in rural areas of the country, has been growing at a rapid rate. The cost of providing a basic VIP has increased significantly between 1994 and 2015. This has placed an increasing burden on the national fiscus to make provision for subsidies and grants for provision of these basic sanitation services.

Trends have also been the decreasing use of Human Settlement grants for internal infrastructure, including sanitation. Hence, decreasing attention being paid to provision of these services through housing programmes.

6.2.2 Current policy and legislative positions

The 1994 policy envisages 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).

The SFWS provided a new financial framework for the water services section. The framework assigns national government with the responsibility of distribution of various grants to support the water services sector. The financial responsibility of the other organizations included:

- **WSA:** are responsible for ensuring adequate investment in water services infrastructure, prioritizing universal access to a basic service and that the investments were sustainable over time. The Municipal Infrastructure Grant (MIG) was highlighted as the financial mechanism for addressing universal access priorities (DWAF, 2003). The SFWS had the intent that appropriate financing structure for each water services authority would be determined through the development of a financial plan as part of the water services development plan. All water services assets were, with few exceptions, to be owned by the WSA and the WSA was required to keep an asset register. However, the ownership of water services assets could be in the hands of the person owning the land where an “on-site” water or sanitation facility was provided to a household.
- **WSP:** The key financial responsibilities of water services providers were to operate water services effectively and efficiently, to be financially viable and to honour the services delivery agreement with the water services authority.

The SFWS indicates that there is local discretion (at the water services authority level) for the establishment of a local subsidy framework for the provision of water services. Local subsidy framework must target the public benefit provided by the subsidy, target the poor and must be equitable, sustainable, efficient and transparent.

6.2.3 Policy positions

WSAs must assess what level of subsidy (overall) they are able to provide on an ongoing and sustainable basis for sanitation. Appropriate technical solutions must be based on these levels of subsidy, while considering settlement type and resource limitation.

Local subsidy framework must target the public benefit provided by the subsidy, target the poor and must be equitable, sustainable, efficient and transparent.

Innovative models and mechanisms for disbursement and use of sanitation subsidy will be explored. DWS, in concurrence with National Treasury and CoGTA, will provide guidelines for sanitation subsidy models and mechanism.

6.3 Position 23: Funding Operation and Maintenance of Sanitation Services

6.3.1 Problem statement

Under-expenditure in maintenance and under-investment in rehabilitation in the sanitation sector remains a significant challenge in South Africa. This has resulted in the deterioration of assets over time and a breakdown in service provision.

Sanitation services provision in the country need to be in accordance with sound business principles within a sound subsidy framework. Sound business principles and subsidy framework include adequate spending on maintenance and replacement of assets and income (including subsidies) which covers expenses.

Evidence shows that most municipalities and WSAs do not have operational and maintenance procedures and plans for on-site sanitation systems. This includes budget allocation of plans for the long-term sustainability for the sanitation facilities (Mjoli, 2010). A strategic sanitation review by SALGA found that 69 of 169 WSA claim to empty on-site systems. However, only 25 of these had a policy for these activities (another 7 had draft policies). Policies and budgets are required for the ongoing maintenance of on-site basic sanitation facilities in the country.

6.3.2 Current policy and legislative positions

The 2003 SFWS indicates that 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). 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.

6.3.3 Policy positions

Free basic sanitation promotes sustainable access to a basic sanitation services by subsidising the ongoing operating and maintenance costs of a basic sanitation services.

WSAs must be transparent about the allocation of funds for the operation and maintenance of sanitation systems and must report on the implementation on an annual basis.

Water services authorities must allocate sufficient maintenance to maintain the sanitation services infrastructure and related systems adequately. The planning of capital expenditures must also be integrated with the associated operation and maintenance requirements and expenditures.

WSAs must give priority to financial resources required for the safe and hygienic emptying of on-site sanitation facilities.

SUSTAINABLE SANITATION SERVICES



7 SUSTAINABLE SANITATION SERVICES

7.1 Position 24: Appropriate Sanitation Technologies

7.1.1 Problem Statement

Settlement type and patterns have important implications for the type of sanitation technologies that are suitable, affordable and sustainable in a given settlement area.

The debate related to the appropriateness of a sanitation technology centres largely around settlement types, previous experience with inappropriate technologies, the lack of a formal mechanism for accreditation and certification of appropriateness of a technology, the difficulty in determining appropriateness which is largely site specific and current international best practice of appropriate sanitation technologies. Currently, selection of sanitation technologies for an area is largely based on the guidelines for the levels of services in the country, with flush systems being the norm in formal settlements and dry, on-site system being provided in the rural areas of the country. However, experience has shown that these selections of technologies are often not the most appropriate for the area in which they are currently provided.

