

# **PRESENTATION TO THE PORTFOLIO COMMITTEE ON BASIC EDUCATION**

## **THE MINISTERIAL TASK TEAM REPORT ON ALLEGED SELLING OF EDUCATOR POSTS BY SOME TEACHER UNIONS AND PROVINCIAL EDUCATION DEPARTMENTS**

**27 MAY 2016**



# PURPOSE

- # To inform the Portfolio Committee of the Final report of the Ministerial Task Team that probed the allegations on the selling of the educator posts by some teacher unions and/or departmental officials.
  
- # To brief the Portfolio Committee of the actions to be taken to remedy the challenges emanating from the report.

# BACKGROUND & CONTEXT

- Following allegations in the media that some members of teacher unions and departmental officials were involved in illegal activities, involving the selling of educator posts, the Minister of Basic Education held meetings with various stakeholders including teacher unions as well as the associations of school governing bodies.
- Consensus was reached on the need to investigate speedily the allegations, and it was thus agreed that a Ministerial Task Team, instead of a Commission of Inquiry, be established by the Minister to probe these allegations.
- The basis of the investigation by the Task Team would be to inquire into and report to the Minister on allegations reported in the media regarding the alleged irregular appointment of educators at schools, and the role played by any union or by officials of Provincial Education Departments in these alleged irregular appointments.

# BACKGROUND & CONTEXT (cont...)

- + The Task Team appointed by the Minister to investigate allegation of the selling of post by unions or departmental official commenced its work at the end of September 2014; and was initially given 120 days to complete its work. However, given the complexity of the investigation the timeframe was extended by the Minister at the request of the Ministerial Task Team (MTT).
- + The Minister of Basic Education had decided to release the Ministerial Task Team Report on the "post for sale" investigation on 15 April 2016, after consulting teacher unions and school governing body associations.
- + However, the Minister received requests and representations to delay the release of the MTT final report to allow teacher unions and individuals implicated in the report to rebut and/or make formal representations to the MTT.
- + The Minister obtained legal advice to allow such representation and the following schedule was communicated to all unions.

# COMPOSITION OF THE MINISTERIAL TASK TEAM (MTT)

- ⊕ The Ministerial Task Team (MTT) comprised of the following members –
  - Professor John Volmink – Educationist (Chairperson);
  - Mr Gardiner – Educationist;
  - Mr Siyabonga Msimang – DPSA;
  - Mr P Nel – Department of Justice and Correctional Services;
  - Mr Gerhard Scholtz – Deloitte Forensic; and
  - Mr Tommy Prince – Deloitte.
- ⊕ The DBE provided logistical, conceptual and secretarial support in the persons of –
  - Mr Chris Leukes: Acting Chief Director Legal Services, DBE
  - Ms M Mogale: Assistant Director: Education Labour Relations and Conditions of Services, DBE
  - Mr AW Kutumela: Director: Education Labour Relations and Conditions of Services, DBE

# **COMPOSITION OF THE MTT (cont...)**

- In addition to the core team, was a team of forensic investigators from the Department of Justice and Correctional Services (DJCS) who conducted field work –
  - Mr James Ndlovu: Deputy Director Forensic Auditor;
  - Mr Amos Moeng: Forensic Investigator;
  - Mr Charles Monye: Senior Forensic Auditor;
  - Mr Malefetsane Mofokeng, forensic Investigator;
  - Monyadiwe Mabusela, Forensic Investigator; and
  - Vutshilo Meregi, Forensic Investigator

# METHODOLOGY OF THE MTT

- The Ministerial Task Team commenced its duties in September 2014 by outlining and defining its terms of reference to the members.
- The Task Team interviewed the Heads of Department (HODs) in Education, Members of Executive Council (MEC) for Education in most provinces, District Managers, Labour Relations officials and Human Resource Managers.
- The first set of interviews took place in KwaZulu-Natal followed by Eastern Cape, Mpumalanga, North West, Gauteng, Western Cape, Limpopo, Northern Cape and Free-State provinces. A number of provinces were visited in more than one occasion by the MTT.
- The following Unions were interviewed: National Professional Teachers' Organisation of South Africa (NAPTOZA), Professional Educators' Union (PEU), South African Democratic Teachers' Union (SADTU), and Suid Afrikaanse Onderwysers Unie (SAOU).

