



**DEPARTMENT OF WATER AFFAIRS AND FORESTRY**

**COMMUNITY-BASED ORGANISATIONS  
AS WATER SERVICES PROVIDERS  
GUIDELINE**

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Contents

<b>1</b>	<b>Introduction .....</b>	<b>4</b>
1.1	Purpose of this guideline .....	4
1.2	Who will find this guideline useful? .....	5
1.3	Related documentation .....	5
1.4	Policy and legislative framework .....	5
<b>2</b>	<b>What is a community-based organisation? .....</b>	<b>5</b>
2.1	Definition of a community-based organisation .....	6
2.2	Community-based organisations and representivity .....	7
2.3	Community-based organisations and voluntarism .....	8
2.4	The difference between a community-based organisation and SMME.....	8
<b>3</b>	<b>What is a community-based water services provider? .....</b>	<b>8</b>
<b>4</b>	<b>National policy and CBOs as WSPs.....</b>	<b>9</b>
<b>5</b>	<b>National legislation and CBOs as WSPs.....</b>	<b>9</b>
5.1	The Water Services Act and CBO WSPs .....	9
5.2	The Municipal Systems Act and CBO service providers.....	10
5.3	Need for enabling legislative environment for CBOs as WSPs .....	10
<b>6</b>	<b>Legal status of a CBO WSP.....</b>	<b>11</b>
6.1	How can a CBO establish a legal status? .....	11
<b>7</b>	<b>Different options of legal status for non-profit organisations .....</b>	<b>12</b>
7.1	Voluntary association .....	12
7.2	Trust.....	12
7.3	Section 21 company .....	13
7.4	Recommended option for legal status for a CBO WSP .....	14
<b>8</b>	<b>Register in terms of the Nonprofit Organisations Act .....</b>	<b>14</b>
8.1	What does registration mean? .....	14
<b>9</b>	<b>When is a CBO WSP an appropriate WSP option?.....</b>	<b>14</b>
9.1	Size and cohesiveness of the community .....	15
9.2	Technology of the scheme.....	15
9.3	Capacity or potential capacity of the CBO WSP.....	15
9.4	Access to support.....	15
<b>10</b>	<b>How are CBO WSPs established?.....</b>	<b>16</b>

<b>11</b>	<b>What WSP functions can a CBO WSP fulfil? .....</b>	<b>17</b>
<b>12</b>	<b>What type of support do CBO WSPs require?.....</b>	<b>17</b>
<b>13</b>	<b>What type of contract should be entered into with a CBO WSP?.....</b>	<b>18</b>
13.1	Model contract for CBO WSPs .....	18
13.2	What should be covered in a contract with a CBO WSP? .....	18
<b>14</b>	<b>Different types of CBO WSP institutional arrangements .....</b>	<b>18</b>
14.1	Single contract between CBO WSP and WSA.....	19
14.2	CBO WSP with municipality fulfilling the SSA role.....	19
14.3	CBO WSP with a Water Board, NGO or Private Sector Support Services Agent.....	20
<b>15</b>	<b>Structure of a CBO WSP .....</b>	<b>21</b>
15.1	Governing body with employees.....	22
15.2	Committee with an overall manager.....	23
15.3	Committee that fulfils the provision functions.....	24
<b>16</b>	<b>WSP institutional arrangements that are not CBO WSPs.....</b>	<b>25</b>
16.1	Municipal employees or contractors based in the community .....	25
16.2	WSP sub-contractors .....	25
<b>17</b>	<b>Advantages of CBO WSPs.....</b>	<b>26</b>
<b>18</b>	<b>Potential risks associated with CBO WSPs.....</b>	<b>26</b>
<b>19</b>	<b>Critical success factors for CBO WSP options .....</b>	<b>27</b>
<b>20</b>	<b>Case studies upon which this guideline is based.....</b>	<b>28</b>
<b>21</b>	<b>Appendix 1: Registration requirements in terms of the Non-Profit Organisations Act and relevance to CBO WSPs .....</b>	<b>29</b>
21.1	Registration requirements.....	29
21.2	Relevance of registration for a CBO WSP .....	29

## 1 Introduction

Section 19(1) of the Water Services Act (No. 108 of 1997) states that:

A water services authority –

- (a) may perform the functions of a water services provider itself; and
- (b) may-
  - (i) enter into a written contract with a water services provider; or
  - (ii) form a joint venture with another water services institution,to provide water services.

Thus a water services authority (WSA) has a choice. It may carry out the functions of a water services provider (WSP) itself or it may enter into a contract with another WSP.

One option of a contract with another WSP is with a community-based organisation called a community-based water services provider (CBO WSP).

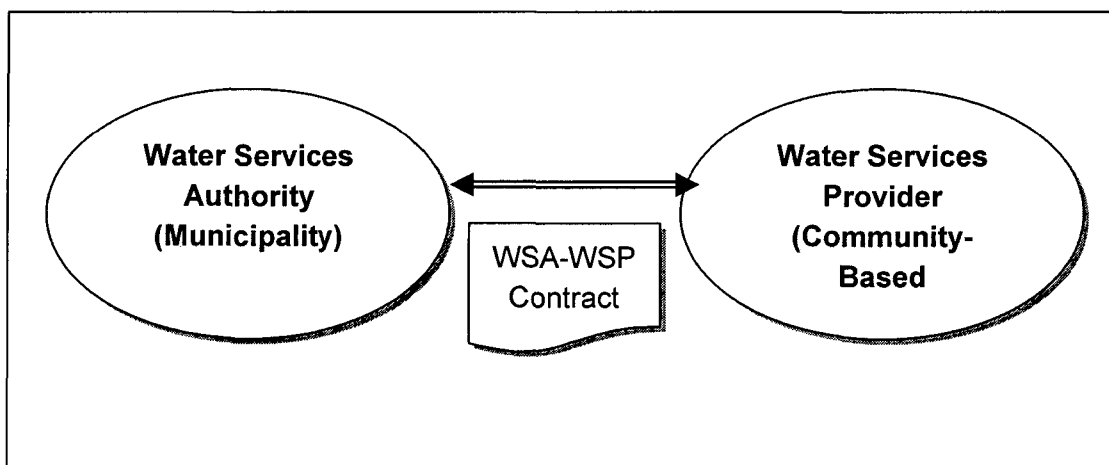


Figure 1: WSA contracts CBO WSP

### 1.1 Purpose of this guideline

The purpose of this guideline is to provide information and clarity concerning community-based organisations as WSPs so that municipalities as water services authorities may be able to enter into municipal service partnerships with CBO WSPs.

This guideline outlines the following:

- a definition of a community-based organisation as a municipal service provider
- a definition of a community-based organisations as a WSP

- options of legal status for a CBO WSP
- WSP contracts for CBO WSPs
- different institutional arrangements for CBO WSPs
- when a CBO WSP is appropriate
- advantages of CBO WSPs
- possible risks associated with CBO WSPs
- critical success factors for CBO WSPs

## **1.2 Who will find this guideline useful?**

- This guideline is intended to be of use to municipalities who are water services authorities, in particular those municipalities who are considering entering into municipal service partnerships with CBO WSPs.
- It is also intended for practitioners working in the water services sector particularly in terms of institutional arrangements for effective, cost efficient, reliable, economical and sustainable water services provision.