The policy needs to address the issue of appropriate technology and change preconceived notion of sanitation from either waterborne in urban and dry systems in rural areas to one where the most appropriate technology is provided to an area. Technology choice needs to be based on resource availability within a settlement area.

7.1.2 Current policy and legislative position

The SFWS has the vision that 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. It does not however expand as to what is deemed appropriate or how a WSA should determine an appropriate water and sanitation services.

In addition, the SFWS provides guidance on the technology choices which local government can make, indicating that the definition of sanitation 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.*

7.1.3 Policy Positions

Criteria for appropriate sanitation technology will be developed and will be considered in the water use authorisation application. Communities, local government and national department (such as Dept. of Human Settlements) will be consulted and will participate in the process of developing these criteria.

Human settlement appropriate sanitation technologies which minimise natural resource use and negative impacts are encouraged.

Limited water resource availability should inform appropriate technology selection.

Implementation of alternative, appropriate technology will be within social, environmental and economic constraints. Settlement and geographic situation will also be considered.

Appropriate sanitation technology need to be sensitive to people with special needs, children, the elderly and women.

Appropriate sanitation technology must encompass waste management systems.

Decentralised sanitation systems are encouraged.

A formal process for certification and accreditation of appropriate sanitation technologies will be developed.

The Minister will, in concurrence with National Treasury, provide incentives to encourage utilisation of resource efficient sanitation infrastructure in human settlement areas.

The Minister will have developed regulations for new development to use greywater in waterborne sanitation systems, minimising impacts on water resources.

7.2 Position 25: Grey-water management in sanitation service provision

7.2.1 Problem statement

Grey-water management is a crucial component of management of waste streams in households. Grey-water is untreated household wastewater from baths, showers, kitchen and hand-wash basins and laundry (i.e. all non-toilet uses). Incorrect storage, use and disposal of grey-water can lead to a variety of health concerns, including mosquito breeding (from ponding of grey-water); contamination of drinking water supplies and odours from stagnant water.

Reuse of grey-water offers one means of relieving pressure on freshwater supplies. Safe management of grey-water, which encourage reuse and recycling of the resource should be encourage in a water scare country, while at the same time focussing on ensuring the safety of reuse and recycling.

7.2.2 Current policy and legislative position

The current policies do not address the policy position on grey-water. There is no specific reference to grey-water in the National Water Act (NWA) No. 36 of 1998 (Republic of South Africa, 1998) although the sections concerning water resource management do apply.

7.2.3 Policy Positions

Management of grey-water is encompassed in sanitation services provision. The Minister will set conditions in the water use authorisation to ensure the good management of grey-water.

Hygiene Education must include management of grey-water.

Grey-water recycling by decentralised and centralised systems is encouraged.

The Minister will provide norms and standards for grey-water management.

Use and management of grey-water in a safe and sustainable manner is required. Greywater management within property boundaries is the responsibility of the property owner, while greywater management outside property boundaries is a WSA responsibility.

DWS will provide guidelines for greywater management.

7.3 Position 26: Reduce, reuse, recycle, recover and reclamation in the sanitation sector

7.3.1 Problem Statement

South Africa's sanitation policies are transformational and thus focussed on addressing sanitation backlogs in the country. The concepts of reduction, re-use, recycling and recovery in the sanitation sector are not addressed.

The aspect of 'reduce' in the waste sector requires that the amount of waste being produced be minimised. Human waste, faeces and urine, cannot be minimised but the resources utilised in the collection, storage and treatment of these can. Sanitation services need to ensure that the use of natural resources, particularly water, be kept to the absolute minimum. Similarly, recycling of these resources need to be maximised (e.g. reusing wastewater; returning nutrients and organic material to agriculture) and the protection of other non-renewable resources, e.g. through the production of renewable energies (such as biogas).

Recovery and use of human excreta is a growing practice in the sanitation sector. Sanitation systems can safely recycle excreta resources (plant nutrients and organic matter) to crop production in such a way that the use of non-renewable resources is minimised. When properly designed and operated, sanitation systems can provide a hygienically safe, economical and closed-loop system to convert human excreta into nutrients to be returned to the soil and water to the land. Agricultural trials around the world have shown measurable benefits of using treated excreta in agriculture as a fertilizer and soil conditioner. This applies in particular to the use of urine. Another aspect is the global shortage of phosphorus, a limited resource which is required in fertilizer production. Known mineral phosphate rock reserves, in particular, are becoming scarce and increasingly costly to extract. Use of human excreta, particularly urine, provides a good source of phosphorus.