# METHODOLOGY OF THE MTT (cont...)

- The MTT met with bodies such as South African Council of Educators (SACE), the Education Labour Relations Council (ELRC); and the School Governing Body Associations such as the Federation of Association of Governing Bodies (FEDSAS), National Association of School Governing Bodies (NASGB) and the Governing Body Foundation (GBF).
- The Task Team also heard testimonies from a number of aggrieved individuals and those who were allegedly implicated in the selling of teacher's posts.
- For the purposes of strengthening the education system, the Task Team extended its scope to interview individual educational experts and academics.
- Meetings were held to establish the validity of the media allegations. To this end the Chairperson and the forensic investigator from Deloitte further interviewed the City Press journalists who revealed further details of the allegations.

# METHODOLOGY OF THE MTT (cont...)

✚ Documentary analysis and individual and group interviews (face-to-face and telephonic), were the primary methods employed by the Task Team.

## ✚ *In summary:*

- The MTT used media allegations about the buying and selling of posts as a focus for discussions with District Managers and Teacher unions in each Province, asking them for their responses to general and specific instances which the *City Press* and other sources had provided;
- Individual allegations were followed up, individuals interviewed, and follow-up meetings were held with informants;
- Then the forensic members of the Task Team, drawn from Deloitte as well as the Department of Justice, investigated those instances which are contained in this Report;
- The Task Team conducted an online search to identify media articles related to its mandate; and
- The cases reported to the panel came from 6 provinces; and as can be seen from Table 1, the number of cases is generally in proportion to number of schools in province. The exception is the North West, which accounts for 19.8% of all cases investigated even though the province only accounts for 6.4% of all the schools in the country.

# Table 1: Cases Investigated by Forensic Team

Province	No. of schools in province as % of national	No. of cases finalised	Further investigation No. of cases	Wrongdoing No. of cases	Total No.	% of all cases investigated
Eastern Cape	23	11	3	1	15	18.5
Gauteng	8.5	1	2	1	4	4.9
KwaZulu-Natal	24.6	7	8	4	19	23.5
Limpopo	16.3	19	1	0	20	24.7
Mpumalanga	7.3	4	0	1	5	6.1
North West	6.4	7	4	7	18	19.8
<b>TOTAL</b>	<b>86.1</b>	<b>43</b>	<b>22</b>	<b>16</b>	<b>81</b>	<b>100</b>

# FINDINGS BY THE MTT

- As anticipated many disgruntled individuals saw an opportunity to use the investigation to voice their grievances not always on factual grounds.
- Of the approximately 120 matters that were brought to our attention, the MTT found, after initial investigation, that several of the allegations were unfounded, based on rumour, malice, or hearsay.
- Furthermore, in a variety of the cases the pervasive culture of fear and concerns about safety negatively impacted on the co-operation of the potential witnesses, resulting in them being reluctant or unwilling to commit themselves to statements / affidavits to assist the Task Team in its investigation.
- These challenges obviously resulted in a situation where no further steps could be taken or contemplated. In these cases we had no choice but to regard them as finalised.
- In the end 81 cases were investigated some of which were previously the subject of other investigations.
- The MTT soon became aware that there are many forms of irregular appointments.

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# FINDINGS OF THE MTT (cont...)

- In many ways the cases reported the Report constituted only an indicative sample of irregularities but they nevertheless point to widespread practices of improper and unfair influence affecting the outcomes of the appointment of educators.
- In only a minority of cases are there numerous claims of money being paid to influence the outcome but there are claims and findings of improper influence of many different kinds.
- Some cases suggest that there is collusion within the line of command, since the people who seek to influence can only exercise that influence in collusion with individuals who fulfil different roles in the process of selection and appointment.
- In some cases, there appears to be collusion between union officials and district managers, and sometimes with provincial HR officials leading to a system of patronage.
- There is a clear basis in such cases for further investigation by a competent authority.

# FINDINGS OF THE MTT (cont...)

- The current process for selecting candidates for appointment in the Education sector is riddled with inconsistencies. As a result, the process is subject to litigation at all levels.
- There is a need to review this process so as to align it to general Human Resource Management principles which are applied in other sectors of the public service.
- In the Education sector, non-professional bodies (such as School Governing Bodies) are tasked with the recruitment and selection of professionals. This could undermine the credibility of the process. In addition, dysfunctional SGBs add doubt about the validity of staff selection.
- Given its historical legacy policy and practice, the education sector has features that are different from other public service sectors.
- Another inconsistency in the appointment process, is the weaknesses within some Districts, where Districts work strictly according to regulated procedures and where their managerial and administrative staff members are persistent and consistent in carrying out their duties in accordance with a coherent system. The Teacher Unions in those areas, are held in check and procedures and decisions are led by the Department.