## **1.3 Related documentation**

This guideline should be read with other Department of Water Affairs and Forestry guidelines on institutional arrangements for water services provision. (*DWAF is currently reworking the various water services institutional documentation.*)

## **1.4 Policy and legislative framework**

This guideline fits within the overall policy and legislative framework for municipal water services as is provided for in the following policy and legislative documentation:

- Water Supply and Sanitation Policy White Paper (November 1994, Department of Water Affairs and Forestry)
- The Sanitation White Paper (Department of Water Affairs and Forestry)
- The Water Services Act (No. 108 of 1997)
- The White Paper on Local Government (March 1998, Ministry for Provincial Affairs and Constitutional Development, 1998)
- Local Government Municipal Systems Act (No. 32 of 2000)
- Municipal Service Partnerships Policy Paper (April 2000, Department of Provincial and Local Government)

## **2 What is a community-based organisation?**

There are many different interpretations of what a community-based organisation is. Lack of clarity concerning a precise definition of a community-based organisation has

hindered the creation of an enabling legislative environment for community-based municipal service partnerships. It is therefore imperative that a clear definition is agreed upon for a community-based organisation.

Different “community-based” organisations have been established for different purposes. This guideline is concerned with community-based organisations that have been established specifically for the purposes of providing a municipal service, in particular water services provision.

## **2.1 Definition of a community-based organisation**

This guideline proposes the following definition for a community-based organisation that is providing a municipal service:

A community-based organisation, as a municipal service provider is a not for profit organisation within a specific community providing a municipal service to that community with the mandate of that community, where the organisation is acting in the overall interests of the community.

- **An organisation with a set of rules**

A community-based organisation is an **organisation**, as opposed to an individual. An organisation comprises a set of individuals who jointly take responsibility for the activities of the organisation.

An organisation must have a **set of rules** that govern the activities and role and responsibilities of the organisation. These rules are drawn up in the form of a constitution or other legal format that defines the set of principles which govern the organisation.

- **Not-for-profit**

A community-based organisation is a **not-for-profit** organisation. This means that the members of the organisation cannot withdraw the surpluses from the organisation. All surpluses are treated as retained income for the purposes of providing the services for which the organisation was established.

- **Defined community**

Community-based means that the organisation **is based within a defined community**. This means that the organisation operates from within the community as opposed to being based elsewhere.

- **Has a mandate**

Community-based also means that the organisation has the **mandate** of the community to provide the services.

The **mandate of the community** is a very important qualifying aspect of a community-based organisation. Any group can establish themselves as an organisation within a defined community and provide a service to that community. However to qualify as a “community-based” organisation, the organisation must be acting in the overall interests of the community *with their mandate*.

A community-based organisation has the mandate of the community if:

- a) the community has elected or nominated the members of the organisation, OR
- b) the community-based organisation has agreement from the community to provide a service on their behalf.

This implies that the community-based organisation has **acceptance** within the community to provide the service for which it was established.

- **Acts in the overall interests of the community**

A community-based organisation means an organisation that is **acting in the overall interests of the community**, as opposed to acting in its own interests. A community-based organisation must therefore benefit the community to whom it is providing a service.

- **Accountability**

If an organisation is acting on the mandate and in the overall interests of the community, then it must also be **accountable** to that community.

## **2.2 Community-based organisations and representivity**

A community-based organisation does not necessarily imply a representative structure. Representivity implies that the members represent different groups within the community, for example geographical groups or different interests groups. Whilst a community-based organisation may be made up of nominated or elected representatives, representivity is not a defining feature of a community-based organisations.

The primary purpose of a community-based organisation that is providing a municipal service is the effective, efficient, reliable, economical and sustainable provision of the service to the community. Thus the community-based organisation must have the

necessary skills, expertise, and leadership to effectively provide that service. Representatives of a community may not necessarily be the most appropriate members to provide a service. For this reason, representivity is not a defining feature of a community-based organisation. However, as stated above, the organisation must have the mandate of the community and must be acting in the overall interests of the community.

### **2.3 Community-based organisations and voluntarism**

Whilst membership of a community-based organisation is voluntary (i.e. not compulsory), this does not mean that the members of the organisation are not paid for the services that they provide. Depending upon the constitution of the community-based organisation, and depending upon the different functions fulfilled by the different members, they may be paid a stipend, wage or salary for their services.

For example, a community-based organisation may comprise a governing body (the members) who are unpaid volunteers as well as staff members who receive a wage or salary. Whilst some community-based organisations may consist entirely of unpaid volunteers, experience has shown that payment for services rendered results in a more reliable and sustainable service. Since municipal services such as access to basic water services are a constitutional right of the community, whereby the services should be efficient, effective, economical, reliable and sustainable, it probably preferable that the staff members / employees are compensated for their work.

### **2.4 The difference between a community-based organisation and an SMME**

Small, micro and medium enterprises (SMME) are part of the private sector in that they are operated to create a surplus, which is distributed to the individual or members of the enterprise. Whilst SMMEs may be based within a community, and may have the mandate of the community to fulfil a particular municipal service, the fact that they operate for profit means that they are not community-based organisations.

Thus a local entrepreneur within the community, for example a plumber, or a group of local entrepreneurs who comprise members of the community, do not qualify as a community-based organisation.

## **3 What is a community-based water services provider?**

A community-based water services provider is:

a community-based organisation that is providing water services to a defined community with the mandate of the community and with the agreement of the



water services authority within whose area of jurisdiction the community-based organisation is operating.

No organisation or legal entity may act as a WSP without the approval of the WSA. A community-based organisation can be defined as a WSP only if it has been contracted by the WSA to fulfil WSP functions.

#### **4 National policy and CBOs as WSPs**

National government policy as reflected in the Water and Sanitation White Paper, 1994, the White Paper on Local Government White Paper, 1998 and the Municipal Service Partnership White Paper, 2000 recognises CBOs as a viable option for the delivery of municipal services.

Municipalities may thus enter into public – CBO partnerships for the delivery of municipal services where appropriate. However, whilst national policy advocates community-based organisations as a municipal service partnership option, national legislation currently does not create an enabling environment for this option.

#### **5 National legislation and CBOs as WSPs**

The current legislative framework that impacts on community-based organisations as WSPs primarily consists of two pieces of legislation, namely:

- the Water Services Act, (No. 108 of 1997)
- the Municipal Systems Act (No. 32 of 2000)

##### **5.1 The Water Services Act and CBO WSPs**

The Water Services Act creates a preference for public sector WSPs.

It may be argued that ‘public sector water services providers’ includes any organisation that is *orientated to public interest* as opposed to profit maximisation, for example organs of state such as water boards, other municipalities, non-governmental organisations, and community-based organisations. However, the Act does not define a public sector WSP and thus it is not clear whether a CBO WSP qualifies as a public sector WSP.

The implications of this uncertainty relates to procurement procedures. If a CBO does not qualify as a public sector WSP, the municipality must look to the Municipal Systems Act for guidance in terms of the processes and procedures that regulate the selection of a CBO partnership option.

## 5.2 The Municipal Systems Act and CBO service providers

The Municipal Systems Act clearly recognises CBO's as potential service providers. However, the Act does not facilitate the implementation of this option.

The Act allows local government to enter into agreements for the provision of services with another municipality or organs of state without being obliged to go through a lengthy and costly competitive procurement process. All other agreements for the provision of services are subject to a competitive procurement process. Agreements between local government and CBO's as a WSP are thus subject to a competitive procurement process.

The Act contains certain provisions that may be applied to facilitate the empowerment and promote the interests of small and emerging enterprises or persons previously disadvantaged by unfair discrimination. However, the Act does not contain similar provisions to facilitate and promote delivery by CBO's.

## 5.3 Need for enabling legislative environment for CBOs as WSPs

The current requirement that CBOs are subject to competitive procurement processes clearly disadvantages CBOs as WSPs. Even if CBOs are included in the definition of public service providers, CBOs may still be disadvantaged since they will be required to compete with other public service providers such as water boards or other municipalities when being considered as a WSP option. A CBO may be the most appropriate WSP option for a particular community, both in terms of cost effectiveness, affordability and sustainability, however, a CBO may not have the skills or expertise to engage in a formal tendering process.

