



# PARLIAMENT

OF THE REPUBLIC OF SOUTH AFRICA

## PUBLIC PARTICIPATION MODEL

### PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA

(Draft 2: Version 6 English)

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Signed by Adv. M E Phindela

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Date

Acting Deputy Secretary – Core Branch and Secretary to NCOP & Project  
Sponsor

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Acknowledgement is hereby given to the following contributors:

- Members of Parliament of the Joint Political Task Team (JPTT) who worked tirelessly to guide the process of developing the Model
- Technical team (Administration) under the leadership of Advocate Phindela that worked diligently to ensure the compilation of the Model
- Members of the public who from the outset provided input through a broad spectrum of media platforms soliciting public input towards the development of the Model

## **PREFACE BY THE PRESIDING OFFICERS**

The development of the Public Participation Model was informed by Parliament's vision of an activist and responsive people's Parliament that improves the quality of life of South Africans and ensures enduring equality in our society. The Model is one of the flagship projects of the 5<sup>th</sup> Parliament, which seeks to achieve Parliament's strategic objective to increase access and improve the quality of participation through enhanced programmes to ensure participatory democracy.

The first democratic Parliament (1994 – 1999) mainly focused on the repealing of unconstitutional laws, passing transformative laws, being responsive to the demands of the transformation agenda, and overseeing the establishment of new institutions to promote democracy and human rights.

The second democratic Parliament (1999 – 2004) mainly focused on effective implementation of laws and policies and ensuring oversight of service delivery.

The third democratic Parliament (2004 – 2009) focused on building a people's Parliament responsive to the needs of the people by developing oversight and public participation strategies in line with its constitutional mandate.

The fourth democratic Parliament (2009 – 2014) prioritised the strengthening of the oversight function, increased public participation, better co-operative government, expanding Parliament's role in international relations and building an effective and efficient people's Parliament.

The fifth democratic Parliament (2014 – 2019) aims to deepen a participatory and representative democracy and maintains representation as the main function, whereby Members ensure that the people's interests are taken into account, and responded to, and thereby ensure government by the people.

This Model is the product of rigorous multi-party discussions, consultations, public input, as well as intensive research, nationally and internationally. The overall aim is to establish a best-fit public participation model suitable for Parliament. This Model can be viewed as a vehicle through which oversight is strengthened and entrenched as it remains a critical enabler of the oversight model. Parliament's critical role is to remain responsive to the needs of the people and ensure their involvement in its legislative and other processes, thus entrenching and deepening a representative and participatory democracy.

## **FOREWORD BY CHAIRPERSONS**

Parliament represents the people to ensure government by the people under the Constitution, as well as to represent the provinces and local government in the national sphere of government.

The facilitation of public participation and involvement in its processes remain central to the mandate of Parliament within the context of a participatory and representative democracy. Sections 59 and 72 of the Constitution compel Parliament to facilitate public involvement in its legislative and other processes.

Parliament has various public participation mechanisms in place. However, there have been no norms and standards to regulate the implementation of these mechanisms. Subsequent to the Legislative Sector Public Participation Framework, which was adopted by the Speakers' Forum, Parliament and all legislatures were required to develop their own public participation models. Parliament therefore embarked on developing its own Model that seeks to outline and mainstream norms and standards for public participation processes in Parliament.

Consequently, a multi-party Joint Political Task Team (JPTT) was established as the governance structure for the development of Parliament's Public Participation Model (PPM). The 4<sup>th</sup> Parliament JPTT initiated the development of the Model. The 5<sup>th</sup> Parliament JPTT undertook the responsibility to conclude the Model. The House Chairpersons representing the National Assembly (NA) and the National Council of Provinces (NCOP) were the drivers of the Model development processes. Furthermore, a technical steering committee and a project team led by a Project Sponsor co-ordinated the development of the Model.

The development of the Model was initiated through a multi-platform media campaign soliciting input from the general public and various stakeholders. The public input campaign included a nationally administered questionnaire, focus groups and road

shows which solicited input from the public and a range of stakeholders. The input was analysed, synthesised, incorporated and consolidated into the Model.

The consolidated Model was adopted by the Joint Rules Committee on \_\_\_\_\_. The Model was adopted on \_\_\_\_\_ by the NA and on \_\_\_\_\_ by the NCOP.



## **EXECUTIVE SUMMARY BY THE SECRETARY TO PARLIAMENT**

The vision of Parliament is to be an activist and responsive people's Parliament that improves the quality of life of South Africans and ensures enduring equality in our society. The vision is to build a representative people's Parliament that aims to create an open, democratic and equal society. Public participation remains central to the mandate of Parliament to ensure the participation of South Africans in the decision-making processes that affect their lives.

The mandate of Parliament is based on the Constitution and is achieved through passing legislation, overseeing government action, facilitating public participation, co-operative government and international engagement.

Parliament implemented various programmes over the past four democratic Parliaments, with a focus on development, strengthening of processes and capacity to deepen the culture of democracy. There was a great emphasis on improving oversight strategies and laying the foundation for increased public involvement and international co-operation. The fifth Parliament focuses on strengthening oversight and accountability, enhancing public involvement, deepening engagement in international fora, strengthening co-operative government, and strengthening legislative capacity.

Public participation and involvement remains central to the mandate of Parliament. The nature of public participation evolved since the dawn of democracy and is entrenched in the context of a representative and participatory democracy. Representative democracy refers to Members of Parliament representing the voice of the people, whilst participatory democracy refers to the public's active participation and involvement in the decision-making processes of Parliament.

Parliament thus seeks to increase access and improve the quality of participation through enhanced programmes to ensure participatory democracy by implementing the Public Participation Model by 2019. Parliament plans to achieve this by implementing the Public Participation Model, strengthening the work of Members in constituencies, improving public education and participation programmes, and

establishing feedback and engagement mechanisms. Furthermore, Parliament aims to provide better and more regular information to people, ensure more meaningful engagement with communities, provide regular public participation processes on issues of national importance, and increase public access and participation in its processes.

This Model will be interlinked with the Oversight and Accountability Model and serve as one of the critical pillars of the Oversight and Accountability Model of Parliament.

## **LIST OF ACRONYMS**

MPs:	Members of Parliament
NA:	National Assembly
NCOP:	National Council of Provinces
PA:	People's Assembly
PP:	Public Participation
PPM:	Public Participation Model
SCA:	Supreme Court of Appeal
TCTTP:	Taking Committees to the People
TPTTP:	Taking Parliament to the People

## **DECLARATION: APPLICATION OF THE MODEL**

This Model applies to Parliament when it carries out the Constitutional mandate of law-making, oversight and facilitation of public involvement. It does not apply to the Executive or the local sphere of government.