Individuals who wish to use treated effluent for agricultural purposes are, in terms of Section 21 of the National Water Act (Act 36 of 1998), required to apply for a conditional water-use licence under the Act. The Department of Water Affairs and Forestry (DWAF) processes applications for any type of treated effluent re-use. If the intended re-use involves public health issues such as the production of food, or sports facilities that promote probable direct contact with surfaces irrigated with treated wastewater, the provincial Departments of Health (DOH) become involved (Steyn and Jagals, 2000).

7.3.2 Current policy and legislative positions

The Draft National Sanitation Policy (2012) does advocate that where *economically viable and sustainable, the liquid, solid and gaseous constituents of wastewater and excreta end products should be recycled for further use and for environmental benefits (e.g. composts, bio-fuel, irrigation etc.)*. *The return of treated wastewater to the water cycle is considered to be essential and deviations from this approach require special motivation.*

The same policy also takes the positions that *WSAs must undertake the management of sludge in accordance with the Water Management Series of Minimum Requirements (version 2: 2008) as developed by the Dept. of Water Affairs. Catchment Management Agencies are to be involved in this aspect.*

Regulations Relating to Compulsory National Standards and Measures to Conserve Water (DWAF, 2001), related to the use of effluents:

- 1) A water services institution must ensure that the use of effluent for any purpose does not pose a health risk before approving that use.
- 2) Any tap or point of access through which effluent or non-potable water can be accessed, must be clearly marked with a durable notice indicating that the effluent or non-potable water is not suitable for potable purposes.
- 3) A notice contemplated in sub regulation (2) must be in more than one official language and must include the PV5 symbolic sign for non-potable water as described in SABS 1186: Symbolic Safety Signs: Part 1: Standards, Signs and General Requirements.

7.3.3 Policy Positions

Sanitation provision must emphasise the need for the conservation of water resources and the use of appropriate technologies which are environmentally sustainable.

Sanitation services should be provided based on the principles of minimising the use and impacts on natural resources.

Where economically viable and sustainable, the liquid, solid and gaseous constituents of wastewater and excreta end products should be used, reused and recycled for further environmental benefits particularly in energy generation.

The return of treated wastewater to a source other than the water resource requires special motivation. This will require a water use authorisation.

The Minister will develop regulations for the use, re-use recycling and recovery of the liquid, solid and gaseous constituents of human wastewater and excreta. This may require approvals in terms of the National Environmental Management Waste Act (No. 59 of 2008).

The Minister may attach reduce, reuse, recycling and/-or recovery conditions to a license application.

WSAs must undertake the management of sludge in accordance with the Water Management Series of Minimum Requirements (version 2: 2008) as developed by the Department of Water and Sanitation. The regulatory requirements of sludge management must also be adhered to.

Human settlement areas should aspire to 100 percent safe disposal of wastes on a sustainable basis.

Human settlement wastewater and storm water drainage must be managed safely locally.

Recycle and reuse of treated wastewater for non-potable applications in human settlement areas should be implemented wherever possible.

Where appropriate, priority must be given to sanitation technologies which minimise use of natural resources.

7.4 Position 27: Effluent management

7.4.1 Problem Statement

Inadequate treatment of human effluent may result in pollution of South Africa's water resources. This will result in an increasing cost of treatment of water for drinking purpose.

Effluent according to the Regulations Relating to Compulsory National Standards and Measures to Conserve Water DWAF, 2001) means human excreta, domestic sludge, domestic waste-water, grey-water or waste water resulting from the commercial or industrial use of water.

According to Guidelines for Compulsory National Standards and Norms and Standards for Water Services Tariffs and Water Services Provider Contract Regulations, before a water services institution allows an industry or business to connect to its sewerage system it must consider the effect of that discharge on the quantity and especially the quality of the effluent ultimately discharged from the sewerage works. If accepting that discharge would pose a risk to the treatment process or lead to a breach of the permit, the water services institution should only agree to accept the effluent once the harmful substances have been removed or reduced. Industries can comply by:

- pre-treating their effluent such that it complies with the permit conditions; and
- separating effluent discharges and treating the harmful component of the discharges separately.

Current sanitation policies are largely focussed on basic sanitation services provision. Future sanitation policy must address all aspects of sanitation systems in the country. Hence, a definition of the components of sanitation systems is required. Water Quality Monitoring must be linked to these sanitation systems, as reporting currently does not result in actions and supportive responses to address ongoing and increasing pollution.