Since sector legislation (Water Services Act) may in appropriate circumstances prevail over general legislation (Municipal Systems Act), it is important that any review process to the Water Services Act addresses the need to create an enabling environment for CBOs as WSPs.

It is recommended that CBOs as WSPs are afforded a *special status* when being considered as a WSP option. Towards ensuring this special status, it is recommended that a new section be added to the Water Services Act after clause 19(1):

"Notwithstanding the provisions of any other law, a water services authority is not obliged to follow a competitive procurement process when it decides to provide or manage water services through a service delivery agreement with a community-based organisation".

This new section would provide discretion on the part of the WSA in respect of competitive procurement where the water services could be provided by a CBO. A definition of a 'community-based organisation' should be included in Chapter 1: Introductory provisions: Definitions.<sup>1</sup>

## **6 Legal status of a CBO WSP**

In order for a municipality as a WSA to contract with a WSP, the WSP must have a legal status.

### **6.1 How can a CBO establish a legal status?**

#### **6.1.1 Constitution**

In order to establish a legal entity, a community-based organisation must draw up a constitution which outlines the following:

- name of the organisation
- rules
- objects
- membership
- powers and functions
- structure/ s
- procedures
- duties and obligations
- area of operation
- dispute resolution mechanisms
- and rules governing financial matters of the organisation.

Once an organisation has a constitution, it becomes a voluntary association and has the status of a legal association.

The White Paper on Municipal Service Partnerships (April 2000) states that:

“Municipal councils considering entering into an MSP with an NGO or CBO should require the NGO or CBO to **adopt a formal constitution and a code of good practice** consistent with those issued by the Minister” (Minister for Welfare and Population Development).

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<sup>1</sup> This document provides a proposed definition for a community-based organisation. Consultation concerning the definition should take place to ensure that the definition effectively captures a set of criteria which determines an organisation as "community-based".

## **7 Different options of legal status for non-profit organisations**

There are three options in terms of legal status for a non-profit organisation. These are:

- Voluntary Association
- Trust
- Section 21 Company

Which option is most appropriate for a CBO WSP? A brief description of each option is provided with a recommendation concerning appropriateness for a CBO WSP.

### **7.1 Voluntary association**

- A voluntary association is the simplest form of non-profit legal status.
- A voluntary association is created by an agreement between members who work together to achieve a common non-profit objective.
- As outlined above, a community based organisation must establish a constitution in order to become a voluntary association.
- The constitution will determine the requirements that need to be fulfilled by the voluntary association, for example reporting, meeting and financial requirements.
- A voluntary association may register with the Department of Welfare in terms of the Nonprofit Act, however this is not a requirement to be recognised as a voluntary association.

A voluntary association is the recommended legal status for a CBO WSP, because it is the only non-profit legal entity which:

- a) does not require an attorney to prepare its governing memorandum. (A skilled social consultant can facilitate the development of the association's constitution.)
- b) is not required to produce audited financial statements.

Audited financial statements are expensive, as these need to be prepared by a chartered accountant. Since one of the key reasons for entering into an agreement with a CBO WSP is cost efficiency and affordable services, it is important that the operating and administrative costs of a CBO WSP are kept as low as possible. Most CBO WSPs will not be able to afford an annual audited statement. In the absence of an audited statement, financial accountability and transparency can still be ensured for a voluntary association, through an independent verification of the accounts, and through various monitoring and reporting mechanisms whereby both the WSA and the consumers have regular access to the organisation's financial records and reports.

### **7.2 Trust**

- A Trust is a non-profit entity that is registered in terms of the Trust Property Control Act (No. 57 of 1988).
- A Trust must have a Trust Deed which is prepared by an attorney.
- A Trust Deed is a contract between the creator, trustees and beneficiaries
- In terms of a Trust assets and income are managed and utilised for the benefit of a third party
- The governing body of a Trust is the Board of Trustees
- Any financial surpluses remain within the Trust as reserves and may only be utilised for specific purposes even on dis-establishment
- Annual financial statements must be audited by a chartered accountant.

A Trust is not an ideal legal status for a community based CBO WSP since it requires both legal and auditing services, which are costly. A Trust is usually designed as an entity that can fundraise and thus reporting and accountability requirements tend to be complex and require a high level of planning and management capacity and expertise. CBO WSPs are not in the business of fundraising and tend not to have extensive management capacity.

### **7.3 Section 21 company**

- A Section 21 Company is a non-profit company that is registered in terms of the Companies Act (No. 61 of 1973).
- A Section 21 Company must prepare a Memorandum of Association and Articles of Association which requires the assistance of an attorney and must be submitted for approval to the Registrar of Companies prior to registration.
- A certificate to commence business must be obtained from the Registrar and an auditor must be appointed before business may be conducted
- A Section 21 Company is classified as a public company without share capital and must submit audited financial statements to the Registrar of Companies.
- A Section 21 Company must have at least seven members (and no more than fifty members) who appoint a Board of Directors with respective portfolios.
- A Section 21 Company is subject to income tax, unless it has applied for exemption from income tax. Application for exemption from income tax requires the services of a tax consultant.
- A Section 21 Company has restrictions on the transfers of its shares, and prohibits any offer to the public for the subscription of any shares or debentures of the company.
- Surpluses remain within the company as reserves.
- It costs approximately R6 000 to set up a Section 21 Company.

A Section 21 Company is not an ideal legal status for a CBO WSP since it requires both legal and auditing services, which are costly. In addition Section 21 Companies must comply with the requirements of the Companies Act which requires specialist expertise that most CBO WSP's do have.

## **7.4 Recommended option for legal status for a CBO WSP**

Given the requirements that a Trust and Section 21 Company must comply with, as well as the associated costs, these options are not likely to be the most appropriate options for a legal status for a CBO WSP. A Voluntary Association is therefore the recommended legal status for a CBO WSP, however since each case is different and operates within specific circumstances, an assessment should be made as to what is most appropriate in each case.

It could be argued that a CBO established as a voluntary association meets the requirements in terms of establishing a legal status. However, municipalities may also require a community-based organisation to register in terms of the Nonprofit Organisations Act.

## **8 Register in terms of the Nonprofit Organisations Act**

The White Paper on Municipal Service Partnerships also advises that;

“municipal councils should require NGOs and CBOs that wish to engage in the delivery of municipal services to be **registered in terms of the Non-profit Organisations Act.**”

### **8.1 What does registration mean?**

Registration in terms of the Nonprofit Organisations Act (No. 71 of 1997) means that the CBO must register with the Department of Welfare’s Nonprofit Organisations Directorate. Registration involves completion of a registration form, plus submission of the organisation’s constitution. The Department of Welfare will determine whether the organisation meets the requirements for registration as a non-profit organisation.

Appendix 1 provides details concerning registration requirements, as well as the relevance, advantages and disadvantages of registration for CBO WSPs. It recommends that registration should not be a ‘blanket’ requirement for all CBO WSPs and provides reasons for this recommendation.

## **9 When is a CBO WSP an appropriate WSP option?**

A CBO WSP is an appropriate option when it is able to provide effective, cost efficient, affordable, reliable and sustainable water services to the community concerned.

A CBO WSP is usually an appropriate WSP option in places that are not easily accessible to other WSPs, for example more remote rural communities or communities that are not easily accessible.