## DEFINITION OF CONCEPTS

Generic concepts that relate to the context of this Model are detailed below. Other specific concepts are defined within the relevant sections.

**“Best-fit approach”** takes into account the unique institutional characteristics such as goals, culture and processes.

**“Citizens” / “citizenry”** refers to persons legally recognised as members of a country or state who have rights because of being born there or because of being given rights.

**“Civil Society”** as defined by the World Bank means nongovernmental and not-for-profit organisations that have a presence in public life, expressing the interests and values of their members or others, based on ethical, cultural, political, scientific, religious or philanthropic considerations.

**“Civil Society Organisations”** means a wide array of organisations, community groups, charitable organisations, nongovernmental organisations, labour unions, indigenous groups, faith-based organisations, professional associations and foundations.

**“Co-operative Government”** means co-operation between all organs of state within the national, provincial and local spheres as envisaged in section 41 of the Constitution of the Republic of South Africa.

**“Constitutional Democracy”** is a form of government where a constitution guarantees basic personal and political rights, fair and free elections, and independent courts of law.

**“Electorate”** refers to the people entitled to vote, also referred to as the voting public.

**“Minimum standards for effective public participation”** are sets of guidelines for meaningful public involvement in decision-making processes by those affected by the decisions involved.

**“Organs of State”** means any department of state or administration in the national, provincial or local sphere of government or any other functionary or institution exercising a power or performing a function in terms of the Constitution or a provincial Constitution, or exercising a public power or performing a public function in terms of any legislation, but does not include a court or a judicial officer<sup>1</sup>.

**“Oversight”** means a process of holding Members of the Cabinet accountable (proactively or reactively) to Parliament for the exercise of their powers and the performance of their functions as envisaged in section 92 of the Constitution.

**“Parliament”** means the National Assembly (NA) and the National Council of Provinces (NCOP) referred to in section 42(1) of the Constitution.

**“Public”** refers to all the people in a country.

**“Public involvement”** means the involvement of the public in the legislative and other processes of Parliament and those of its committees as envisaged in sections 59<sup>2</sup> and 72 of the Constitution to meaningfully influence the decisions that affect their lives. It is a process wherein South Africans exercise their collective and individual initiatives to promote their interests in decision-making and oversight processes.

**“Public participation”** is the process by which Parliament consults with the people before decisions are made. It is a two-way communication and collaborative problem-solving mechanism to achieve better and acceptable decisions. Public participation has a corresponding meaning to “public involvement”, “community involvement” or “stakeholder involvement”.

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<sup>1</sup> Section 239 of the Constitution of the Republic of South Africa (1996)

<sup>2</sup> Sections 59 and 72 apply to the National Assembly and the National Council of Provinces respectively

**“Stakeholders”** means any individual, group of individuals or organisations that have a specific and clearly definable interest in any decision taken or likely to be taken and any process undertaken or likely to be undertaken by Parliament.

## 1. INTRODUCTION AND BACKGROUND

*A “People’s Parliament” requires an institution that prioritises and seeks active engagement with the public, and that is receptive and responsive to the needs of the people<sup>3</sup>.*

The vision of Parliament, since the first democratic Parliament of the Republic of South Africa, was and remains to build a truly representative people’s Parliament.

Parliament’s role and outcomes are to represent the people and ensure government by the people under the Constitution, as well as to represent the provinces and local government in the national sphere of government. In addition, the facilitation of public participation and involvement in its processes therefore remains central to the mandate of Parliament.

Public participation has evolved since the first democratic elections. The nature of public participation radically changed with the drafting of the new South African Constitution in 1996. The new Constitution asserts that South Africa is a constitutional democracy, a country that upholds representative and participatory democracy. In a representative context, the Members of Parliament (MPs) represent the views of the electorate whilst in a participatory democracy the public is actively involved in decision-making processes such as law-making and oversight. The intention of public participation and involvement in democratic processes is primarily to influence decision-making processes that reflect *“the will of the people”*.

Subsequently, the South African Legislative Sector recognised the need to operate within a structured framework of participation. The Legislative Sector, consisting of Parliament and all nine provincial legislatures, thus conceived a Sector Public Participation Framework that provides a documented platform for shared understanding, alignment and minimum requirements and guidelines for Public Participation. The Framework was adopted by the Speakers’ Forum and requires

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<sup>3</sup> Ben-Zeev and Waterhouse (2012)



Parliament and provincial legislatures to fashion their own Public Participation Models. It is on the basis of the Framework that this Model is developed.

## **2. PARLIAMENT'S CONSTITUTIONAL MANDATE**

In terms of Section 42 of the Constitution<sup>4</sup>, Parliament consists of the National Assembly (NA) and the National Council of Provinces (NCOP). Facilitation of involvement of the public is a constitutional imperative. Sections 59 and 72 of the Constitution compel the National Assembly and the National Council of Provinces, respectively, to:

- facilitate public involvement in the legislative and other processes of the Assembly and the Council and their committees;
- conduct their business in an open manner, and hold their sittings, and those of their committees, in public. The Constitution, however, permits reasonable measures to be taken to regulate public access, including access of the media, to the Houses and their committees, provided that the exclusion is reasonable and justifiable in an open and democratic society. Section 118(1)(a) imposes a similar obligation on the provincial legislatures. This is reinforced by the Joint Rules of Parliament, as well as the Rules of the NA, of the NCOP and of individual provincial legislatures; and
- sections 56(d) and 69(d) of the Constitution authorise the National Assembly and the National Council of Provinces or any of their committees, respectively, to receive petitions, representations or submissions from any interested persons or institutions.

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<sup>4</sup> Constitution of the Republic of South Africa (1996). This reference applies to all aspects referring to the Constitution in the Model.

### **3. PRINCIPLES AND VALUES UNDERPINNING PUBLIC PARTICIPATION**

In terms of Section 1<sup>5</sup> of the Constitution (RSA, 1996), South Africa is one, sovereign, democratic state founded on the following values:

- human dignity, the achievement of equality and the advancement of human rights and freedoms;
- non-racialism and non-sexism;
- supremacy of the Constitution and the rule of law; and
- universal adult suffrage, a national common voters' roll, regular elections and a multi-party system of democratic government, to ensure accountability, responsiveness and openness.