7.4.2 Current policy and legislative positions

The White Paper on Water Supply and Sanitation (1994) indicates that as South Africa is a water deficient country, all effluent has to be purified and returned to the rivers. As a result of inadequate effluent treatment and illegal discharges, the quality of water is deteriorating in many areas. In time, quality may become a more important factor than quantity in water management in some areas, particularly in the interior.

The 1997 Water Services Act defines "disposal of industrial effluent" means the collection, removal, disposal or treatment of effluent emanating from industrial use of water. The same Act indicates in Section 7 (2) that no person may dispose of industrial effluent in any manner other than that approved by the water services provider nominated by the water services authority having jurisdiction in the area in question. A water services authority which— (a) provides water for industrial use; or (b) controls a system through which industrial effluent is disposed of must make bylaws providing for at least—

- iv) the standards of services;
- v) the technical conditions of provision and disposal;
- vi) the determination and structure of tariffs;
- vii) the payment and collection of money due; and
- viii) the circumstances under which the provision and disposal may be limited or prohibited.

The White Paper on Basic Household Sanitation (2001) introduces the polluter pays principle to the sanitation sector. This principle advocates that polluters must pay for the cost of cleaning up the impact of their pollution on the environment.

Regulations Relating to Compulsory National Standards and Measures to Conserve Water (DWAF, 2001), related to the quantity and quality of industrial effluent discharged into a sewerage system: *A water services institution is only obliged to accept the quantity and quality of industrial effluent or any other substance into a sewerage system that the sewage treatment plant linked to that system is capable of purifying or treating to ensure that any discharge to a water resource complies with any standard prescribed under the National Water Act.*

The same regulations indicate that *a water services institution may impose limitations on the use of grey-water if the use thereof may negatively affect health, the environment or available water resources.*

The regulations indicate that *a water services institution is only obliged to accept the quantity and quality of industrial effluent or any other substance into a sewerage system that the sewage treatment plant linked to that system is capable of purifying or treating to ensure that any discharge to a water resource complies with any standard prescribed under the National Water Act.*

7.4.3 Policy Positions

Polluter pays principle, particularly related to effluent discharge from municipal wastewater treatment works. Similarly, the principle is applied to wastewater from industry, agriculture, mining and other sectors in the country.

Effluent management infrastructure and technology must meet appropriate technology criteria as determined by norms and standards. Technologies must be approved before being released into the sanitation market.

WSAs may set standards for industrial agriculture, mining waste which they will accept.

Standards for effluent discharge must be enforced. Skills and capacity to implement and enforce these standards must be developed and supported.

Local involvement in the safe and hygienic management of on-site sanitation facility emptying and the transport of sludge is encouraged.

7.5 Position 28: Operation and Maintenance

7.5.1 Problem Statement

A recent review of the local government grant system by National Treasury (National Treasury et al, 2014) indicated that *several issues were established as undermining efficient asset management of municipal infrastructure, such as the lack of credible asset management plans and non-prioritisation of renewal and maintenance expenditure. In the case of the renewal it is recognised that this relates directly to the grant system: since the establishment of the current local government system, grants have largely focused on the extension of basic services to all citizens as per the Constitution's Bill of Rights. This emphasis on backlog eradication has, with good motives, incentivised municipal investment in new infrastructure that connects previously un-serviced areas to water, sanitation, electricity or roads networks. However, the conditionality of many grants restricts municipal investment to building new infrastructure rather than make cost-effective investments in rehabilitating, upgrading or replacing existing infrastructure. This persistent extension of a municipal asset base can undermine sustainable asset management practices particularly if there is not also targeted investment in economic infrastructure that boosts the rate-base. Social infrastructure investment may not be matched by a corresponding increase in own revenues, via tariffs and rates⁷, to fund the operations and maintenance of a new infrastructure asset.*

Furthermore, over-engineering of grant-funded capital projects can also undermine the sustainability of municipal infrastructure.

At least 3.2 million households (26%) of South Africans already have poorly maintained facilities (The Presidency and DHS, 2012). Poorly constructed or inadequately operated and maintained (O&M) sanitation facilities results in ecosystem degradation, which in-turn impacts on exposure to and transmission of faecal-related pathogens. This was what happens when the ecosystem had exceeded its carrying capacity² to assimilate waste and process it (Nadkarni, 2004). The environmental effects of provision of incorrect or poorly maintained sanitation services are realized through the effects on human health.