The ability of a CBO WSP to provide sustainable water services is dependent upon a range of factors, including:

- Size and cohesiveness of the community to be served
- Technology of the scheme
- Capacity or potential capacity of the CBO
- Access to support (technical support and institutional advice and mentoring)

### **9.1 Size and cohesiveness of the community**

A CBO WSP is an appropriate option for smaller communities rather than larger communities. CBO WSPs are usually appropriate for communities of up to five thousand people. A further factor to consider in terms of the community is whether it is cohesive or not. A CBO WSP may not be an appropriate option if there are tensions between different groups within the community since these tensions could undermine the functioning of the CBO WSP. Acceptability of the CBO as the WSP within the community is another factor that will influence the ability of a CBO to ensure sustainable services.

### **9.2 Technology of the scheme**

CBO WSPs are appropriate where the technology used is easy to operate without requiring specialist technical expertise on a daily basis. Whilst a CBO WSP may not have the skills to undertake major repairs and maintenance of the scheme, a CBO WSP may either contract the necessary technical support that it requires or access this support from the municipality as appropriate. CBO WSPs are particularly suited to small stand alone village schemes and small to medium sized rural group schemes.

### **9.3 Capacity or potential capacity of the CBO WSP**

Depending upon the technology of the scheme plus the method of payment used in the scheme, different capacity may be required. It is important that a CBO WSP has access to training and capacity building so that it can develop the skills and expertise required. A CBO WSP should not simply be assessed on its existing capacity since most CBOs have the potential to develop the required capacity to provide water services to their communities.

### **9.4 Access to support**

Some CBO WSPs may require access to support services in order to fulfil the WSP functions, for example maintenance support or institutional and social development (ISD) mentoring support. Where appropriate, it is important to ensure that this support is available. In some cases CBO WSPs are able to contract in the support they require without the assistance of the municipality.

## **10 How are CBO WSPs established?**

CBO WSPs are established in different ways.

With **new projects** CBO WSPs are usually established during project implementation. The municipality as the WSA in consultation with the community, should decide during the business planning phase as to what WSP option is most appropriate for the scheme and meets community preference. If a CBO WSP is selected as the most appropriate option, the business plan should include plans to establish a CBO WSP and plans for training and capacity building of the CBO WSP.

Establishing a new CBO WSP involves:

- a) consultation with the community as to how the CBO WSP should be established
- b) nomination or election of members to serve on the CBO WSP
- c) establishment of a constitution for the CBO WSP
- d) identification of who will perform the daily functions of the CBO WSP (such as daily operations, minor repairs, revenue collection, meter reading, bookkeeping, etc.)
- e) training and capacity building of the members of the CBO WSP (for example chairperson, secretary, treasurer and other members)
- f) training and capacity building of the functionaries (operator, bookkeeper, etc.) as appropriate
- g) establishing financial (billing and revenue collection, accounting records), administrative and reporting systems
- h) monitoring the functioning of the CBO WSP and providing mentoring support for a period of time.

At the end of project implementation the municipality enters into a municipal service partnership with the CBO WSP through signing a WSA-WSP agreement/ contract.

In the case of **old schemes**, the CBO WSP may be a village committee, a water committee or some other structure established by the community. Whatever structure is in place, it is important to establish the following:

- whether the committee is properly constituted with a signed constitution
- whether the committee is effectively fulfilling the WSP function
- whether the community is satisfied with the services being provided



Depending upon the circumstances, the municipality can either:

- enter into a contract with the existing CBO WSP (in cases where the committee is properly constituted and fulfilling the WSP functions to the satisfaction of the community), or
- ensure that the existing committee receives the necessary support so that it becomes properly constituted as a voluntary association and receives training and capacity building so that it can effectively fulfil the WSP functions, or
- establish a new CBO WSP in consultation with the community as appropriate.

## **11 What WSP functions can a CBO WSP fulfil?**

The functions that a CBO WSP can fulfil will depend upon:

- the technology of the scheme
- the size of the scheme and community
- the capacity and skills within the CBO WSP
- the method of charging for water

Typically a CBO WSP is able to fulfil the following functions:

- daily operations of the scheme and minor repairs
- customer relations
- communication with the community
- revenue collection
- basic financial management and reporting

Details of WSP functions are addressed in .....

## **12 What type of support do CBO WSPs require?**

The support required by a CBO WSP will depend upon:

- the technology of the scheme
- the capacity and expertise within the CBO WSP
- the functions that the CBO is required to fulfil according to its contract with the WSA

Support that CBO WSPs typically require includes:

- Institutional and social development (ISD) mentoring
- Operations (technical) mentoring
- Major maintenance

- Bulk purchasing
- Pit emptying for Ventilated Improved Pit (VIP) type sanitation systems

### **13 What type of contract should be entered into with a CBO WSP?**

The contract type will depend upon the services that are required from the CBO WSP. For example, if the CBO WSP is responsible for revenue collection, the contract will be different to an arrangement where the CBO WSP is not responsible for revenue collection.

It is important that the contract is well understood by the CBO WSP and for this reason it should be drafted in language that is easy to read.

#### **13.1 Model contract for CBO WSPs**

The Department of Water Affairs and Forestry is currently developing a model contract for water services authorities to enter into an agreement with CBO WSPs. This contract can be used as the basis for a contract with a CBO WSP, however it must be adapted to the specific context as required.

#### **13.2 What should be covered in a contract with a CBO WSP?**

The clauses of the contract should cover the following, however additional clauses may be required depending upon the nature of the agreement between the municipality and the CBO WSP:

- definitions of terms used in the contract
- parties to the contract
- objective and scope of the contract
- duration of the contract
- obligations of the CBO WSP
- obligations of the municipality as WSA
- financial arrangements
- conditions for early termination
- dispute resolution
- *domicilia citandi et executandi* (addresses)

### **14 Different types of CBO WSP institutional arrangements**

There are many different types of CBO WSP institutional arrangements. The institutional arrangements will vary depending upon:

- the WSP functions that the CBO is contracted to fulfil
- the bulk water source (whether there is a bulk WSP that is providing bulk water to the CBO WSP)
- the type of support that the CBO WSP requires
- the organisation or entity responsible for providing the support [Support Services Agent (SSA)]

#### 14.1 Single contract between CBO WSP and WSA

- In some circumstances the CBO WSP is able to fulfil the WSP functions without a formal arrangement for support services.
- In addition the bulk water source is ground water or surface water and thus there is no contract with a Bulk WSP.
- In this case the institutional arrangement is relatively simple with a single contract between the WSA and the CBO WSP.
- If the CBO WSP requires specific support, for example major repairs to a pump, the CBO contracts that support as and when required.

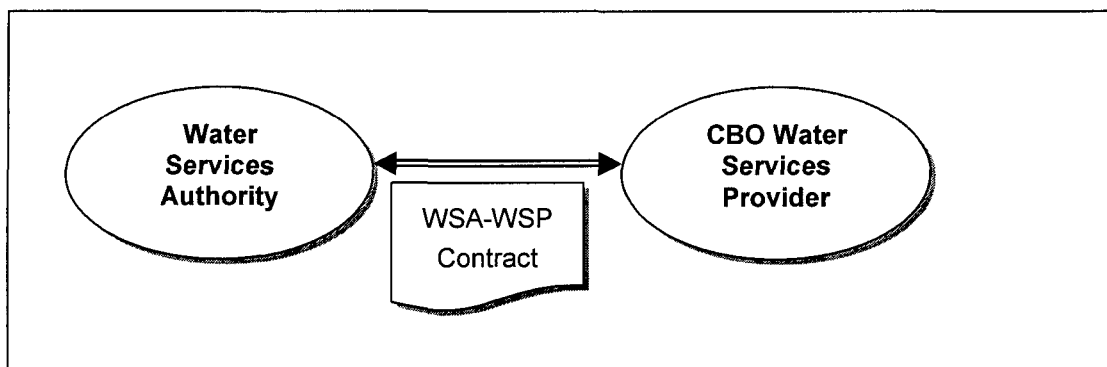


Figure 2: Single contract between WSA and CBO WSP

#### 14.2 CBO WSP with municipality fulfilling the SSA role

- The municipality as WSA may be responsible for providing support services to the CBO WSP.
- In this case, the contract between the WSA and the CBO WSP must indicate the type of support services that the municipality will provide to the CBO WSP.
- Support services may include: preventative and major maintenance, technical advice and mentoring, bulk purchasing, institutional and social development mentoring including financial advice, and pit emptying for Ventilated Improved Pit (VIP) type sanitation systems.
- Whilst there will be a single contract between the CBO WSP and the municipality, there are two sets of relationships between the CBO WSP and the municipality:

- the first relationship is with the municipality as the WSA where the WSA monitors the CBO WSP to ensure that it is providing the services according to the contract
- the second relationship is with a technical division or unit within the municipality whereby that division or unit is responsible for providing a service to the CBO WSP.