#### **Principles of public involvement:**

- promotes active and representative participation towards enabling all community members to meaningfully influence the decisions that affect their lives;
- engages community members in learning and understanding community issues, and the economic, social, environmental, political, psychological, and other associated courses of action;
- incorporates the diverse interests and cultures of the community in the development process, and disengages from support of any effort that is likely to adversely affect the disadvantaged members of a community;

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<sup>5</sup> Founding provisions in the Constitution of the Republic of South Africa (1996)

- actively enhances the leadership capacity of community members, leaders and groups within the community; and
- utilises a community's diversity to deepen shared understanding and produce outcomes of long-term benefit to the whole community or society.

The International Association for Public Participation has developed what it considers to be generally accepted core values and principles for the practice of public participation, the purpose of which is to help make better decisions that reflect the interests and concerns of potentially affected people<sup>6</sup>. According to these values and principles, public participation:

- is premised on the belief that those who are affected by a decision have a right to be involved in the decision-making process;
- includes the notion that the public's input will be considered;
- promotes sustainable decisions by recognising and communicating the needs and interests of all participants and decision makers;
- seeks to facilitate the involvement of those potentially affected by or interested in a decision;
- seeks input from participants in designing how they participate;
- provides participants with the information they need to participate in a meaningful way; and
- communicates to participants how their input fashioned the decision.

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<sup>6</sup>[www.iap2.org](http://www.iap2.org)

#### **4. GOAL AND OBJECTIVES OF THE PUBLIC PARTICIPATION MODEL**

##### **Goal**

The Model seeks to outline and mainstream minimum norms and standards for public participation processes and procedures so as to achieve meaningful involvement of the public in the legislative and other processes of Parliament.

##### **Objectives**

The Model intends to achieve, among others, the following objectives:

- to clearly define public participation processes and procedures within the context of Parliament;
- to outline the procedure to be followed to obtain the views of the public on policy, legislation and other matters before Parliament in order to enrich the decision-making processes and to determine the timelines within which this could be achieved;
- to provide for ways and means of imparting knowledge and information to communities/public about matters before Parliament so as to enable them to participate in the decision-making processes on matters affecting them;
- to provide for ways and means of obtaining information from the public about experiences of the people with regard to service delivery and government action in order for the institutions to take the necessary action to bring about change;
- to detail the required institutional arrangements and clarify the roles & responsibilities for administration and offices within Parliament responsible for the implementation of the Model; and

- to provide monitoring indicators for the implementation of the Model.

## 5. DEFINING PUBLIC PARTICIPATION

### 1. Legal Landscape

The facilitation by Parliament of the involvement of the public in the law-making process and the processes of its committees has been a subject of judicial interpretation by both the Supreme Court of Appeal (SCA) and the Constitutional Court.

The SCA had an opportunity to comment on the nature of the obligation of Parliament to facilitate public involvement in the law-making process in the case of *King and Others v Attorneys Fidelity Fund Board of Control and Another*. The applicants in the matter complained that in enacting the Attorneys Amendment Bill the National Assembly failed to comply with a constitutional obligation. According to them the failure to facilitate public involvement in the law-making process rendered the Attorneys Amendment Act constitutionally invalid. At paragraph 22 the SCA said the following:

*“Public involvement” is necessarily an inexact concept, with many possible facets, and the duty to facilitate it can be fulfilled not in one, but in many different ways. Public involvement might include public participation through the submission of commentary and representations: but that is neither definitive nor exhaustive of its content. The public may become involved in the business of the National Assembly as much by understanding and being informed of what it is doing as by participating directly in those processes. It is plain that by imposing on Parliament the obligation to facilitate public involvement in its processes the Constitution sets a base standard, but then leaves Parliament significant leeway in fulfilling it. Whether or not the National Assembly has fulfilled its obligation cannot be assessed by examining only one aspect of public involvement in isolation of others, as the applicants have sought to do here. Nor are the various obligations section 59(1) imposes to be viewed as if they are*

*independent of one another, with the result that the failure of one necessarily divests the National Assembly of its legislative authority.”*

Public participation therefore includes the duty to facilitate public involvement in legislative and other processes; the duty to conduct the business of a legislature in an open manner and hold plenary sittings and those of committees in public; and the duty not to exclude the public or the media from sittings of the House or committees unless it is reasonable and justifiable to do so in an open and democratic society.

The above definition was endorsed by the Constitutional Court in *Doctors for Life International v Speaker of the National Assembly and Others* and in *Matatiele Municipality and Others v President of the RSA and Others*.

The judgment of the Court in *Doctors for Life* explains the meaning of public involvement and gives guidance on what is expected of a legislature in fulfilling this obligation. The Court found that the plain and ordinary meaning of the words “public involvement” or “public participation” refers to the process by which the public participates in something. “Facilitation of public involvement in the legislative process, therefore, means taking steps to ensure that the public participate in the legislative process. That is the plain meaning of section 72(1)(a).”

The Court in *Doctors for Life* indicated that legislatures have a significant measure of discretion in determining how best to fulfil their duty to facilitate public involvement in their processes. Furthermore, although the measures required by the constitutional obligation may vary from case to case, a legislature must act reasonably. Further, what is ultimately important is that a legislature has taken steps to afford the public a reasonable opportunity to participate effectively in the law-making process.

Judge Sachs said:

*“All parties interested in legislation should feel that they have been given a real opportunity to have their say, that they are taken seriously as citizens and that their*

*views matter and will receive due consideration and could possibly influence decisions in a meaningful fashion. The objective is both symbolical and practical: the persons concerned must be manifestly shown the respect due to them as concerned citizens, and the legislators must have the benefit of all inputs that will enable them to produce the best possible laws. An appropriate degree of principled yet flexible give-and-take will therefore enrich the quality of our democracy, help sustain its robust deliberative character and, by promoting a sense of inclusion in the national polity, promote the achievement of the goals of transformation.”*

## **2. Public participation and involvement in context**

Although sections 59(1)(a) and 72(1)(a) of the Constitution refer to “facilitation of involvement”, within the South African context it seems to be generally accepted that “involvement” and “participation” are used interchangeably. For the purposes of this Model, no distinction will be drawn between the two concepts.<sup>7</sup>

There may be several and different definitions of public participation but central to the definitions is the acknowledgement that institutions with decision-making powers must involve in the decision-making process those who are likely to be affected by such decisions.

The International Association for Public Participation defines public participation as “to involve those who are affected by a decision in the decision-making process. It promotes sustainable decisions by providing participants with the information they need to be involved in a meaningful way, and it communicates to participants how their input affects the decision.”