7.5.2 Current policy positions

Policy is currently weak on operation and maintenance, especially on O&M aspects other than financial considerations.

² Carrying capacity was defined as the maximum rate of resource consumption and waste discharge that could be sustained without progressively impairing the functional integrity and productivity of ecosystem (Nadkarni, 2004)

7.5.3 Policy Positions

A WSA must develop an asset management strategy, a maintenance and rehabilitation plan and a register of sanitation services assets and must put in place a system to manage these assets. 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 can occur.

A WSA must ensure sufficient resources to ensure effective operation, timely maintenance, refurbishment and upgrading of sanitation systems in their jurisdiction.

A WSA 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.

All sanitation services must be designed to consider their operations and maintenance requirements and reduce the environmental impact of unmanaged grey-water, human excreta and wastewater disposal.

Public-private partnerships (PPPs) are encouraged for the operation and maintenance of sanitation services. PPP contract norms and standards will be provided by DWS.

All aspects of sound, efficient, effective and sustainable operation and maintenance of infrastructure need to be addressed.

Use of local resources to conduct operations and maintenance at a household level is encouraged.

Responsibility for carrying out refurbishment and maintenance of sanitation services at private and public institutions remains with the institution.

7.6 Position 29: Labour Intensive Sanitation Services Provision

7.6.1 Problem Statement

Sanitation services delivery has focussed on delivery of sanitation facilities to meet such targets as the national sanitation targets and the MDGs. This has led to WSAs not being able or willing (in some instances) to build capacity within beneficiary communities to have local labour intensive sanitation services provision. Hence, local communities have not benefitted from these interventions.

7.6.2 Current Policy Positions

National government has the imperative of labour-based infrastructure delivery, as demonstrated by the Expanded Public Work Programme. A key principle of the 1994 Water Supply and Sanitation Policy is the labour based approach to sanitation improvement programmes, particularly to create jobs, in the use of local materials and products, using local contracts and using labour intensive techniques.

7.6.3 Policy Positions

Labour intensive sanitation services provision in human settlements is encouraged. Alignment with Expanded Public Works and Community Works programmes should be pursued to support labour intensive sanitation services provision.

The use of local labour, material and solutions in provision of sanitation services is encouraged.

REGULATION OF SANITATION SERVICES



8 REGULATION OF SANITATION SERVICES

8.1 Position 30: Sanitation Services Norms and Standards

8.1.1 Problem statement

Sanitation services norms and standards are required for the sector. This will go a long way to clarifying a number of important aspects of provision of these services.

8.1.2 Current policy and legislative positions

Section 146 of the Constitution of the Republic of South Africa (Act 108 of 1996) provides scope for national government to develop national norms and standards, and frameworks and policies that provide uniformity across the country as a whole for functional areas that fall under Schedule 4 of the Constitution of the Republic of South Africa (Act 108 of 1996). Water Services Authorities must submit evidence as part of their Integrated Development Plans that prescribed minimum national norms and standards have been and will continue to be met.

The Minister of Water Affairs has under Section 10 of Chapter 2 of the Water Services Act (Act 108 of 1997) prescribed norms and standards for tariffs for sanitation services. The Minister has prescribed that a tariff set by a water services institution for the provision of sanitation services to a household must:

- support the viability and sustainability of sanitation services to the indigent;
- recognise the significant public benefit of efficient and sustainable sanitation services; and
- discourage practices that may degrade the natural environment.

Water Services Authorities are however responsible for setting their own tariffs within these norms and standards.

8.1.3 Policy positions

The Minister will, in concurrence with the Department of Human Settlements, provide norms and standards for resource efficient sanitation infrastructure for new developments in human settlement areas.

The Minister will provide norms and standards:

- for basic sanitation services to households on private land.
- for basic sanitation services to households in informal settlements.
- for sanitation services at public institutions.
- to protect the social and economic interests of all end-users, especially indigent and vulnerable households and to protect the environment.
- for sanitation tariffs.
- for appropriate, alternative technologies.
- for the operation and maintenance of sanitation systems in all settlement types.

Government, civil society, public and private institutions and the public will develop these norms and standards in a cooperative manner, using bottom-up approach which takes into account the needs, expectations and insight of all end-users.

All sanitation services norms and standards must be complied with.

8.2 Position 31: Incentive-Based Regulations of Sanitation Services

8.2.1 Problem statement

Research showed in 2011, that sanitation in particular, had *an absence of regulation at all levels of government* (Tissington, 2011).