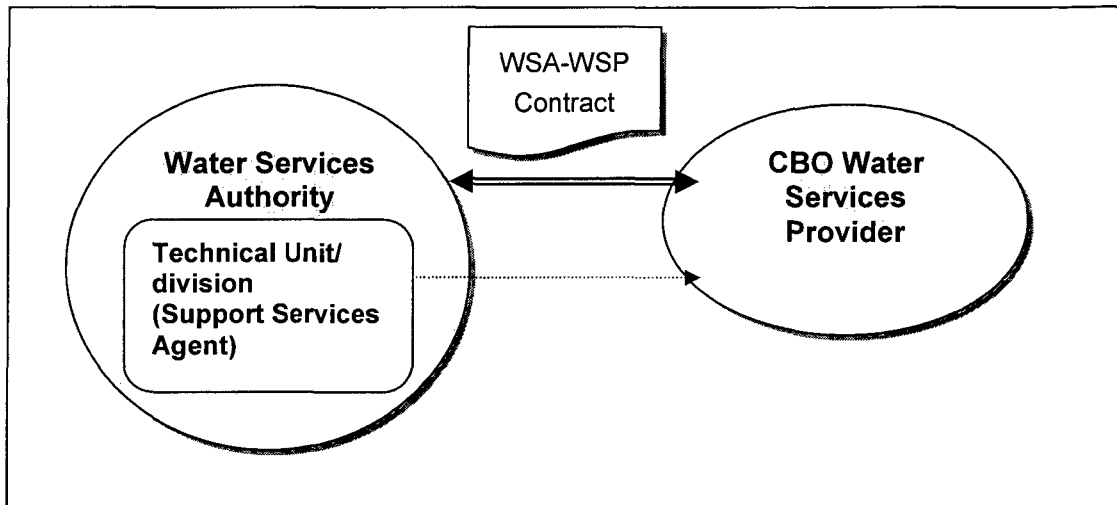


Figure 3: WSA fulfils Support Services Agent role to CBO WSP

### 14.3 CBO WSP with a Water Board, NGO or Private Sector Support Services Agent

- In some cases the CBO WSP may require support services, but the municipality (WSA) may not have the capacity to provide support services, or the CBO WSP may not be easily accessible to the municipality.
- An alternative support services agent could be a water board, a non-governmental organisation (NGO) or a private sector company.
- The CBO WSP would enter into a contract with the support services agent to provide specific support services for a set period of time.
- The SSA is accountable to the CBO WSP and would receive a fee for the services provided.
- The type of contract between the CBO WSP and the SSA would most likely be a service contract.

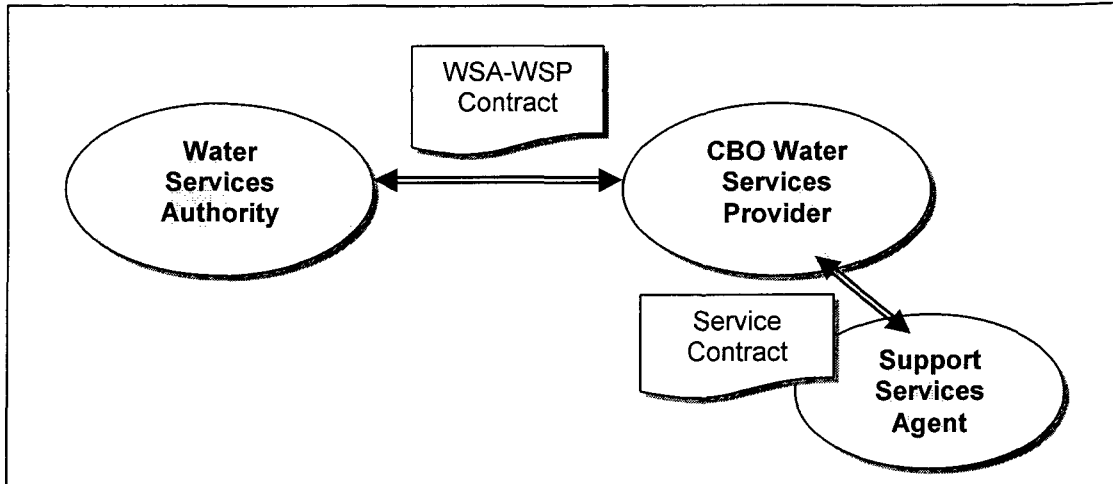


Figure 4: CBO WSP contracts a Support Services Agent

Where there are a number of CBO WSPs who all require support services, it may be preferable for the municipality to enter into a contract with a Support Services Agent to provide support services to all the CBO WSPs. In this way the cost of the support services could be reduced through economies of scale. In such an arrangement it is important that the Support Services Agent is not only accountable to the municipality but also accountable to the CBO WSP. Thus there would still be a contract between the CBO WSP and the SSA.

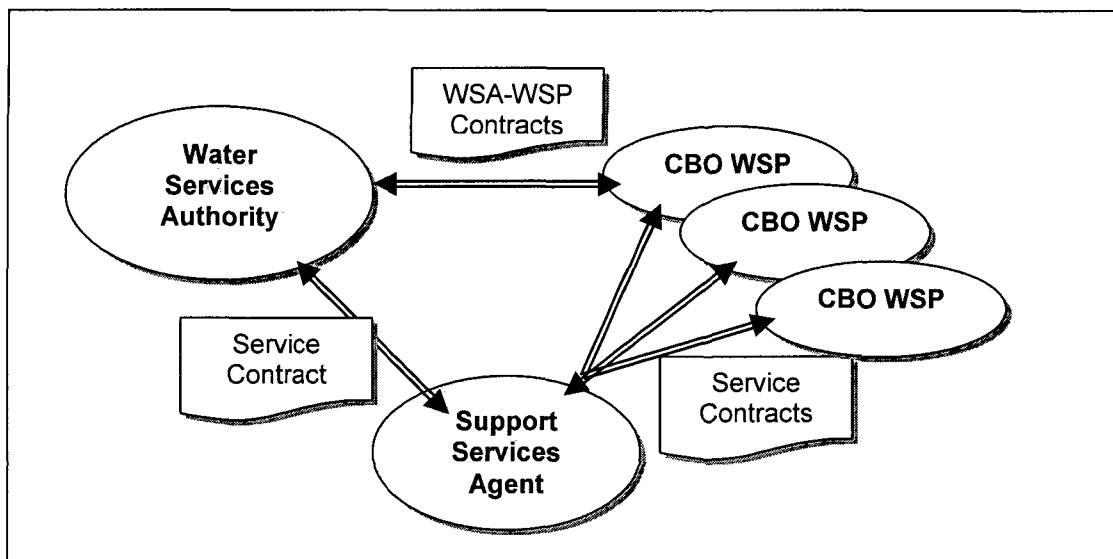


Figure 5: Support Services Agent provides support services to a number of CBO WSPs with a contract with the WSA

## 15 Structure of a CBO WSP

How should a CBO WSP be structured? Different CBOs have been established with different structures. As with any other organisation, there is no blue-print as to how a

CBO WSP should be structured. The structure should be designed to facilitate the effective and efficient functioning of the CBO WSP as well as accountability and responsiveness to the community.

