

FLUXMANS ATTORNEYS



REPORT ON INVESTIGATION CONDUCTED AT THE DEPARTMENT OF WOMEN, CHILDREN AND PEOPLE WITH DISABILITIES

1. INTRODUCTION

This is the report compiled pursuant to an investigation which has been conducted and initiated after an anonymous letter ("the letter") was addressed to the Honourable Minister Lulu Xingwana and distributed within the offices of the Department of Women, Children and People with Disabilities ("the Department") on 11 April 2012.

The complaints listed in the letter related to allegations of nepotism and favouritism within the office of the Director-General of the Department, namely Dr Nonhlanhla Mkhize. The issues listed were, inter-alia, as follows:

CONCERN ONE

1.1

The appointment of Phillie Shange (as personal secretary at Deputy Director level) and the appointment of her alleged fiancé/boyfriend, Mbuso Hlela as the assistant to the personal secretary reporting directly to his alleged fiancé/girlfriend – Phillie Shange;

2. THE INVESTIGATION

The Public Service is required to appoint, promote and reward personnel who, irrespective of their political opinion or affiliation, family ties or position in the community have the ability to render a service. The following practices are unacceptable:

Favouritism – this means that certain singled out employees are appointed, promoted, transferred, or given generous treatment based on subjective considerations such as friendship, returning a favour, etc.

Nepotism – this implies that an employee is appointed, promoted, transferred, or given some other advantage purely based on the fact that he/she has family or other ties with the person in a position to authorise such actions or to manipulate or influence them.

Grievances related to maladministration and prejudicial actions by the State as an employer, may be referred to the Public Protector. However, the anonymous letter, by its nature, in our submission cannot be construed as a formal grievance as no person is identified as the author thereof.



4.3.2 An employee executes all reasonable instructions by persons officially assigned to give them, provided these are not contrary to the provisions of the constitution and/or any other law.

4.3.3 An employer must refrain from favouring relatives and friends in work related activities and must never abuse his/her authority.

4.3.6 An employee must deal fairly, professionally and equitably with other employees, irrespective of race, gender, ethnic or social origin, colour, sexual orientation, age, disability, religion, political persuasion, conscience, belief, culture or language.

If an employee's right is affected in any way, employees may utilize the dispute resolutions mechanisms provided for in the Public Service Act, Public Service Regulations and the Labour Relations Act 66 of 1995 ("LRA") or may approach the Constitutional Court, Supreme Court or the Public Protector for relief sought, depending on the circumstances.

4.4.6 An employee is required to recuse him/herself from any official action or decision making processes which may result in improper personal gain, and this should be properly declared by the employee.

The Code of Conduct Manual gives the following example:
If an employer serves in a selection panel responsible for the filling of a vacant post and discovers that one of his/her family members has applied for the post and has been short listed, such employee should excuse him/herself from the proceedings since he/she will not be able to remain objective. This should be declared in writing.

Overtime is defined in the policy as work performed in excess of the

ordinary working hours (08h00-16h30).

Scope of the Application of the overtime policy (Section 4 of Policy)

All employees (excluding senior management service employees) from salary levels 1 – 12 qualify for overtime remuneration provided they comply with the requirements set out in this policy to justify payment of overtime.

Compensation of overtime

Monthly compensation for overtime should constitute less than 30% of the employee's monthly salary. This percentage can only be exceeded if there is reasonable justification therefor.

No more than 3 hours a day and 10 hours per week of overtime can be claimed under this policy.

Non-remunerated overtime

With regard to non-remunerated overtime, in the event that there are budgetary constraints, managers are required to negotiate and agree,

• Advertising:

Filling of a vacant post may be done in one of the following manners:

The Presidency Recruitment and Selection Policy provides that the

Prevention of nepotism, favouritism and unfair discrimination

and generally prevent waste and inefficiency; and

minimise administrative burdens on both the employer and employee

Using the best human resources practices to maximise flexibility and

terms of its application. These principles include, inter-alia:

The Presidency Recruitment and Selection Policy is premised on

various principles which underline the policy and offers guidance in

Recruitment and Selection Policy") shall be referred to herein.

Selection Policy from the office of the Presidency ("the Presidency

of the Director-General, took place during 2011, the Recruitment and

the fact that the appointment of the majority of the staff, within the office

Department develops its own Recruitment and Selection Policy. Due to

Presidency, which policy, we were informed, has been utilised while the

dated and implemented on 17 December 2010 from the office of the

We were also furnished with the Recruitment and Selection Policy

have been recently developed and is unsigned by the Director-General.