At a national level, a number of incentive-based regulatory systems are utilised in the sanitation services sector. These systems are an effective mechanism for encouraging WSAs to ensure performance of their sanitation services functions and Constitutional responsibilities.

8.2.2 Current policy and legislative positions

While local government is mandated to provide water and sanitation services, the national department of water and sanitation is responsible to perform the function of the national regulator, in conjunction with relevant stakeholders, including citizens. Section 155(7) of the Constitution gives national government the mandate to regulate water services.

The overall objective of regulation is to protect end-user 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.

National government has the responsibility to enforce legislation (regulatory function). In exercising these roles, national government must apply the principles of co-operative government.

The Department of Water and Sanitation has a mandate to monitor, evaluate, report and publish performance of Water Services Authorities with respect to the provision of water supply and sanitation services delivery.

The Water Services Authority is the local regulator of sanitation services. It determines local policies and standards (which must conform to national minimum norms and standards), promulgates by-laws, plans the provision of sanitation services/ Water Services Development Plan, determines how investments in sanitation 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 sanitation services in this context.

The National Water Services Regulation Strategy (NWSRS) (January 2010) is aimed to outline the national regulator of the water services sector, with Part E of the document defining the approach to the regulation of sanitation. The following list is a summary of some of the relevant provisions contained in Part E of the NWSRS (taken from Tissington, 2011).

- **Planning:** The NWSRS describes what should be contained in a WSDP, particularly in relation to sanitation. DWS monitoring compliance to the WSDP.
- **Financing:** DWA monitors all MIG applications for sanitation projects and is supposed to monitor adherence to MIG conditions in the execution of projects. Where WSAs or WSPs are shown to be financially non-viable, DWA has no direct mandate to intervene but can make requests and recommendations. More power needs to be given to DWA to intervene in these situations.
- **Design and construction:** Sanitation infrastructure must be consistent with national protocols, regulations and legislation, as well as local water services by-laws.
- **Operation and maintenance:** A WSA must keep an up-to-date asset register and asset management plan for sanitation infrastructure. The WSP must maintain all assets proactively e.g. through regular cleaning of sewers and maintenance of pump stations and respond to breakages and spills timeously. DWA is supposed to monitor that this occurs, and intervene to request remedial action where necessary.
- **Maintenance of on-site sanitation:** WSA must at least put in place monitoring mechanisms around on-site sanitation systems and environmental conditions. DWA will monitor WSAs to ensure they comply with this monitoring programme.
- **Management of grey-water where there is on-site sanitation:** WSAs are responsible for ensuring that national grey-water guidelines are adhered to and DWA monitors this adherence.

Environmental health and education: In terms of the Health and Hygiene Education Strategy for Water Services, the WSA is responsible for ensuring that health education is implemented in communities whenever a sanitation project is constructed, as well as on an ongoing basis. DWA monitors WSA's adherence in this regard.

8.2.3 Policy positions

National regulation of sanitation services will extend to:

- Norms and standards regulation: monitoring compliance with (and relative performance with respect to) national policies and national minimum norms and standards. These are not only technical standards.
- Economic regulation: includes the approval of investment plans and tariffs.
- 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.
- Incentive-based regulations: encouraging and supporting local government to perform their mandated function of universal access to sanitation services in a hygienic, efficient, effective and sustainable manner.

Linkages between sanitation services regulation and water resources regulation are licensing and regulation of water use and licensing and regulation of wastewater discharge.

An enforcement mechanism to ensure compliance and legislative reform around the Regulations Relating to Compulsory National Standards and Measures to Conserve Water (General Notice 22355 of 8 June 2001) published in terms of section 9 of the Water Services Act, will be developed by the Department of Water and Sanitation.

The Department of Water and Sanitation will promote incentive-based regulation and acknowledging excellence in sanitation management along the entire value chain.

Water Services Authorities are accountable to their citizens for the effective delivery of sanitation services.

WSAs must ensure that sanitation services are provided within its area in conformity with national policies, norms and standards.

Water Services Authorities must regulate all aspects of sanitation services provision locally. More specifically, the scope of regulation extends to:

- By-laws that set out the general rights, duties and responsibilities of water services providers, intermediaries, water services agents and end-users with respect to sanitation services. Water services authorities need to promulgate and enforce bylaws providing for the regulation of industrial (trade) wastewater (volumes & quality) discharged into municipal systems, package plants, decentralized systems, vacuum tank discharges and spillages into the environment.
- Where a water services authority contracts with an external water services provider, the water services authority will regulate the water services provider by contract. Contracts must be consistent with national norms and standards. All contracts are subject to national regulatory oversight.
- 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 must regulate (in terms of the contract) the investments, tariffs and operating efficiency of local external water services providers (economic regulation).