Below are some **examples** of how CBO WSPs have been structured:

### **15.1 Governing body with employees**

A common structure for a CBO WSP is a two tier structure comprising a governing body and staff or employees.

#### **Governing body**

- The governing body would typically comprise of elected or nominated members from the community who are accountable to the community.
- The governing body would take responsibility for:
  - ensuring that the various water services provision functions are effectively and efficiently fulfilled
  - employing or contracting staff or contractors to fulfil the daily provision functions (for example operations, revenue collection, bookkeeping, etc.)
  - monitoring finances, overall administration and the performance of the employees / staff
  - reporting on the services provided as well as presenting financial reports to the WSA and the community
  - communication with the community concerning any critical issues or problems
  - conflict resolution where required
- Members of the governing body are the members whose names appear in the organisation's constitution and may be allocated specific portfolios, for example chairperson, secretary, treasurer, etc.
- The members of the governing body are usually volunteers in that they do not receive financial compensation for sitting on the governing body

#### **Staff**

- The staff that are employed by the governing body, are responsible for the day to day water services provision functions such as operations, minor repairs, customer relations, revenue collection, financial administration, and so on.
- The staff are accountable to the governing body.
- The staff receive financial compensation for their services, either in the form of a wage or a salary. A contractor receives a contract fee for services rendered.

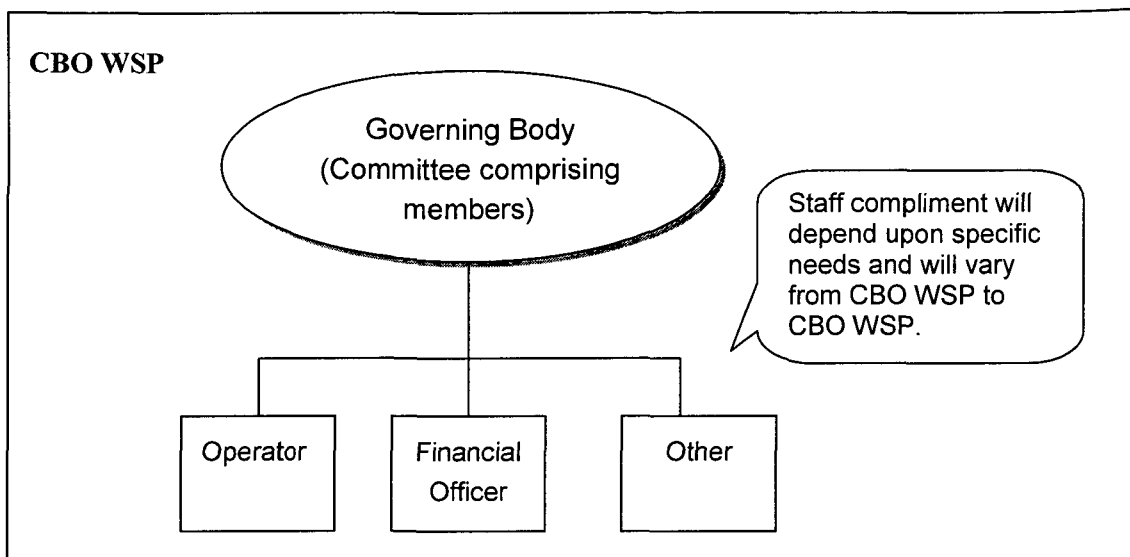


Figure 6: CBO WSP with a governing body and staff

### 15.2 Committee with an overall manager

Another model that has in some cases proved to be very successful is having an overall manager (sometimes called the secretary) who is both a committee member and a staff member.

- The manager is employed by the committee and is accountable to the committee as a whole and in particular to the chairperson of the committee.
- Since the manager is also a committee member, the manager has authority over the other staff members and is responsible for managing those staff members.
- The manager plays a key 'interface' role between the committee and the staff members.
- In this model, it is important that the manager has the respect of the staff members and is able to play a leadership role in the daily operations of the CBO WSP.

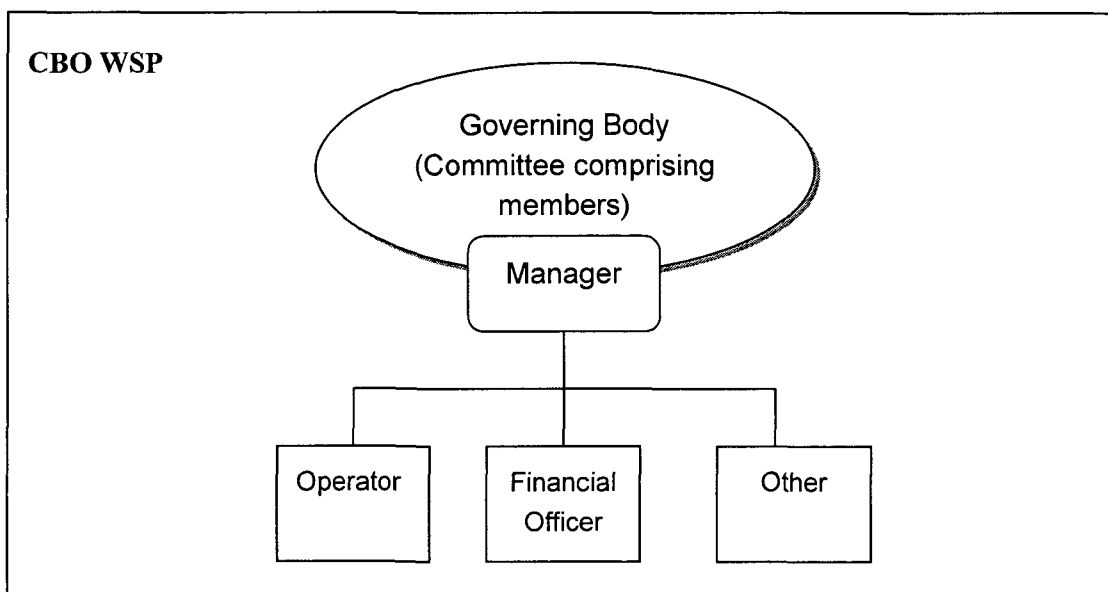


Figure 7: CBO WSP with a governing body, manager and staff

### 15.3 Committee that fulfils the provision functions

- A CBO WSP may comprise a single structure that is responsible for all the WSP functions.
- In this case members of the committee are responsible for the day to day provision functions.
- Either the functions are shared amongst the entire committee, or some of the members are allocated specific responsibilities, such as daily operations, revenue collection, meter reading (if appropriate), bookkeeping, communication, record keeping, etc.
- Usually those members who take on specific daily functions are reimbursed for their services, for example the person responsible for daily operations and minor repairs and the person responsible for revenue collection and financial record keeping.
- Members are usually not reimbursed for fulfilling 'portfolio' positions, for example chairperson, treasurer, secretary, etc. unless the position requires the member to undertake work for the committee, for example if the secretary is responsible for running the CBO WSP office.
- The treasurer and the person responsible for revenue collection and financial record keeping should preferably be different people so that the treasurer can play a monitoring and oversight role.
- It is the committee's responsibility to decide who is reimbursed for work undertaken for the committee, and by what amount.
- This model may be appropriate for a small scheme.