The Recruitment and Selection Policy is dated April 2012. It seems to

The relevant manager where the vacancy exists shall be responsible for the appointment of the selection panel and that shall ensure that, amongst others, principles of transparency are adhered to and that a selection on merit is adhered to in order to ensure the appointment of the highest calibre of candidates, thus ensuring that the person selected among the other candidates is best suited on the basis of skills, knowledge, experience, abilities, personal attributes and the need to achieve a representative and diverse workforce. The relevant manager is also tasked with ensuring that consideration is taken of the requirements of the post, including the relevant experience, academic qualifications, knowledge, skills and the ability to acquire experience in a short space of time.

The selection panel and other members must each sign a declaration before each short-listing and interview process, stating that they have no vested interests in any of the short-listed candidates and that they will treat all discussions and decisions as highly confidential.

During the interview process, the panel must evaluate each candidate by using a scoring grid. Once this has been completed, the panel is then required to recommend the suitability of each candidate.

Unsuccessful applicants have the right to enquire why they had not been short-listed or appointed and may take the Office on administrative review. In such instances, the documented and

- Costs of property transfer.
-
- and
- Restrictions on the quantity and kind of personal effects covered;
- Maximum periods of compensation;
- Limits on expenditure;

including:

This Resolution, (clause 2 thereof), provides that an executive authority must establish and, where appropriate, negotiate written policies on resettlement,

Clause 4.2 of the Resolution provides that the employee shall agree in writing that should he/she leave the public service within one year or less after appointment, he/she shall repay the employer's expenditure for relocation.

- Sundry costs.
- Transfer fees on accommodation; and
- Travel expenses of dependant school children;

Ms Bhengu applied for the position on 4 January 2011. At the date of her application for the position of Director: Intersectoral and International Co-Ordination, she was employed by the Ministry for Women, Children and Person with Disabilities as a Senior Manager: Content Support, Flagship and Special Programmes.

HR Management.

International Co-ordination to Employee Wellness Programme in requesting an internal lateral transfer from Intersectoral and Director: Intersectoral co-ordination) dated 10 January 2012, - A letter from Ms Bhengu to Ms Nchedi Maphokga Moripe (Chief

University of South Africa;

- an as yet incomplete, BA Public Service and Social Sciences degree for which, we understand, she is registered at the

obtained in 1991 at Chris Hani Baragwanth Nursing College);

- a diploma in nursing and midwifery with four years experience

Ms Bhengu's qualifications on file are as follows:

is generally not suitable for the role required for this position.

10 and 11 May 2011. The crux of the report was that Ms Bhengu

- An Assessment Report by Resolve Group (Dr Liezel Korf) dated

It is noted that whilst the abovementioned memorandum refers to seven candidates who were shortlisted, only five names are reflected in the memorandum. The memorandum for the approval of the appointments of Ms N. Tyolwana, Mr F. Seseinyane and Ms N.E. Bhengu to the three vacant advertised posts of Director: Intersectoral and International Co-ordination was sent two days after the interviews and prior to the assessment report by the Resolve Group.

The panel for the interviews comprised of:

- Dr N.O. Mkhize: Director-General: DWCPD – Chairperson
- Mr T. Moloi: Director: Organisational Development – Panel member
- Ms R. Reddy: Director: Policy and Planning – Panel member

The competencies to identify a suitable candidate for appointment were listed as follows:

- Strategic Management and leadership capabilities.
- Knowledge of the intersectoral and international co-ordination.

• **MS N. BHENGU**

Qualifications:

Matric 1984;

National Diploma – Nursing

Current position: Senior Manager – DWCPD

The candidates who were on the short list and interviewed but not

recommended by the panel were:

• **MS ELIZABETH LEEUW**

Qualifications:

Matric 1985;

BA Administration 1992;

Post graduate in Diploma Marketing 2000;

International Relations – 2004.

Current position: Deputy Director – Department of Minerals

and Energy

• **MR PRADEEP MAHARAJ**

Qualifications:

Bachelors of Arts in political science (1990);

Masters of Science in project management (2004);

LLB (2009)

Current position: Department of international relations and co-

operation – Desk officer.

