While the principle of good governance was implicit in King I, II and III, public sector organisations have experienced challenges in interpreting and adapting the Codes to their particular circumstances. Mervyn King, explains that consequently, “The King Committee was requested by many entities outside the private sector to draft King IV in such a way as to make it more easily applicable to all organisations: public and private, large and small, for-profit and not-for-profit.” Now, unlike King III, King IV includes sector supplements that provide specific guidance to certain categories of organisations and sectors in addition to the traditional audience of large for-profit companies. These organisations and sectors include municipalities (and municipal entities) and public sector organisations and entities, among others.
The supplements provide high-level guidance and direction on how the King IV™ Code (the Code) should be interpreted and applied by municipalities and public sector organisations and companies. And they illustrate just how the Code should be interpreted and applied in various contexts and legislative regimes. The supplements do not introduce new principles for these organisations and sectors; instead the essence of the Code, as represented by its governance outcomes and principles, applies to these organisations and sectors, with the necessary adaptation in terminology.

The supplements are drafted with the appreciation that municipalities, SOEs, etc. are already bound by a variety of statutes and other legal prescripts that impose certain governance-related obligations on them. These legal prescripts set the minimum governance standards to be complied with. King IV™ on the other hand, and in most cases, sets tightens the strings and encourages organisations to strive to achieve the higher aspiration in the interest of sound governance.

If there is a conflict between the general governance related legal prescripts applicable to public sector organisations (e.g. legislation) and King IV™, the legislation prevails. However, the mere fact that King IV™ advocates a higher standard of governance than the legislation demands does not, in itself, necessarily constitute a conflict.

A conflict only arises when King IV™ and legislated provisions cannot be reconciled, not when they are different. Therefore, implementing a higher standard than that required by law will still be compliant with the minimum requirements of the law.

Queries regarding the application of King IV™ in the public sector may be directed to Michael Gwala (Partner), Andrew Molver (Partner) and Jac Marais (Partner).