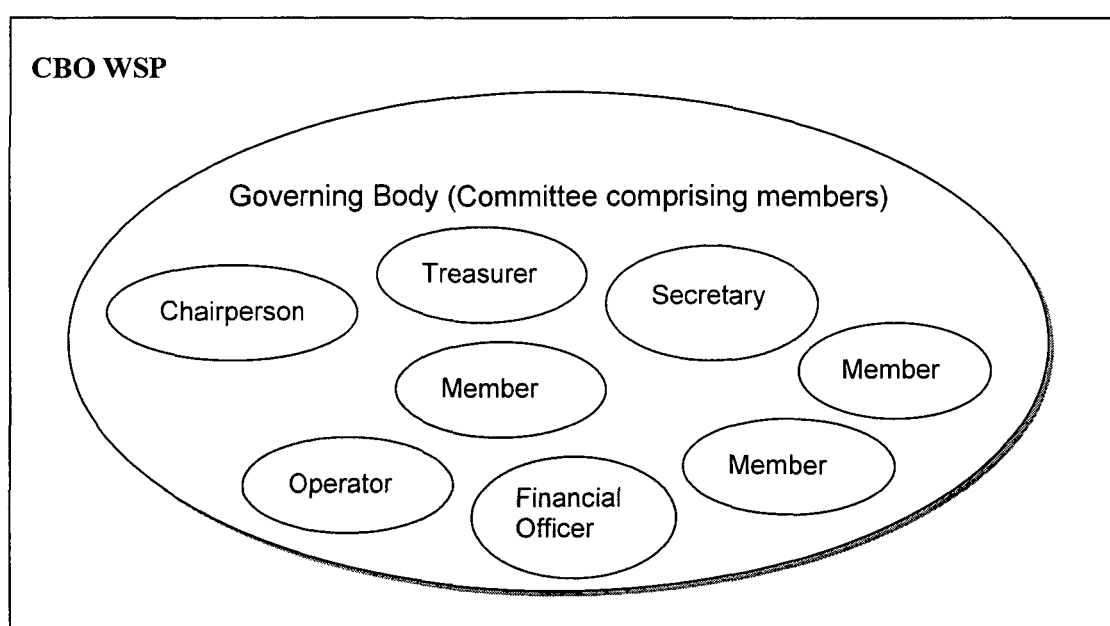




Figure 8: CBO WSP comprising a governing body where some members of the governing body are responsible for day to day functions

## 16 WSP institutional arrangements that are not CBO WSPs

There are a number of WSP institutional arrangements which may involve members of the community, but which are not community-based organisations.

### 16.1 Municipal employees or contractors based in the community

In some cases a municipality may employ members from the community to fulfil certain water services provision functions, for example daily operations of the scheme, minor repairs, and revenue collection. The municipality will enter into some form of contract (for example an employment contract or service contract) with the individuals concerned where the individuals receive a wage, salary or service fee for their services. These individuals do not comprise a community-based organisation since there is no community-based constituted organisation with a set of members to whom they are accountable. They are employees or contractors to the municipality. The municipality is thus the WSP and the employees or contractors are accountable to the municipality.

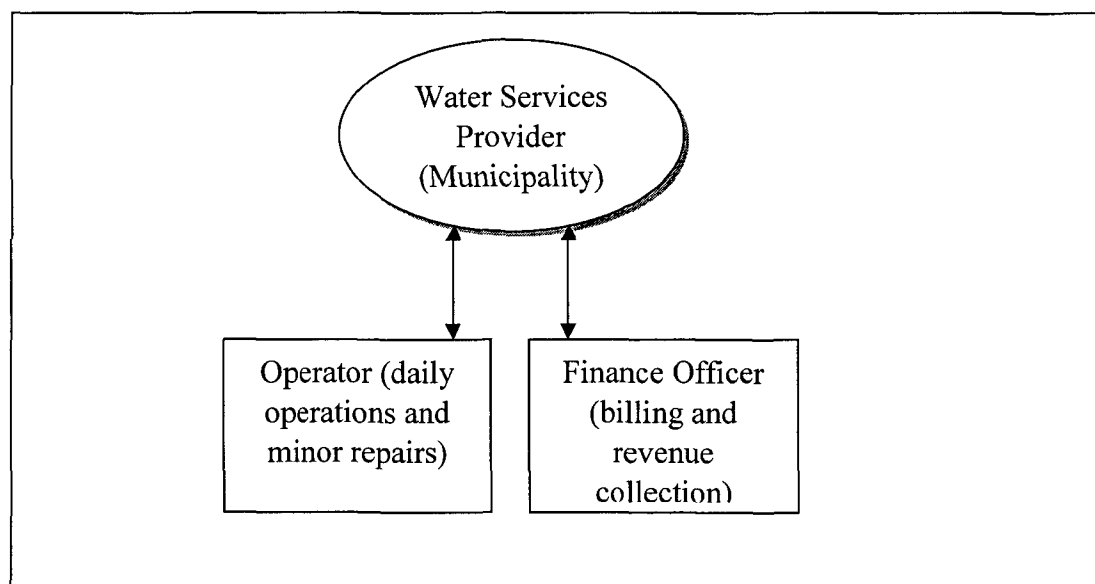


Figure 9: Municipality as WSP contracts community members to fulfil specific WSP functions

### 16.2 WSP sub-contractors

A WSP, for example a private sector company, a water board or any other entity that has been contracted by the WSA to provide water services, may contract or employ

members of the community to fulfil certain of the WSP functions. As with the example above, these community members do not comprise a community-based organisation, but are employees or contractors of the WSP.

## **17 Advantages of CBO WSPs**

- In many instances, particularly remote rural areas, CBO WSPs are the only viable option to achieve water services that are affordable, cost efficient, reliable and sustainable.
- CBO WSPs are based in the community and thus there is a greater sense of community ownership and responsibility for the services. Consequently there tends to be increased cost recovery, more effective operations and maintenance and decreased vandalism.
- CBO WSPs have been found to be cost effective.
- The close proximity of CBO WSPs to the community facilitates increased accountability and responsiveness.
- CBO WSPs make use of community capacity and potential to manage their own development processes.
- Economic spin-offs are promoted where funds remain in the community and community members develop entrepreneurial skills.
- A well functioning CBO WSP is more likely to deliver affordable, reliable and sustainable water services in less accessible communities than other WSP options.
- International and local experience has shown CBO WSPs to be viable and effective institutional vehicles for rural water services delivery.

## **18 Potential risks associated with CBO WSPs**

While there are a number of potential risks associated with CBO WSPs, most of these risks can be addressed with the right support from the WSA as well as capacity building and training interventions. Risks may include:

- The members of the CBO WSP may change over time, resulting in a loss of capacity. This could impact on the effectiveness of the CBO WSP to fulfil its functions. (However, this problem can be addressed through training and capacity building when required.)
- Lack of convenient access to banking facilities may be a risk since the CBO WSP may have to travel long distances to deposit revenue collected.
- Lack of sufficient trust in the CBO WSP by the community could impact on revenue collection and customer relations.
- CBO WSPs are sometimes not perceived by the community as having sufficient authority to make decisions concerning the water services provided. This could undermine the ability of the CBO WSP to effectively fulfil their functions.

- Power relations within a community may threaten the sustainability of a CBO WSP, for example groupings that are loyal to the new local government system and those that are loyal to traditional leaders.
- Since CBO WSPs tend to operate within poorer rural communities, they generally are not able to accumulate financial reserves. This could impact on the longer term maintenance of the scheme, particularly if cost recovery is low.
- The salaries paid to staff members within CBO WSPs are generally very low as these salaries are determined by the community members within the CBO WSP. This may impact on staff motivation and thus performance. In addition, once trained, staff members may seek better employment opportunities elsewhere.
- Private contractors or suppliers may attempt to take advantage of a CBO WSP through either overcharging or through providing poor services.
- CBO WSPs do not always have access to the necessary support required to ensure reliable and sustainable water services. Support services may be also be costly if there is no conveniently located support services agent.
- CBO WSPs that are responsible for revenue collection carry all the risks associated with non-payment. If insufficient funds are collected, the existence of the CBO WSP is threatened and thus the entire service could be threatened.