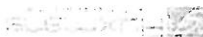
3. Mr Mabasa was appointed on a contract basis for a period of 6 months from 1 April 2011 to 30 September 2011 in the post of Director: Facilities Management and paid remuneration commensurate with directorship status. This had the effect that his salary was reduced, from salary level 14 (Chief of Staff: Ministerial Services) to level 13 (Director: Facilities Management). His main

2. Due to a cabinet re-shuffle in 2010 the contract was extended to 31 March 2011 and he was deployed to the Corporate Management Branch where his skills were required whilst the Department was finalizing its organisational structure.

1. Mr Mabasa was appointed on 8 June 2009 as Chief of Staff: Ministerial Services on a contract linked to the term of office of the former Minister of Women, Children and People with disabilities.

In a letter addressed to the Director-General regarding the absorption of Mr M.S Mabasa in the "fixed establishment" of the Department, the following is stated:

- Director-General: Dr N. Mkhize
- Deputy Director-General: Corporate Management – Adv NM Mabasa
- Chief Director: Resource Management – Mr Shiviti



Grade 12 (1975);

Certificate program in Industrial Relations – Wits business School

(1989-1990)

Mr. Mabasa's experience:

Previous employment – FAWU Gauteng Province;

Provincial Organiser (1 May 2007 to current);

National Adult Education Co-ordinator (1999 -2004);

Nestle South Africa – shop steward (1983 – 1999).

There appears to be no basis for the appointment of Mr. MS Mabasa on a six month contract period to the vacant post of Director: Facilities Management after his contract expired on 31 March 2011 or otherwise. He has no qualifications/experience for the position of Director: Facilities Management.

The position of Director: Facilities Management reports to the Chief Director: Resource Management.

In terms of the organogram dated 26 November 2010, the function of the Directorate Facilities Management is to render facilities management service functions, which include:

1. The development of a system for cleaning, repairs and maintenance facilities.

directly to Phillie Shange, with whom he allegedly has a personal relationship. There are allegations that they have children together and live together in Wonderboom.

The anonymous letter questioned Mr. Hlela's qualifications, experience for the position; and his relationship with Ms Shange vis-a-vis the fact that he reports directly to Ms Shange, with whom he allegedly has a personal relationship.

Contents of file:

Mr. Mbuso Hlela accepted the position as Assistant to the Personal Secretary on 3 June 2011 and assumed duty on 6 June 2011 on a salary level 9 – R206 982.00 per annum.

The post was advertised in the PSVC reference number: 14/37 – closing dates for the applications was 15 April 2011.

The panellists for the short-listing and interviews for this position comprised of:

- Mr. S. Mabasa – Director, Facilities Management.

[NOTE: We are concerned that he was a panellist as at 9 May 2011 when he was not permanently employed and was merely rendering his services on a fixed term contract]

The interviews were conducted on 06 May 2011. On 05 May 2011 an internal memorandum was sent from the Presidency (Mr Isaac Photo-internal security) to the Human Resource Management Department regarding security screening results. The memorandum confirms that security screening was conducted on Mr Hlela while there was no security screening on the other 2 shortlisted candidates. The request for screening and the results were obtained prior to the interview process and the recommendation by the panel on 06 May 2011.

We have been informed that a security screening of the shortlisted candidates would be done on the recommended candidates after the interviews have been conducted. In the event of an appointment required to be undertaken as a matter of urgency the security screening on all the short-listed candidates would be done prior to the interviews in order to expedite the recruitment process. What seems strange is the fact that Mr. Hlela is the only candidate whose security screening was done and this was done before the interview process began. This suggests that the other two candidates were not legitimately considered as candidates for this position, or certainly were not subjected to the same process as that to which Mr Hlela was.

We only had sight of Mr Hlela's curriculum vitae not those of the other two applicants and as such we were unable to draw the necessary comparisons in relation to work experience.

There are overtime claims for this employee for August 2011, November 2011. The overtime registers are not signed on the relevant dates by the supervisor. These forms are only signed at the end of the month by the employee and MS Shange.

On 28 July 2011 an internal memo was sent to the Manager: Human Resources Management to request payment of overtime on the grounds that Mr. Hlela is sometimes requested to perform official duties outside of normal working hours, on weekends and public holidays.

R180 000.00 was proposed to be approved for the 2011/2012 financial year. This was recommended by Ms V. Mathobela, and approved by Ms Bahumi Matebesi, the CFO.