# FINDINGS OF THE MTT (cont...)

- ✚ Where authority is weak, inefficient and dilatory, Teacher Unions move into the available spaces and determine policies, priorities and appointments achieving undue influence over matters which primarily should be the responsibility of the Department.
- ✚ Weak authorities, aggressive Unions, compliant principals and teachers eager to benefit from Union membership and advancement are a combination of factors that defeat the achievement of quality education by attacking the values of professionalism.
- ✚ Of the **81 cases** that were investigated, **38 cases** provided grounds for either reasonable suspicion requiring further investigation or point directly to wrongdoing amounting to criminal conduct.
- ✚ In order to make these judgements, the MTT was guided by the Prevention and Combating of Corrupt Activities Act No. 12 of 2004. The general offence of **corruption** is defined in section 3 of the Act as – “*the giving or accepting of any gratification, in order to act in an improper exercise or performance of a power or a duty*”.
- ✚ Furthermore, **gratification** is defined by the Act (section 1) “*to include any valuable consideration or benefit of any kind, including: money, property, office or honour, employment, service or favour, vote or abstention from voting, forbearance, release from obligation, etc.*”

# RECOMMENDATIONS OF THE MTT

- + That the illegal action by educators identified by the MTT be reported to SAPS for further action and that the Minister engages her counterpart in the police to dedicate resources to this category of cases to ensure fair and expeditious resolution.
- + That disciplinary action be taken against those officials who had the responsibility to check acts of corruption but failed to do so.
- + That action be taken quickly to protect whistle-blowers. It is recommended that the Education Department establish a dedicated unit to receive complaints about the selling of posts and to direct such reports to competent authorities and follow up those reports.
- + That the Department of Basic Education regain control of administering the education system in all Provinces so that clear distinctions are established between the roles and functions of the DBE and the concerns of Teacher Unions.

# RECOMMENDATIONS OF THE MTT (cont...)

- That the Minister requires all Provinces to complete and implement their delegations frameworks in line with the Cabinet approved 2013 Public Administrations delegations framework and that the Minister adjust the Education sector legislation accordingly.
- That the powers of School Governing Bodies to make recommendations for the appointment of post level 2 and above be taken away and that the South African Schools Act and the Employment of Educators Act be amended to reflect this.
- It should not be possible for a person to be promoted to principal from a post-level 1 position. Insofar as this happens at present, regulations should prohibit it.
- That the observer status of Unions be renegotiated with respect to the recruitment process.

# RECOMMENDATIONS OF THE MTT (cont...)

- Principals should be selected by means of panels which have the resources to evaluate the competence and suitability of the candidates for their leadership, management as well as their academic, experiential and professional abilities. The panels should include educators of suitable rank and experience. The pre-interviewing testing of candidates should occur and the results should be available to the panel members. The interviewing panels should be convened by the District Managers and a Departmental representative should be present as a suitably prepared Resources Person, having, for example, full details of the schools for which the interviews are being held.
- That both school- and office-based educators cease to be office-bearers of political parties and that educators in management posts (including school principals) be prohibited from occupying leadership positions in Teacher unions.

# RECOMMENDATIONS OF THE MTT (cont...)

- ✚ That it seems desirable that separate and distinct Unions be established for office-based educators.
- ✚ That measures be put in place to ensure that the practice of cadre deployment into DBE offices and schools ceases entirely.
- ✚ Those who are appointed to Districts and provincial offices should be required to demonstrate their capacity to carry out the job for which they have applied. There should no political appointments nor cadre deployments. People in these posts must be accountable to their employer and be assessed regularly. Furthermore the role of Circuit offices need to be redefined in a way that eases pressure on the District office in terms of managing employment relations closer to institutions/schools.

# RECOMMENDATIONS OF THE MTT (cont...)

- That the DBE and the DHET, with universities and other stakeholders, including the unions, lead discussion aimed at developing a broad-based philosophy of education, consistent with our history and Constitution, which will underpin the education and training of educators and shape the practice of education in schools throughout South Africa. This is not intended to mean that appointees should not have their own political affiliations. But they should not be placed into a position by a political organisation and should not hold office in a political party.
- That the South African Council of Educators (SACE) be reconceptualised and freed from Union and political domination.
- That SACE releases to the Minister its full Report on the buying and selling of posts when completed.