## **19 Critical success factors for CBO WSP options**

The following critical success factors are based on lessons learnt from a series of CBO WSP case studies.

- ✓ The CBO WSP must receive sufficient training and capacity building to fulfil the WSP functions.
- ✓ CBO WSPs must have access to support services or contractors who are able to provide technical, maintenance and ISD support
- ✓ The WSA must maintain dynamic contact with the CBO WSP particularly in terms of problem solving
- ✓ Effective cost recovery systems must be put in place as well as systems to deal with defaulters
- ✓ The WSA must ensure that the community knows that the CBO WSP has authority to make certain decisions concerning the provision of water services. Clarity of roles and responsibilities between all roleplayers is a key success factor.
- ✓ Strong management and accountability within the CBO WSP facilitates the effective functioning of the WSP.
- ✓ The CBO WSP must have access to communication systems so that it is able to contact the WSA or other support when required.
- ✓ Regular monitoring of the financial records of the CBO WSP promotes accountability, transparency, and trust both within the CBO WSP as well as with the community.

- ✓ An 'official' and accessible WSP office greatly enhances both the legitimacy, authority and the efficient operation of CBO WSPs.

## **20 Case studies upon which this guideline is based**

This guideline has drawn from the experience of a number of CBO WSP case studies, including:

Izingolweni (Ugu RC)

Tshiungani (NP)

Mpheni (NP)

Cisira, Ncala, Mgwangqa and Nqwenerhana Peddie Rural Villages (Peddie)

Nzimakwe (Ugu)

Rooibok Laagte (Bushbuckridge North)

Makhosini (Zululand)

Matshemhlope (Zululand)

Briardale and Emmeus (Durban)

## **21 Appendix 1: Registration requirements in terms of the Non-Profit Organisations Act and relevance to CBO WSPs**

### **21.1 Registration requirements**

Once a CBO is registered, it is required to send a written report concerning the organisation's activities as well as a financial report to the Department of Welfare's Public Private Partnership Directorate on an annual basis.

The Department of Welfare has prepared a 'Model Narrative Report for Nonprofit Organisations' which outlines the format of the written report and the financial report. Briefly the format requires the following details:

#### **21.1.1 Written report**

- Organisational details (name, registration details, contact details, type of non-profit organisation, sector, province, office bearers, staff members, budget, etc.)
- History of the organisation and aims and objectives
- Achievements of the organisation
- Meetings held and any changes to the constitution

#### **21.1.2 Financial report**

- Accounting and fundraising details (accounting policies, fundraising details)
- Written report about the organisation's finances prepared by the organisation's accounting officer (increase or decrease in income, unplanned spending, changes that affected income or expenditure)
- Financial statement (balance sheet, income statement, cash flow statement)

### **21.2 Relevance of registration for a CBO WSP**

***Should a municipal council require a CBO WSP to register with the Department of Welfare in terms of the Nonprofit Organisations Act?***

There are two key criteria that a municipality must ensure when entering into a municipal service agreement with a CBO WSP:

- a) that the CBO WSP has legal status
- b) that the CBO WSP is able to provide efficient, affordable, economical and sustainable water services for the community concerned.

In terms of legal status, a CBO WSP becomes a legal entity once it is constituted as a voluntary association. Registration with the Department of Welfare in terms of the Nonprofit Act is not a requirement with respect to acquiring legal status.

So, should a municipality require a CBO WSP to register? This decision requires careful consideration since there are advantages and disadvantages to stipulating a requirement to register.

### **21.2.1 Advantages**

Advantages include the following:

- the Department of Welfare plays a regulatory role over the CBO WSP whereby it determines on an annual basis whether the CBO WSP meets the requirements of registration
- registration may provide benefits to the CBO WSP in terms of qualifying for certain tax exemptions
- registration provides an assurance to the municipality that the CBO WSP is fulfilling the necessary reporting, financial and operating requirements of a registered non-profit organisation
- registration is an indication that the CBO WSP has the capacity to manage and report on its activities and finances to a determined standard
- registration provides additional 'formality' to the legal status and overall operation of the CBO WSP

However, a municipality needs to also bear in mind that the Department of Welfare requirements for registration are based on the need for high levels of financial and operational accountability since most non-profit organisations are involved in fundraising. The Department of Welfare needs to satisfy itself that those organisations who qualify for registration are meeting certain minimum requirements in terms of accessing, utilising, managing and reporting on donor funding. In many cases donor funding involves international donors, trusts, development agencies, etc., who require a high level of operational and financial planning, management, accountability and reporting. The Department of Welfare requirements for registration thus need to take the requirements of donors into account when determining whether a non-profit organisation qualifies for registration or not.

There are therefore certain disadvantages to requiring a CBO to register with the Department of Welfare in terms of the Nonprofit Organisations Act.

### **21.2.2 Disadvantages**

Disadvantages could include:

- the CBO does not meet the requirements and therefore does not qualify for registration (effectively this would mean that the CBO could not enter into a municipal service partnership with the municipality to fulfil the role of WSP)
- despite not meeting the registration requirements, the CBO may have the necessary capacity to fulfil the conditions outlined in the WSA – WSP agreement for the provision of water services and may be the most appropriate WSP option for the community concerned (registration would thus prohibit the most appropriate WSP option)
- CBO WSPs are often most appropriate in remote rural areas where alternative WSP options are either absent or very costly. Registration of these CBOs is likely to be cumbersome and is likely to place unnecessary requirements on the CBO that could result in the CBO choosing not to fulfil the WSP role.
- Most CBO WSPs are likely to require external support to fulfil the requirements of registration, for example contracting support to prepare reports and financial statements. This will increase the operating costs of the CBO and consequently have an impact on the cost effectiveness of the services provided.
- Some CBO WSPs may not be responsible for revenue collection and thus the financial requirements related to registration would be inappropriate.
- Even in cases where CBO WSPs are responsible for revenue collection and financial management, they generally are not involved in fundraising activities which require a much higher level of accountability. The financial management and reporting requirements for registration would thus remain inappropriate for a CBO WSP and result in unnecessary additional work and expense.

Whether a CBO WSP is registered or not, the municipality is still responsible for monitoring the services that the CBO WSP provides as well as receiving operational and financial reports from the CBO. These requirements form part of the contract between the municipality as the WSA and the CBO WSP. Thus registration does not reduce the contractual management or monitoring functions of the municipality in relation to the CBO WSP.

### **21.2.3 Recommendation**

Whilst it is the municipality's decision as to whether it requires a CBO WSP to be registered in terms of the Nonprofit Organisations Act, this guideline recommends that registration should **not** be a 'blanket' requirement for all CBO WSPs. In cases where a CBO WSP is dealing with large sums of money requiring more complex financial management and accounting, it may be appropriate to require registration. However, in most cases, and particularly where the CBO WSP is not responsible for revenue collection, or in very poor communities where the total revenue collected is

only sufficient to cover operational costs, registration would appear to be inappropriate and may even be a disadvantage.

Before requiring a CBO WSP to register, municipalities are advised to consider whether registration will enhance the operation and effectiveness of the CBO WSP or whether it will place an unnecessary burden on the CBO WSP thereby increasing costs and reducing the affordability of the services that the CBO is providing. The ultimate objective in entering into a municipal service partnership with a CBO is after all affordable, cost efficient, effective and sustainable water services for the community.