The overtime register gives no indication of the reason why the overtime was worked, while in the office of the premier in KZN, where Mr. Hlela was previously employed, his overtime register sets out details and reasons why overtime was worked. There does not appear to be sufficient reason why he should not have motivated the working of overtime. We have been unable to establish the factual basis upon which the overtime of R180 000.00 was approved as a blanket amount, in the first instance or secondly the reasons for such overtime having being worked.



Mr Hlongwa accepted the offer of employment / transfer as Director: Research and Policy Development on 13 May 2011 at salary level 13 and assumed duty in this position on 1 June 2011.

Contents of file:

Security screening results were sent to the Department from the Presidency (Mr Isaac Photo – Director: Internal Security) on 10 May 2011. These results are not signed by Mr Photo but are signed per procurationem ("pp'd").

Qualifications:

Matric with university exemption (1997);

Bachelor of social science (University of Natal – 2000);

Bachelor or social science (honours) university of Natal (2001)

The requirements for the position in terms of advertisement were:

Relevant degree / national diploma, three to five years' experience (three years supervisory capacity);

Knowledge and understanding of government prescripts, hands-on research knowledge, excellent statistical analytical, innovative thinking, qualities and skills. Knowledge of protocol, interpersonal relations,

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The panel recommended Mr. Hlongwa as being the most suitable candidate for the post.

The assessment report on Mr. Hlongwa was seemingly completed by one, Thandi Mvakali, apparently a psychologist on 21 April 2011, however, this report is not signed

MS S. PILLAY

4.5

Ms S Pillay was appointed to the position of Director: Monitoring and Evaluation Disabilities

Contents of file:

Ms Pillay accepted an offer of employment / transfer as Director: Research and Policy Development on 13 May 2011

Ms Pillay assumed duty in this position on 1 June 2011 at a salary level 13

Qualifications:

Matric 1991;

Bachelor of Arts (BA) (1994) university of Durban – Westville;



- Dr N Mkhize – Director - General
- Mr T Moloi – Chief Director
- Ms R Reddy – Director

[NOTE: It is unclear from the personnel file whether any other candidates were interviewed for the position of Director. Monitoring and Evaluation and whether this position was advertised. If not, it may be in contravention of the Public Service Act and the recruitment policy].

Ms EN Bhengu was appointed to the position of Intersectoral and International Co-Ordination effective 1 June 2011. In the memorandum for the motivation for the appointment of Ms Pillay to Director: Monitoring and Evaluating, it is stated that Ms Pillay was interviewed on 15 and 26 April for position of Director Intersectoral and International Co-Ordination. However on perusal of the memorandum in support of the appointment of Ms Bhengu to that position dated 28 April 2011, Ms Pillay's name is not listed on the shortlist and is not itemised as one of the candidates interviewed for the position of Director: Intersectoral and International Co-Ordination. This in itself is irregular.

The motivation and recommendation signed on 26 May 2011 by:

The requirements for the position:

3 year degree/diploma (or equivalent qualification at NQF level) and 3 years' experience or senior certificate and 5 years proven relevant experience in communication. We have not had sight of the actual advertisement placed.

Duties and functions of the position include:

Assume responsibilities for providing administrative support to the unit, set up and maintain effective and efficient systems to co-ordinate the work flow, document management of the unit, assist with the compilation of reports and documents for the unit, assist with sectorial research as required.

The shortlist of the candidates was done on 3 May 2011.

An additional selection criterion appears to be added to the shortlist document (in a different handwriting) incorporating a senior certificate and 5 years' experience.

Management, B Tech Management;

National Diploma: Public Management, B administration qualifications.

Despite their qualifications all the remaining shortlisted candidates were determined not suitable for the position.

We are of the view that Mr Thompson should not have been appointed as he was the least suitable candidate.

There is a motivation on file to the Director-General for the request for the approval for the payment of the resettlement costs and daily allowance to Mr. Thompson.

The validity of the rationale behind the motivation in terms of the relocation and resettlement policy is in question. Mr Thompson was employed as a new appointee to the public service with effect from 1 June 2011. He resided with his sister in Midrand from 1 June 2011. He requested payment of relocation costs and a daily allowance.

No supporting documents are on file as proof of the costs incurred to justify the request for the subsistence and travel allowance.