Some of the practices include involvement in public meetings, surveys, workshops polling, citizen advisory committees and other forms of direct involvement with the public. Furthermore, “public participation includes all aspects of identifying problems and opportunities, developing alternatives and making decisions. It uses tools and

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<sup>7</sup> There is no distinction between public participation and public involvement in this Model.

techniques that are common to a number of dispute resolution and communications fields.”

The Draft National Policy Framework for Public Participation 2005<sup>8</sup> defines public participation as “an open, accountable process through which individuals and groups within selected communities can exchange views and influence decision-making. It is further defined as a democratic process of engaging people, deciding, planning, and playing an active part in the development and operation of services that affect their lives.”

In simple terms, public participation may be defined as a process by which Parliament consults with the people (interested or affected individuals), groups, communities, organisations, and civil society and government entities before making decisions, to enable them to participate in the processes leading to that decision. Public participation is a two-way communication process with the goal of reaching better and more acceptable decisions.

## **6. OVERVIEW OF THE MODEL**

The Model intends to provide a shared understanding on and alignment of processes, and set minimum requirements and guidelines for the involvement of the public in the legislative and other processes of Parliament and those of its committees. This Model also attempts, although not exhaustively, to set out goals and objectives, outline public participation mechanisms, determine a best Model that would fit Parliament, and explain the role of public education and information dissemination, meaningful public participation opportunity, institutional co-ordination of public participation programmes and reporting on the outcomes thereof.

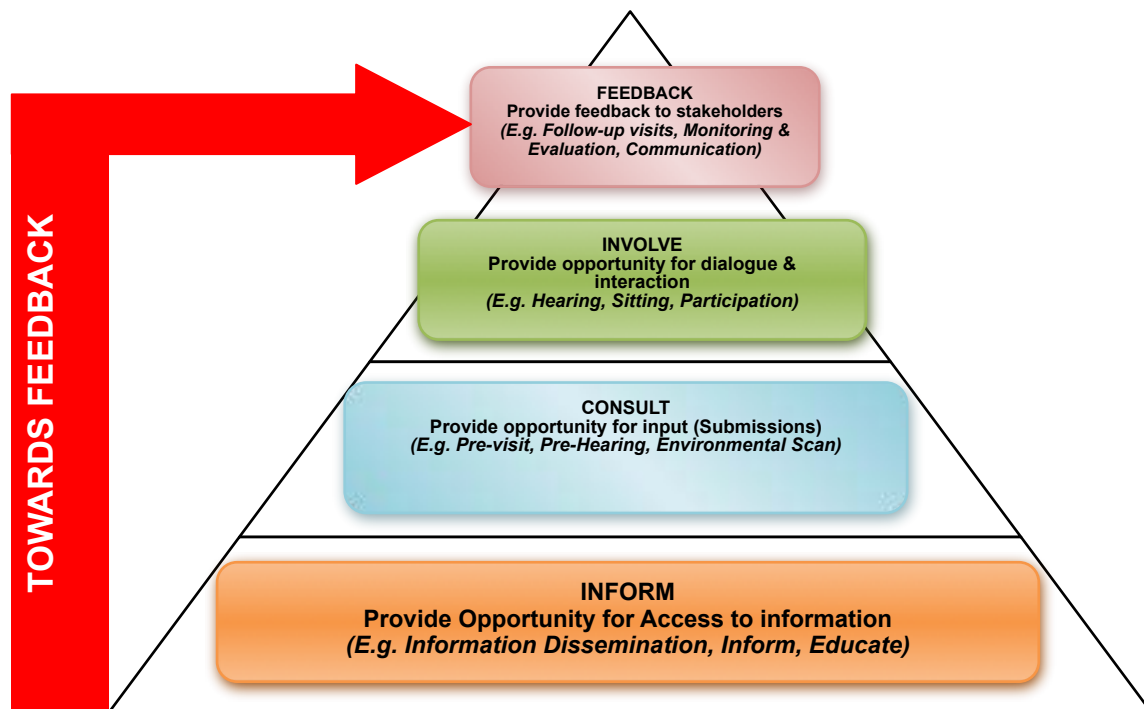
It also details the above elements and encapsulates the various processes that have been undertaken through desk-top research and comparative studies, survey interviews, briefing sessions, review workshops and focus groups.

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<sup>8</sup> Department of Co-operative Governance and Traditional Affairs (2005; 2007)



Figure 1 below, adapted from the Ladder of Participation<sup>9</sup> to reflect a best approach, depicts that each stage of public participation has a corresponding increase in the opportunity for public input to influence or impact on decision-making processes in respect of decisions impacting their lives.



**Figure 1: Parliament's Public Participation Model (PPM)**

## **1. Minimum Standards for Effective Public Participation**

Minimum standards for effective public participation are sets of guidelines for meaningful public involvement in decision-making processes by those affected by the decision involved. Public Participation standards in line with the constitutional prescripts and legal requirements include: informing, educating and creating meaningful opportunity for the public to participate in the decision-making on an issue that affects their lives. In addition, reporting, feedback and monitoring and evaluation become pivotal for the purposes of tracking the outcomes of a given public participation opportunity and thereby perpetually ensure effective public participation.

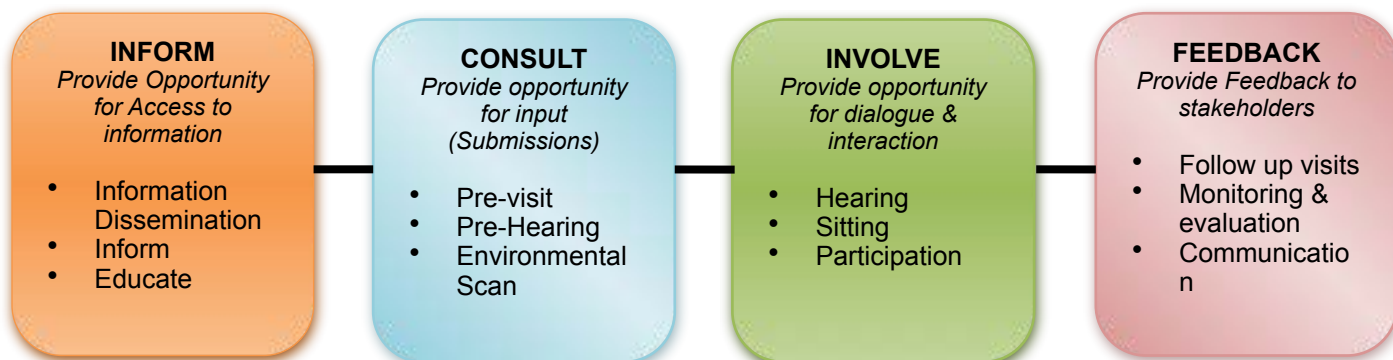
<sup>9</sup> Arnstein (1969)

The Model recognises informing, consulting, involving and collaborating as stages of effective public participation. In line with the minimum public participation standards articulated above, informing and educating are undertaken under the informing stage of public participation. Meaningful opportunity to participate is provided for under the consulting, involving and feedback stages of public participation. Although the informing stage is a prerequisite for public participation, the other stages can be deployed based on the context and the public interest generated by contextual issues at hand.