# BASIC EDUCATION SECTOR'S RESPONSE

## General Employment Context

- Appointments into all posts is important, but current trends around the number of new school principals appointed (and appointment of middle managers in schools) point to very specific risks and opportunities for the schooling system. The schooling system is currently experiencing a surge in the retirement of school principals because of an increase in the number of principals reaching retirement age. Whilst in 2008 approximately 400 school principals were retiring, the figure for 2017 is expected to be 1 500, implying a fourfold growth in appointments.
- If one adds to this the fact that school principals have in the past tended to stay longer in one school, on average ten (10) years, it becomes clear that currently the schooling system is at a critical juncture. If the administration ensures that good people enter principal posts, this can put schools on a ‘winning trajectory’. However, if the administration allows the wrong people to fill principal posts, because nepotistic or corrupt practices are not stopped, or because appointment processes fail to identify who would make a good principal, educational transformation will be tragically delayed.
- Similar things can be said about other management posts in schools, specifically those of deputy principals and heads of department.

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# BASIC EDUCATION SECTOR'S RESPONSE

## The importance of short-term measures

- ✚ There is a need to strengthen accountability in education, with a special emphasis on short-term measures, by ensuring that –
  - The employer takes control of appointing the most suitable teachers in terms of qualifications, skills, attributes, and ability. This must be done by establishing interviewing and appointment panels that are independent, that would be vetted regularly, and that would undergo training on appointment procedures and requirements for posts in education.
  - The changes to appointment procedures, require large-scale advocacy of parent and school communities, so that everyone is informed of the changes.
  - The integrity of appointment procedures must be protected by setting up a dedicated call centre, at which irregular activities can be reported with a short-term turnaround response.

# BASIC EDUCATION SECTOR'S RESPONSE

## Standards and accountability: *Standards for Principals*

- A national policy on standards for principals has been developed (Government Notice 323 of 2016). The policy provides for a framework of processes and programmes for developing the leadership and management skills of principals by acknowledging the need for principals to be professional, prudent, innovative and resourceful in managing their schools. These are based upon an agreed understanding of the core purposes of a principal's leadership role, the key areas of such a role, the values which underpin them, and the personal and professional qualities required to fulfil their roles. The key areas referred to in the standards document are in line with the core purpose and responsibilities of the principal as set out in sections 16 and 16A of the South African Schools Act, (No 84 of 1996), paragraph 4.2 of Chapter A of the Personnel Administrative Measures, and the relevant appraisal system.
- The standards provide a clear role description for school leaders and set out what is required of the principal. Principals – working with school management teams (SMTs), school governing bodies (SGBs), representative councils of learners (RCLs), and wider communities – must effectively manage, support and promote the best quality teaching and learning, the purpose of which is to enable learners to attain the highest levels of achievement for their own good, the good of their community, and the good of the country as a whole.

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# BASIC EDUCATION SECTOR'S RESPONSE

## Standards and accountability: *Standards for Principals (cont...)*

- The Department of Basic Education (DBE), with the Provincial Education Departments (PEDs), has identified differentiated developmental needs for professionalising principals and for the development of their role. These are –
  - enhancement of the skills and proficiency levels of principals;
  - improvement of the procedures for recruiting and selecting principals;
  - induction and mentoring of principals; and
  - professional preparation of principals.

# BASIC EDUCATION SECTOR'S RESPONSE

## Performance management

- The NDP states that –
  - “introduce performance contracts for principals and deputy principals, in line with Department of Basic Education policy. Use these contracts to help principals find ways to improve their performance every year, including identifying their training needs. Over time performance contracts should also be introduced for other members of school senior management teams (SMTs);
  - “replace principals who repeatedly fail to meet performance targets, based on monitoring information and interviews with school stakeholders; and
  - “use data from the performance management systems to identify areas where principals need more training.”
- In order to enhance accountability of educators, the Quality Management System (QMS) for assessing the performance of school-based educators was adopted at the Education Labour Relations Council (ELRC) in November 2014

# **BASIC EDUCATION SECTOR'S RESPONSE**

## **Performance management (cont...)**

- The agreement requires the Principal, Deputy Principal and Heads of Departments to complete and sign work-plan agreements with clear deliverables and targets with their supervisors at the beginning of each evaluation cycle.
- The work plan will serve as a performance agreement that will be signed by both the principal and his/her immediate supervisor, i.e., the Circuit Manager.
- Underperformance by principals as per the performance agreement should result in progressive discipline being instituted by Circuit Managers.
- Data emanating from the performance measurement of principals should be utilised to update the curriculum for principal development programmes.