Qualifications:

Grade 11;

Code 11 driver's licence;

The second candidate for this position, Mr. Poopedl, had the following

qualifications:

Grade 12;

Code 10 driver's licence and a PDP.

The requirements for the position in terms of advertisement were:

A post-matric qualification and three years' experience;

Good office management skills; make travel, accommodation and

logistical arrangements for meetings; deal with document management

of the Unit;

Assist with budgetary, procuring and planning actions of the Unit.

The Director-General was informed by Mrs Karlen Becker before the appointment of Nxele that he had a criminal record. Notwithstanding this, Mr. Nxele was appointed with the knowledge that he had a criminal record;

The Department is currently assisting Nxele to get his criminal record expunged;

It was discovered in Nxele's personnel file that two of his children have the same surname as the Director-General, however upon questioning Mr. Nxele on whether he or his children have any relationship with the Director-General, he answered in the negative.

There seems to be inflated hours of over-time claimed each month (especially on weekends) for example Mr. Nxele claims that he worked 82hrs30mins overtime in April 2011. Nxele also received a standby allowance for the months of April; May; June; August; September and November 2011. No reasons for the overtime worked are provided and the overtime time sheet was not approved and signed off by his manager on each day that the over time is worked.

PHILILE NHLAZEKO SHANGE

4.8

Contents of file:



stated that she does not live with Mr. Hlela. Ms Shange confirmed that she had known Mr. Hlela from the office of the Premier in Kwa-Zulu Natal however, she wished to record that they are not in a relationship as alleged in the letter.

Ms Shange was a panelist in the interview of Mr Hlela. It is concerning that, given the fact that Ms Shange had been acquainted with Mr. Hlela at the office of the Premier in Kwa-Zulu Natal, she did not refuse herself as a panelist in his interview.

LIZIWE KHESWA

4.9

Contents of file:

Ms Kheswa was appointed to the position of Administrative Officer at a salary Level 07 and assumed duty on 01 August 2011

Qualifications:

Bachelor Degree in social sciences from the University of Kwazulu-Natal;

Certificate in Project Management from Project Pro Consulted;

The requirements for the position in terms of advertisement were:



Post-Graduate diploma in marketing (2006);

Bachelor of Arts in Industrial Psychology (Honours-2009).

One of the requirements for the position of Human Resources Specialist: Talent Acquisition at Chief Directorate: Corporate Services, Strategy and operations Branch was a degree or diploma in Human Resources management, however, Maubane only has a Diploma in marketing management, which is of no relevance to this position.

In light of the above, it seems that certain employees are being transferred from other departments without the requisite skills to perform the functions of the position they are transferred to. This in itself is irregular and is, no doubt, resulting in inefficiencies in performance within the Department.

4.11

NONDUMISO MAOME

Mis Maome was appointed to the position Director of Legal Services at salary level: 13

The competencies to identify a suitable candidate for appointment were listed as follows:

Practical experience in the area of legal services;



Qualifications of the second preferred candidate, Ms Danaline Franzman:

Franzman:

Matric 1988;

Bachelor of Arts and LLB

LLM in Women's Rights: 2008;

International Diploma in Equal Status and Human Rights of Women

2004;

Certificate in Commercial law 2007;

Admitted attorney;

Experience of Ms Danaline Franzman:

Ms Franzman is currently engaged at the South African Human Rights

Commission in the position of Head of Legal Service Programme;

Ms Pienaar's score and comments on the scorecards of Maome and

Franzman reflect a poor result for Maome and an excellent result for

Franzman and her comments are motivated while the scores and

comments on the scorecards of the other panellists (Shiviti and

Maubane) are inconsistent with the qualifications and experience of the

candidates. Under these circumstances Maome received excellent

scores and comments from Shiviti and Maubane, which scores are not

The requirements for the position in terms of advertisement were:

Appropriate Bachelor's degree (or equivalent);

Relevant experience;

Driver's licence;

Qualifications:

National Diploma Accounting from the Technikon Witwatersrand;

Financial Accounting 2

Qualifications of second preferred candidate (Mzou Tsundu

Moyake):

Bachelor of Arts (1997);

Post-graduate diploma in management (1998);

Honours in public administration (2010)

Mr Magi does not have a Bachelor of Arts degree or equivalent and at

the time of his interview, he did not have the relevant experience;

Ms Lucia Ramshu who, at the time, was the acting Deputy Director:

Recruitment and Selection, pointed out that Mr Moyake (the second

preferred candidate) was the only person who met the requirements of

the job in terms of the advertisement. Ms Ramshu recommended that

the panel revisit the pool of applications and revisit the shortlisting

Dimbaza was paid resettlement costs from King Williams Town to

Pretoria. She stayed at the Premier Hotel in August 2011 and her stay

was extended for an additional month.