In respect of the above-mentioned stages, the following applies:

- Parliament cannot provide feedback to the public without first informing, consulting and involving;
- Parliament cannot involve the public without first informing and consulting;
- Parliament cannot consult the public without first informing the public; and
- informing therefore becomes an absolute prerequisite for effective public participation.

As a result, each stage has a corresponding increase in the opportunity for partnering and for the public to influence or make an input into the relevant process output/ outcome. Meaningful public participation must ensure that the appropriate stage of participation is utilised. A public participation process should therefore provide for stages of participation that are commensurate with the level of public interest. Parliament, in meeting its obligation of involving the public, must endeavour to satisfy all of these stages that are depicted in figure 2, as they apply to a given context of facilitating public participation.



**Figure 2: Stages of Public Participation**

## **Inform**

This stage provides opportunity for access to information and is an absolute prerequisite for effective public participation. Parliament cannot undertake public consultation, involvement and feedback without first providing information and education relevant to the context of the public participation opportunity under pursuit.

The key components (tools) of the “inform” stage include information dissemination, informing and educating the public in order to meaningfully participate in the decision-making processes regarding issues that affect their lives. These key components, if dealt with effectively, would result in public empowerment, which in turn results in an active citizenry.

Informing and educating can take the form of, though not restricted to:

- subject-specific information;
- general, non-specific information;
- educational material;
- educational workshops;
- specific information relating to Bills or issues of national or local importance;
- specific information relating to public hearings, or opportunities for public participation; and
- feedback to the public on issues that previously emerged through the public's interaction with Parliament, i.e. the Public Participation Model.

Information dissemination, informing (awareness) and educating are not only basic requirements that all public participation mechanisms must follow but are also an area that Parliament can commit to perfecting over the course of the 5<sup>th</sup> Parliament, to strengthen public participation in its processes.

The nature of the “inform” stage (information dissemination, inform and educate) will be in line with the context of a given mechanism. Details on the “inform” stage tools will be unpacked in the implementation planning of various public participation mechanisms.

## **Consult**

This stage provides an opportunity for public input in order to influence the relevant decision-making process. However, the public must first be informed before embarking

on any consultative processes output. Consultation in anticipation of public involvement increases the appropriate contextualisation of issues at hand to ensure that the process solves or addresses the right problem.

The key components of the “consult” stage typically involve the distribution or presentation of information, a request for public comments or submissions on the information provided or gathered.

Consultation can take the form of, but is not restricted to:

- hearings;
- focus groups;
- public or community meetings;
- tours or interviews followed by questionnaires that solicit feedback;
- synthesising and reporting on input received from the public;
- a public comment or hearing period and request for written submissions; and
- feedback to the public.

## **Involve**

This stage provides an opportunity for public dialogue and interaction. However, prior to involvement, the public should first be informed and then consulted on the matter or issue of consideration at hand. Effective public involvement encourages two-way

communication with the focus on consideration of public inputs, interests, issues and concerns.

The key components of the “involve” stage can include, amongst others, mutually accepted objectives, such as jointly identifying and addressing one or more specific issues.

Involvement can take the form of, but is not restricted to:

- hearings;
- round table discussions;
- facilitated public meetings; and
- interactive small group discussions.

## **Feedback**

This stage provides an opportunity for Parliament to provide feedback to the stakeholders. This can only be achieved through consolidated informing, consulting and involving. The key component in the “feedback” stage entails providing feedback to stakeholders about issues at hand. This stage provides an opportunity for stakeholders to be informed about the status of an issue and the plans intended as interventions to address the concerns identified.

Feedback can take the form of, but is not restricted to:

- follow-up visits to communities;

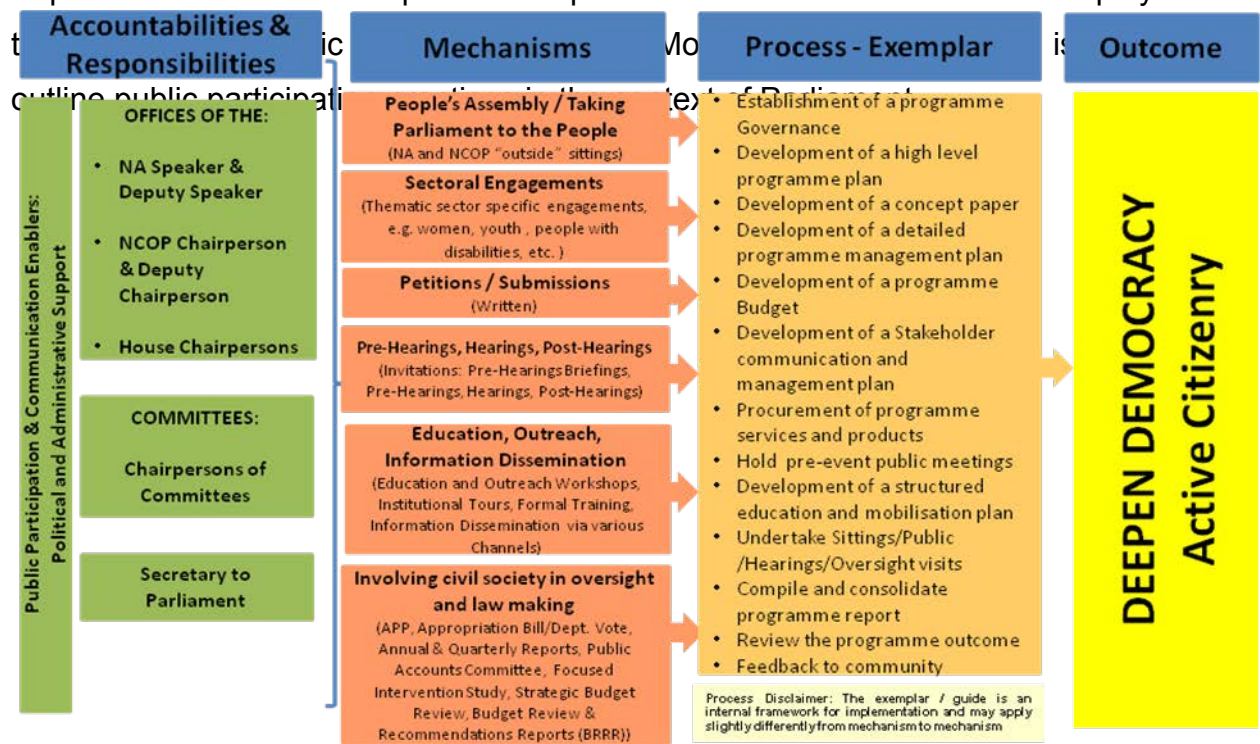
- information dissemination;
- communiqués; and
- monitoring and evaluation reports.