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# BASIC EDUCATION SECTOR'S RESPONSE

## Focus of the Ministerial Task Team

- The findings and recommendations of the MTT are twofold –
  - Firstly, there are general recommendations regarding the conduct of unions and officials in relation to their lack of adherence to their roles and responsibilities as prescribed in the applicable laws and procedures. The Report of the Ministerial Task Team on the selling of posts highlights a lack of consistency and understanding of School Governing Body members regarding appointment systems and procedures. These challenges require the Department to reform laws and regulations regarding appointments in the basic education sector.
  - Secondly, there are allegations and specific recommendations about a number of identified individuals, who it is alleged, participated in one or other form of corruption or selling of posts. Investigations into most of these have not been concluded and an extension of the forensic part of this report has been granted. The forensic part of the whole investigation will be completed in August 2016, after which, the necessary remedial action will be instituted.

# BASIC EDUCATION SECTOR'S RESPONSE

## Proposed legislative amendments and reforms

- A proposed legislative amendment, which is still in the process of being finalised, deals with a number of issues emanating from the Report of the Ministerial Task Team to review education legislation. *Inter alia*, the amendment will contain a proposal that any appointment, promotion or transfer will be the responsibility of the Heads of Provincial Education Departments, with an initial focus on promotional posts on post levels 2 to 4.
- The amendment will furthermore propose that the Minister be empowered to make regulations to prescribe the manner in which this and employment practices in general will be carried out. This may include the composition of interviewing panels, vetting of panel members, and a number of other matters which could prevent the practices of selling of posts.

# BASIC EDUCATION SECTOR'S RESPONSE

## Consultations of the MTT Report by the Minister

- ✚ The Minister of Basic Education heeded the call for rebuttals and representations to the MTT report, and declared the following strict timeframes, which were to be adhered to by all concerned –
  - **01 April 2016** – the Minister had favoured teacher unions with the MTT final report, with an advice for teacher unions to submit their written rebuttals to the Chairperson of the MTT on, but not later than the end of business on **15 April 2016**. Teacher unions were further requested to favour the Chairperson of the MTT with details of any teacher union member, who might be implicated in the MTT report, but may have inadvertently been deprived of the benefits of the *audi alterem partem* rule. This should have been done on or not later than **15 April 2016**.
  - **15-29 April 2016** – the MTT considered the written submissions, and consider any appropriate action, when a need arises. Teacher unions, and/or school governing body associations, and/or individual, wishing to make representations *viva voce* to the MTT, were invited to do so by midday, 29 April 2016.

# BASIC EDUCATION SECTOR'S RESPONSE

## Consultations of the MTT Report by the Minister (cont..)

- **29 April - 04 May 2016** – the MTT considered all inputs (written submissions and representations *viva voce*) and amended the MTT report to the extent necessary. In doing so, all imperatives related to administrative justice and principles of fairness were observed.
  - **03 May 2016** – the Minister met with all five teacher unions individually.
  - **04 May 2016** – the Minister met with the national school governing body associations to consult on the MTT processes and the MTT report.
  - **06 May 2016** – the Minister had intended to officially release the MTT report to the public; but was persuaded by education stakeholders to postpone the release of the Report to allow for the refinement of written submissions; and to allow for verbal (*viva voce*) representations to the MTT. The final release of the MTT Report was therefore delayed by fourteen (14) days from 06 May 2016.
- ⊕ The Minister formally released the MTT Report to the public on **20 May 2016**. Attached to the Report was also a Plan on the DBE's approach to address the 16 recommendations of the MTT.

# RECOMMENDATIONS

- The Portfolio Committee should ***note and discuss*** the Ministerial Task Team Report on the alleged selling of educator posts by some teacher unions and provincial education departments.
- That the Portfolio Committee should ***note and discuss*** the Basic Education Sector's response towards the Ministerial Task Team Report.

*Thank you!*

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