She was paid R85 100.65 for resettlement costs which included

furniture removal, kilometres travelled when she drove her motorvehicle

from King Williams Town to Pretoria, accommodation for two months at

the abovementioned hotel, shuttle from the airport to the hotel, flight to

Johannesburg and sundry costs. The hotel stay includes breakfast and

dinner as well as laundry services.

Although Ms Dimbaza confirmed that she provided the Human

Resources Department with all her slips reflecting all her expenditure as

a result of her relocation, the only proof of her expenditure on file is the

quotation accepted and approved from Stuttards in respect of

furniture removal in the amount of R2 280.00 as well as an

accommodation voucher to stay at Premier Hotel in Pretoria for 31

nights at R999 p/night, the total of which amounted to R30 969.00 (07

August 2011 – 07 September 2011):

Dimbaza earns a salary at level 07. The resettlement costs paid to Ms

Dimbaza amount to close to two thirds of her annual cost to the

Department.

NOMALANGA TUKESHE

4.14

It must be noted that the investigation resulted in the interview of a number of employees of the Department after perusal of policies and procedures as well as the perusal of personnel files in respect of the employees whose names emerged from the letter and during the investigation. The investigation did not lead us to peruse each and every personnel file of employees employed within the Department and accordingly there may be further irregularities in other appointments which we had not investigated as this did not fall within the ambit of our instruction.

The following individuals were interviewed on 24, 25 May 2012, 04 June 2012 and 02 July 2012.

- Ms R. Reddy;
- Ms C. Maubane;
- Ms. P. Shange;
- Ms V. Mathobela;
- Mr M. Hlela;
- Mr S. Mabasas;
- Ms M. Makgoe;



interviews, we were unable to interview her during the course of this investigation. However, a degree of negligence can be attributed to her on the basis that she is the responsible person in respect of the finances of the Department.

Emanating from the investigation, the findings we have made are as follows:

5.1 ALLEGATIONS CONTAINED IN THE LETTER

5.1.1 With regard to the allegations regarding the relationship between Ms NP Shange and Mr. M Hlela, we have not been able to

establish whether there is merit in the allegation that they are romantically involved in a relationship and whether they have children together. What did transpire through the investigation is that Ms NP Shange and Mr. Hlela did have a friendship and working relationship at the office of the Premier in Kwa-Zulu Natal and continue to have such a relationship in the office of the Director-General. Further, Mr Hlela was not the most suitable candidate for his position to which he was appointed.

5.1.2 In relation to Ms N Bhengu and the position of Director: HIV and AIDS, it was discovered after interviewing Ms Bhengu that there is no such position within the structure of the Department. Ms

- Positions advertised with specific criteria not being met;
- Employees have been found by the panel to meet the criteria as advertised despite the fact that in a number of

of, inter-alia, the following:

5.2.4 The recruitment processes are of significant concern in respect

5.2.3 It would appear as if there has been negligence in filling the positions in respect of the support functions and not the core functions. It is suggested that the support functions be restructured to streamline and maximise skills and save costs.

Department.

5.2.2 Given the budget constraints, it would appear that given the vacancies within the core units, the units lack skills in competencies and accordingly it is affecting the Department in the delivery of its mandates. We have been advised that there are insufficient funds to fill those vacant positions which are central and integral to the effective functioning of the

the positions in respect of the support functions (Human Resources, Finance, Strategic Management, Policy in Resource, Intersectoral) appear to be filled.

We have been informed that it was in fact a requirement for such employees to formally apply for positions through the ordinary recruitment process and that they had to meet the job requirements in order to be appointed. As stated above, these two (2) employees were not the most suitable candidates for the positions to which they were appointed.

- Simphiwe Mabasa.