Effective informing will result in an active citizenry that can take advantage of created public participation opportunities. The consulting, involving and feedback stages will be deployed subject to the context of public participation mechanism involved and public interest generated by contextual issues at hand. Furthermore, the Model promotes the notion of partnering which inherently exists in each stage by virtue of the context represented.

## 7. PUBLIC PARTICIPATION BEST-FIT APPROACH

The Public Participation Best-fit approach is about crafting institutional Models that take into cognisance the institutional characteristics such as goals, culture and business processes.

Conscious of Parliament's constitutional obligations to facilitate the involvement of the public in the legislative and other processes, the Model seeks to enhance the processes previously followed for public participation and, moreover, is an opportunity to provide feedback to the public. It is pertinent to outline the relevant role-players in



### **Figure 3: Best Fit Approach – Public Participation Model**

Figure 3 illustrates the flow of public participation-related processes within Parliament.

The Model above depicts the following:

- input and output of information;
- structures and role-players responsible for facilitating public participation; and
- the mechanisms and processes through which public participation is facilitated.

## **8. RESPONSIBILITIES AND ACCOUNTABILITIES**

### **The Speaker of the NA and Chairperson of the NCOP**

The Speaker and Chairperson, as political heads of the institution, bear the responsibility to ensure that the Model is adopted, implemented, monitored, reviewed and adapted regularly by all the role-players as it will remain a living document.



The Speaker and Chairperson oversee that all role-players in the management of the business of Parliament (House Chairpersons, Chief Whips and Leaders of Parties, the Secretary, etc.) prioritise the implementation of the Model.

### **House of Chairpersons and Chairpersons of Committees**

Most of the work of Parliament takes place in its Committees. Committees are expected to draw from this Model in their annual, quarterly and project planning. Chairpersons of Committees and Committee Support have to internalize and champion the Model. This includes a process of ensuring that all programmes of the committees of Parliament have public participation as an integral part of supporting the work of committees.

House Chairpersons of both Houses must develop a monitoring mechanism to ensure that committees facilitate public participation in all processes of committees, and report in both Houses on a quarterly basis.

### **The Whippery**

The Chief Whips and Whips, in negotiating and arranging business before Parliament, must ensure that public participation is mainstreamed in the work of each Committee and both Houses.

### **The Secretary to Parliament**

The Secretary must ensure that all role-players in the management of the Institution (Administration of the Houses, Committee Section, Communications, Information Technology, Human Resource Divisions, etc.) allocate resources for the implementation of the Model.

### **NA and NCOP Administration**

Public participation processes generate reports that must be considered by the Houses in order for the recommendations therein to be formalised and implementable. The administration must have a direct interest in ensuring that reports are received, properly tabled, and that subsequent resolutions are transmitted to the relevant institutions, ensuring that the necessary feedback, monitoring and evaluation of resolutions are made.

### **Research and Content support structure**

The implementation of the Model requires a dynamic interaction with content-context relevant to specific areas in which public participation is facilitated. Research and content support must play a critical role in collecting, analysing and presenting relevant information to Members to aid the processes of facilitating public participation.

### **Public Participation and Communications support structure**

Public Participation support is central to co-ordinating and driving all efforts aimed at realizing effective public participation. Public Participation support structures must provide the necessary technical, administrative and logistical support to all stakeholders facilitating public participation. The support function must include the following but is not limited to:

- central institutional (Parliament-based) public participation support responsible for national co-ordination, monitoring and reporting on Public Participation support functions;

- national footprints of public participation support that will be responsible for the co-ordination, monitoring and reporting on Public Participation support functions at local level nationwide;
- communications and information support;
- public education and outreach;
- petitions support; and
- submissions support.

## **9. PARLIAMENT'S PUBLIC PARTICIPATION MECHANISMS**

There are different mechanisms through which the public can participate in the processes and activities of Parliament. The Model presents a public participation prototype process that institutional public participation mechanisms can mirror with due consideration for the context of individual mechanisms.

The proposed public participation prototype process may include the following:

- Project/Programme Plan
  - concept development;
  - project/programme management plan; and
  - budget.
- Governance

- establish political and administrative structures
- Stakeholder identification and consultation
- Logistical arrangements: SCM
- Pre-visit (inform, educate, consult)
  - environmental scan;
  - preliminary visits;
  - public meetings; and
  - public education and mobilisation.
- During (provide involvement opportunities)
  - undertaking of the actual visit / cluster visits / sectoral engagements
- Post-visit (feedback, monitoring and evaluation of programme outcomes)
  - report;
  - feedback; and
  - monitoring and evaluation.

These minimum standards include timeframes that apply to each context.

The minimum standards for the petitions process include:

- consideration of petitions;
- preliminary investigation;
- referral to committee;
- feedback; and
- monitoring and evaluation.

Parliament's public participation mechanisms include, amongst others, the People's Assembly, Taking Parliament to the People, and Taking Committees to the People, sectoral engagements, and petitions and participation in law-making and other processes. These mechanisms are elaborated upon in the Public Participation Model's Implementation Strategy. A summary of individual public participation mechanisms is provided below.

### **9.1 People's Assembly (PA)**

The People's Assembly (PA) can be described as a deliberative tool or vehicle through which Parliament provides a public opportunity to engage with the People in order to address matters of mutual interest. It is a tool that promotes the notion of participatory and representative democracies. This programme provides a platform for people's voices to be heard. It is representative of the people in order to bring Parliament closer to the people and champion issues affecting them. The People's Assembly is a unique platform for dialogue between Parliament and the people it represents.

The People's Assembly is a public participation process that starts at national level and moves through provincial and district levels down to municipal level. It has representation from each level at the national event. It is designed to reach out across the length and breadth of the country to all the citizens in South Africa to tap into ordinary people's wisdom in seeking solutions for the challenges faced.