The overall objective of regulation is to protect end-user and public interests by:

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

Regulations for emergency sanitation will be formulated.

The Minister will provide effluent management conditions, regulations, norms and standards.

Regulations for polluter pays principle will be developed and enforced.

8.3 Position 32: Regulation through Monitoring and Evaluation and Information Systems

8.3.1 Problem statement

Currently, monitoring and evaluation results are utilised for reporting, with little application of these information and data utilised for regulation of the sector. This is a serious oversight in the sanitation sector.

The compliance monitoring function had not been adequately implemented between 2003-2013. This is particularly true for the ongoing monitoring and reporting of the SFWS goals and targets and for the monitoring of implementation of the sanitation hygiene and wise water use initiatives in the country. The reporting requirement placed on WSAs is also perceived as burdensome and a challenge in the water services sector.

8.3.2 Current policy and legislative positions

The SFWS indicated that regulation of the water services sector by the Department of Water Affairs and Forestry would comprise two functions:

- 1) **monitoring sector performance:** monitoring compliance with (and relative performance with respect to) national policies and national minimum norms and standards. These were not only technical standards. (In the international literature, this was often called technical regulation.) and
- 2) **making regulatory interventions** (to improve performance and/or to ensure compliance).

The SFWS provided a monitoring framework for the water services sector, indicating that monitoring of the sector was necessary (DWAF, 2003):

- For effective support necessary in the sector;
- For regulation of the sector;
- To inform national policy and strategy development; and
- To inform planning.

The SFWS envisaged monitoring of the water services sector taking place at the local, regional and national levels and involving 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. Monitoring was to be based on the principles of fit-for-purpose (i.e. designed with specific and defined objectives in mind) and bottom-up design (i.e. data collected locally should be useful locally, and public participation in monitoring should be encouraged).

8.3.3 Policy positions

Effective regulation of the sanitation sector must be underpinned by strong compliance monitoring and enforcement capability.

An integrated National Sanitation Information System will be implemented and managed to monitor, report, evaluate and regulate the entire sanitation sector of the country.

The National Information System will build on existing report systems.

The National Information System will be coordinated and aligned with information management systems of DWS, National Treasury, CoGTA and other government agencies.

The Water Services National Information System, the following broad categories of monitoring and evaluation will be required from Water Services Authorities and Departments:

- implementation of delivery programmes to eradicate the sanitation backlog;
- adherence to norms and standards in the construction, operation and maintenance of sanitation facilities;
- the allocation, application and management of funds;
- the involvement of communities, NGOs and CBOs, use of local resources and job creation initiatives;
- the impact of sanitation improvement programmes on the health of communities;
- involvement of women and other vulnerable groups; and
- compliance with the integrated environmental management approach and the environmental impacts of sanitation services.

The Minister will provide regulations for appropriate sanitation technologies.

8.4 Position 33: Enforcement of Sanitation Regulations

8.4.1 Problem Statement

Sanitation has had a growing impact on the water resources of the country, with increased nutrient levels in many rivers and dams. Sanitation regulations need to address these growing challenges in the country.

8.4.2 Current policy and legislative positions

Policy is currently weak on sanitation service enforcement positions. The SFWS however, does outline a mechanism for enforcement of compliance of WSA to national legislative requirements.

8.4.3 Policy Positions

The Minister, in consultation with CoGTA and SALGA, will develop an effective formal reporting mechanism of the water services function from Local Government, which allows the Minister the means within the legal framework to take corrective steps in case of serious malpractice or negligence affecting effective water resource management in the country.

The Minister will apply the water use authorisation mechanism to set conditions for waste water management. It will be enforced strictly to ensure appropriate low-resource use sanitation solutions in low, middle and high income settlements.

A proposed waste discharge charge and a water resource charge based on the “polluter pays” principle will be enforced.

Appropriate mechanisms will be created to make sure that there is procedural fairness in all allocation decisions and the development of appropriate dispute resolution mechanisms will make sure that the new system meets all the requirements of administrative justice.

Where a water services authority fails to conform to legislative requirements, DWS must:

- request compliance: if the request failures in achieving WSA compliance, failure to comply can be published (“**name and shame**”) or DWS (together with National Treasury, CoGTA and provincial government as appropriate) may apply **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 this fails or in cases where it is deemed serious enough to warrant **direct intervention**, DWS could intervene (together with National Treasury, CoGTA and provincial government as appropriate).
- If, despite all efforts, the local authority refuses to comply (or is negligent in compliance), DWS may resort to **legal action**.