The Speakers' Forum has adopted the People's Assembly as their programme and it therefore carries the support of all the legislatures in the country. It is part of the legislative sector's political programme. As such, the theme and discussion topics need to reflect the political needs of the institution. Thematic areas are informed by Parliament's strategic goals. The discussion themes are further developed by identifying issues and challenges faced by the country and its people at a particular time.

## **9.2 Taking Parliament to the People (TPTTP)**

The Taking Parliament to the People Programme (the Programme) involves the sitting of a House and its committees outside the ordinary precincts of Parliament. This normally takes place in the remotest of areas where there is little or no infrastructure to accommodate public hearings and the sittings of the House.

The Programme serves the purposes of giving those who would not normally have an opportunity to do so to be exposed to the working of Parliament, involving them in its processes, interacting with them on issues of service delivery and promoting co-operative government. This brings together Members of Cabinet at National level, members of the Executive Council at provincial level and Municipal Councillors at local government level, thus facilitating direct interaction between the public and public representatives from all three spheres of the state.

It includes public hearings, public meetings, oversight visits by committees to predetermined sites and the ordinary sittings of the House.

The National Council of Provinces (NCOP) conceived the Programme in 2002 and since then it has visited all the provinces. In the ordinary course of events the programme is conducted during March and November of every year.

The last day of the sitting is normally reserved for the formal sitting of the NCOP, which is addressed by the Deputy President in March and the President in November. At a minimum, this initiative should be undertaken at least twice a year.

### **9.3 Taking Committees to the People (TCTTP)**

In order to facilitate meaningful participation by the public and deepen democracy, Committees of Parliament must hold some of their meetings in community venues and be accessible to more rural parts of the country. Such meetings must be planned to be highly relevant to identified communities and to focus on legislative processes, service delivery or any other matter affecting those communities. Depending on the nature of the subject matter of the meeting, committees of Parliament may undertake this programme as joint committees or in a cluster to ensure higher impact and efficient use of resources. At a minimum, this initiative should be undertaken at least once a year.

### **9.4 Sectoral engagements**

These focus on identified special interest groups by providing them with a platform to raise issues they face on a daily basis relating to service delivery, implementation of laws or government policies as well as an opportunity to present recommendations or suggestions for remedial action to Parliament.

Parliament may organise and hold special discussions or debates on matters concerning various sectors such as workers, youth, women, senior citizens, persons with disabilities, or any other group that may be identified by Parliament.

These may take different forms such as round table discussions or any other form that Parliament may determine. At a minimum, this initiative should be undertaken at least twice a year.

### **Public participation in law-making**

The facilitation of public participation and involvement in the legislative processes is central to the mandate of Parliament. Sections 59(1)(a) and 72(1)(a) of the Constitution enjoin the National Assembly (NA) and the National Council of Provinces (NCOP) to facilitate the involvement of the public in their legislative and other processes respectively.

### **Processing of Petitions**

A Petition may be defined as a written request or complaint or representation addressed to the Institution by an individual or group after having exhausted other avenues. This can be on either service delivery or policy matters.

The petitions process is divided into the following high-arching Phases: Consideration, Preliminary Investigation, Referral and Appeal.

### **9.5 Committee specific**

Involving the public and/or civil society in oversight and law-making is central to the mandate of Parliament. The public has access to all sittings of the Houses as well as committee meetings. Members of the public may attend meetings of committees and may speak in those meetings only with the permission of the chairperson of a committee. This represents a very limited form of involvement as it relates mostly to observing the proceedings of either a House or committee.

## **10. OVERSIGHT FUNCTIONS REQUIRING PUBLIC PARTICIPATION**

### **Annual Performance Plan**



This Model requires constant enlistment of external information input for independent verification. The annual performance plan stage is more rushed than the budget process. However, this process still requires an effort to obtain as much external input as possible in order to assist the support staff and the committee.

A unit responsible for public participation in Parliament must play a key role in assisting with the co-ordination and liaison with civil society groups.

In addition, such a unit must:

- ensure that there is sufficient involvement of the people through publicising scheduled committee meetings;
- ensure that the performance plans are available to the people and stakeholders for effective input; and
- invite stakeholders of a committee and affected communities to attend meetings where departments will be presenting performance plans.

### **The Appropriation Bill/Departmental Vote**

Once the Appropriation Bill/departmental Votes are tabled in Parliament, Committee Support must immediately circulate these to all the contacts on the stakeholder lists of their committees. There are two lists that are recommended. The first includes experts, institutes, academics, and other professional bodies. The second includes community-based organisations, community-based interest groups, that is, parent-teacher associations, workers' associations, police officer unions, teacher unions, and other similar bodies that are beneficiaries of a particular service.

These stakeholders should know that they have approximately 1-2 weeks to make a submission to Committee Support. Committee Support must process these submissions and circulate them to all Members of a committee and other support staff. The committee then requests certain stakeholders to make presentations based on their submission(s), where necessary.

The inputs from external sources are intended to further equip a committee for its engagement with a department. These inputs represent the committee's access to non-official data and perspectives, and where these inputs are substantial, they may even present the committee with an 'independent verification' source against which to measure the official data and information presented by a department.

The unit responsible for public participation in Parliament should play a key role in assisting with the co-ordination and liaison with civil society groups. In addition, such a unit must:

- ensure that there is sufficient involvement of the general public through the publication of the committee's schedule of meetings;
- guarantee that there is a synopsis of a report that the committee will be dealing with, for example, the citizens' version of the Annual Report; and
- ensure that one of the committee meetings is held in communities to ensure and solicit community-based verification, where necessary and practicable.

Committee stakeholder lists cannot feasibly include the general public in its entirety. However, the Public Participation support should assist Committees in publicising committee meetings on a department's budget on a continuous basis.

## **Quarterly Reports**

This Model requires constant enlistment of external information input for independent verification. The Quarterly Report stages, though more rushed than the budget, still require a concerted effort to obtain as much external input as possible. This is in order to assist the support staff and the committee at the earliest and intermediate stages of a committee's consideration of progress on a certain priority. It is likely that the most useful information sources for the committee will be those that can provide clarity on the state of implementation of a department's programmes. The unit responsible for public participation in Parliament should play a key role in assisting with the co-ordination and liaison with civil society groups. In addition, such a unit must:

- ensure that there is sufficient involvement of the general public through publicising scheduled committee meetings;
- ensure that there is a synopsis of a report that the committee will be dealing with – for example, the citizens' version of the Annual Report; and
- schedule at least one of its meetings to be held in communities to solicit community-based verification, where necessary and practicable.