DWAF will develop an **intervention strategy** which conforms to the policy

In line with NEMA, the process of speedily, cheaply and transparently resolving differences or disagreements will be mediation.

The Minister may appoint an independent panel, based on the conditions that he/she deems necessary, to advice on a dispute/s.

Where mediation does not resolve the matter, parties may refer the matter to arbitration.

WAY FORWARD

FUTURE POLICY POSITIONS



9 WAY FORWARD

9.1 Future policy positions:

- **Development of a monitoring, evaluation and enforcement plan for the policy positions.** It is crucial in future sanitation strategies for the implementation of this policy review to occur concomitantly with the development of a monitoring and reporting framework. The framework should be able to report, at any point in time, the progress and performance of the sector in addressing the strategic imperatives and intents.
- **Water Stewardship for Sanitation:** the sanitation sector largely operates on a principle of 'flush and forget', utilising large volumes of water to deal with human waste. Individuals do not take responsibility for their water use for sanitation. There is a need for individuals to collectively take stewardship of water which is used in the sanitation sector. Water stewardship for sanitation is a new initiative which requires further exploration before definitive policy positions can be developed.
- **Climate change:** the long-term effects and impacts of climate change on the sanitation services sector need to be understood and means to avoid, minimise and mitigate these effects need to be incorporated into policy and legislation. Climate change is likely to increase the variability of water resources affecting human health and livelihoods. Special attention must be given towards mitigation by enhancing the capabilities of community to adopt climate resilient sanitation technological options.

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APPENDIX

RELATED ACTS, POLICIES, STRATEGIES AND GUIDELINES



11 APPENDIX 1: RELATED ACTS, POLICIES, STRATEGIES AND GUIDELINES

Many aspects of the sustainable provision of sanitation services are governed by existing water, health, environmental, free basic and other related sector legislation. Hence, this Policy document must be read in conjunction with the following existing national acts, policies, strategies and various sector guideline documents:

- The Constitution of the Republic of South Africa (Act 108 of 1996);
- The National Water Act (Act 36 of 1998);
- The Water Services Act (Act 108 of 1997);
- Regulations Relating to Compulsory National Standards and Measures to Conserve Water (General Notice 22355 of 8 June 2001) in terms of section 9 of the Water Services Act;
- The Strategic Framework for Water Services 2003;
- Local Government: Municipal Systems Act (Act 32 of 2000);
- Local Government: Municipal Structures Act (Act 117 of 1998);
- The National Health Act (Act No. 61 of 2003);
- National Environmental Management Waste Act (NEMWA) (Act 59 of 2008);
- National Environmental Management Act (NEMA), Act 107 of 1998;
- Framework for a Municipal Indigent Policy 2005;
- Guidelines for the Implementation of the National Indigent Policy on Water, Sanitation, Electricity / Energy and Waste Removal by Municipalities 2006;
- Municipal Infrastructure: Roles and Responsibilities of National, Sector Departments, Provincial Counterparts and Municipalities (Department of Co-operative Governance, 2006);
- The National Water Resources Strategy (2004);
- The Housing Act (Act 107 of 1997);
- the Department of Water Affairs Free Basic Water Implementation Strategy 2007;
- the Department of Water Affairs Free Basic Sanitation Implementation Strategy 2009;
- White Paper on Integrated Pollution and Waste Management for South Africa;
- National Waste Management Guideline for South Africa;
- National Guideline for Water Quality Management in Dense Settlements;
- Drinking Water Quality Management Framework for South Africa;
- Compulsory National Standards for the Quality of Potable Water (2001, Regulation 5 of Section 9 of the Water Services Act);
- Ensuring Water Services to Residents on Privately Owned Land: A Guide for Municipalities;
- the Department of Water Affairs Water Services Intermediary Explanatory Guideline;
- Local Government: Municipal Property Rates Act of 2004;
- Department of Labour Policy on Minimum Wages for Farm Workers;
- The Refugees Act (Act 130 of 1998);

- The White Paper on Disaster Management 1999;
- 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;
- Local Government Transition Act (Act 97 of 1996);
- Intergovernmental Fiscal Relations Act (Act 97 of 1997);
- The Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005);
- The Local Government: Municipal Demarcation Act (Act 27 of 1998);
- The Public Finance Management Act (Act 1 of 1999);

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