## **Annual Report**

The emphasis at this stage is on whether government has achieved the intended outcomes of service delivery, and the measurable indicators agreed upon for the financial year in question, as well as rendering independent verification crucial to the efficacy of the committee's engagement with the department. Stakeholder inputs are provided for at every stage, but at the Annual Report stage independent sources of information are used to confirm that the department is actually meeting the priorities it set out to satisfy at the start of the financial year in question.

The unit responsible for public participation in Parliament should play a key role in assisting with the co-ordination and liaison with civil society groups. In addition, such a unit must:

- ensure that there is sufficient involvement of the general public through publicising scheduled committee meetings;
- ensure that there is a synopsis of a report that the committee will be dealing with - for example, the citizens' version; and
- schedule at least one of its meetings to be held in communities to solicit public input.

### **Strategic Budget Review for outer years**

The Medium-Term Budget Policy Statement (MTBPS) allows a department to anticipate its budgetary allocations for the coming three years.

Public participation takes on added importance during the MTBPS stage, since it is at this stage, more than at any other in the oversight cycle, that an impact can be made on the department's budget. All stakeholders should be requested to make submissions, and must be provided with more time and opportunities during this stage to make presentations, from community members to community-based organisations and experts.

In addition, as many of the stakeholder representatives and groups as possible should be encouraged to attend presentations by departments and to witness the committee's interaction with the department. This is to provide some form of immediate external verification to evidence by the department on its performance in respect of delivery over the years.

## **11. ENABLERS FOR EFFECTIVE PUBLIC PARTICIPATION**

Various structures and processes should be established to assist the enabling of public participation. These would consider elements that envisage bridging the divide between Parliament and the people by communicating the programmes of Parliament and also hearing the concerns that the public has regarding the delivery of services by government institutions, as well as the consideration of policies by facilitating the processing of relevant submissions and petitions.

Furthermore, these structures and processes should be accessible to the most remote locations in underserved, underresourced and deep rural areas in order to provide communities in these areas with an opportunity and mechanisms to take part in the legislative processes and activities of Parliament, to enable it to fulfil its constitutional duty of meaningful public participation with the ultimate aim of deepening democracy and promoting an active citizenry. Upon the establishment of emerging enablers, minimum guidelines should be developed for these enablers in order for them to become national footprints for effective public participation.

## **12. RESOURCING**

This Model requires the commitment of both financial and human resources in order for it to be implemented. It is recommended that Parliament implement the Model on an incremental basis to achieve set implementation milestones. The implementation of the Model will require synchronisation, not only of processes and programmes of both Houses and committees, but also with those of the legislatures and municipal councils so as to allow for minimum disruptions in the functioning of the legislatures and municipal councils. The implementation would also call for the review of the structural arrangements within Parliament.

Currently there are various structures supporting this function in a truncated manner. There is a need to audit currently available resources so as to eliminate inefficiencies and maximise economic and effective utilisation of resources. The following provides an example of resources required to implement this Model:

## **Financial**

A specific line item must be dedicated to public participation in the budget at an institutional level and at the level of committees.

## **Human Resources**

Appropriately qualified human resources must be dedicated to the following areas:

- public hearings;
- sectoral engagements;
- public education and outreach;
- petitions;
- communication and co-ordination; and
- public mobilisation.

## **13. INSTITUTIONAL CO-ORDINATION FOR PUBLIC PARTICIPATION: PLANNING, CO-ORDINATION AND REPORTING**

Institutional coordination for Public Participation must include the areas of planning, co-ordination, reporting, monitoring and evaluation.

### **Planning**

Each Parliamentary committee must provide its requirements in terms of Public Participation, derived from its planning process each year. These requirements need

to be communicated clearly upfront to the functionaries responsible for supporting public participation for scheduling and resourcing, which is to be outlined in the strategy of Parliament.

### **Co-ordination**

To ensure co-ordination across all of the public participation mechanisms within Parliament, all relevant functionaries/services, including public education/participation, research, legal services, Hansard, language services, supply chain management, finance, committee services, communication services and the administration in both Houses must co-operate to ensure proper co-ordination of public participation processes.

### **Reporting**

Tangible reporting on public participation processes must be undertaken at least once a quarter. This reporting process needs to indicate what outcomes have been achieved in terms of public input. This should include the processes followed to achieve the desired outcome. The outcome should also indicate how the participation has improved the legislation/decision-making ability of Parliament.

### **Feedback**

For the involvement of the public in the processes of Parliament to enjoy legitimacy and continued support from the people, it is critical that Parliament should continuously report to the people on matters/decisions in which they were involved. Feedback is required in order to “close the loop” between the initial public participation opportunity, and the final action taken on that input. This feedback needs to be tangible, relevant and timely – this means that as part of this Model, a clear timeline

must be predetermined within which the relevant stakeholder group/individual is provided with feedback in a form that is useful to them.

## **14. RECOMMENDATIONS FOR IMPLEMENTATION**

From the content of this Model and the various research processes that formed part of its development, areas of action have been highlighted that will support and enable Parliament to align its public participation strategies and practices among the Divisions/Sections/Units into an integrated programme.

In particular, recommendations for implementation of these various areas of action can be categorised in terms of the following milestones:

### **Milestone 1: Adoption**

- the Model must be presented to the Joint Political Task Team for recommendation to the Joint Rules Committee and the Houses for adoption; and
- the Model must be presented to the Executive so as to have a common understanding of its impact on the processes of Parliament.

### **Milestone 2: Alignment**

- all public participation processes, practices and resources within the institution must be aligned to the minimum requirements as defined in the Model (taking stock);



- public participation action plans must be developed by all the participants in Parliament; and
- public participation measures must be defined in the annual performance plan of the institution.

### **Milestone 3: Work Breakdown Structures**

Each division involved in the development of the Public Participation strategy must contribute through the various Work Breakdown Structures (WBS 1, 2, 3.....) which require the Divisions to provide:

- strategies applicable to the relevant business unit and to the Model;
- process maps;
- standard operating procedures;
- personnel and equipment required;
- timeframes;
- performance criteria;
- budgets;
- implementation plans;
- cashflow projections; and

- audited current available resources against a list of what is currently required (GAP Analysis).

#### **Milestone 4 – Capacity Development**

- structural arrangements, personnel and technical resources within Parliament must be aligned in order to enable implementation of the Model; and
- internal processes within the institution need to be aligned to ensure achievement of public participation in the business of Parliament.

#### **Milestone 5 – Monitoring and Evaluation**

- monitoring and evaluation mechanisms for public participation within Parliament must be developed; and
- there should be an annual assessment report on implementation of the Model.

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