- Nonhlanhla Bhengu; and

appointments include:

We are informed that after the reshuffling of the Ministers in all of the government departments, it was agreed between the Honourable Minister Xingwana and the Director-General, Dr. Nonhlanhla Mkhize, that the employees whose contracts were linked to the term of office of the former Minister would, in the spirit of Ubuntu, be extended with the intention of retaining those employees who showed an interest in remaining in the employ of the Department. A number of employees were duly absorbed or given preference and/or transferred into the Department in accordance with the aforementioned agreement. These

5.2.5

the Director-General;

- Mbuso Hlela: Assistant to the Private Secretary; Office of

- it would appear as if the Department created a precedent of employing individuals on a contractual basis (as we are advised that the Department is not required to comply with the recruitment policies and Public Service Act when appointing contract staff). In doing so, and when the positions are advertised, the individual who has been performing the position on contract is often motivated for the position on the

view, of little value;

- The memoranda to the Director-General are signed by employees who have not been party to the panel and the recommendation. Accordingly those signatures are, in our

alleged recommended candidate;

- In the absence of this signed declaration, memoranda in motivation of the recommended candidates were drafted and despatched by Human Resources. We have been advised in a number of instances that the recommendation made by the panel was not correctly reflected in the memorandum sent to the Director-General in motivation for the appointment of the

listed hereinabove.

precedent of this document we were only able to locate this document in some of the files in respect of those employees

- A number of the positions advertised, have been vacant in excess of six months prior to the commencement of the interview process. The Presidency Recruitment and Selection Policy requires an advertised position to be filled within twelve months of it becoming vacant, however we believe that twelve months to fill a vacant position is excessive and

- Panellists who have been involved in the recruitment process appear to have entered the process with little or no understanding of the criteria and the position which is under consideration during the interview process.

- The fact that certain individuals are employed in positions for which they are not suitably skilled or qualified and are being remunerated at salary levels not commensurate with their skills, qualification and experience is an unnecessary drain on the resources of the Department in instances where the individuals are unable and incapable of delivering. This is also a significant breach of the Public Finance Management Act ("the PFMA").

opened up the flood gates for possible review applications being brought against the Department by affected candidates and/or applicants who were not appointed as a result of the appointment of the abovementioned individuals.

5.3.2 The above positions are not particularly specialised or exceptional to justify the appointment of people outside of the Province. Candidates with these skills could have easily been sourced within the Province. Such expenditure on relocation costs for lower level positions cannot be justified.

5.3.3 We were informed that relocation fees are paid to government employees who are transferred between provinces and that the relocation fees are paid in accordance with a set formula which is calculated mechanically. These relocation fees are then paid to the relevant employee irrespective of the actual amount spent on relocation. In certain instances set out above, relocation costs are similar to the cost annualised package paid to the employees which, in our view, cannot be justified or justifiable. During the interview process, attempts were made to justify the appointment of individuals outside of the province which resulted in the high relocation costs, on the grounds that Government cannot be seen to discriminate against individuals who reside outside of the particular province.

OVERTIME

5.4 There appears to have been a clear abuse of overtime, once again draining the budget of the Department. This is as result of

5.4.1

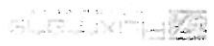
5.4

5.6.1 It is clear that the use of the funds allocated to the Department have been depleted as unnecessary and reckless expenditure has been incurred with regards to the payment of extraordinary overtime claims, relocation costs, salary increases and the appointment and remuneration of unqualified personnel.

5.6 ALLOCATION AND USE OF DEPARTMENT FUNDS

5.5.2 The inherent risks to the Department in consequence of this are glaring.

responsibility leave, annual leave and study leave; when employees were expected back from sick leave, family the Human Resources Department did not have any idea as to regard it became clear during the period of our investigation that leave, family responsibility leave and annual leave. In this specifically in relation to the monitoring of sick leave, study which perpetuates the lack of control. There is a lack of control units and does not take accountability for its lack of involvement not to be providing the necessary support to the various core labour legislation. The Human Resources Department appears management to ensure fair and reasonable compliance with any, implementation of progressive discipline and performance reasonably expected of them. There appears to be very little, if





agreement containing a "work-back" and/or "pay-back" clause therein.

5.6.3 Ultimate responsibility of the budget and finances of the department lie with the Finance Department which is guided by the Public Finance Management Act 1 of 1999 ("Public Finance Management Act"). It is our view that there has been a gross neglect of these duties and non-compliance with the Public Finance Management Act.

6. RECOMMENDATIONS

In light of the aforementioned we recommend the following:

6.1 Structure

The entire structure of the Department and all positions currently filled, should be carefully scrutinized and analysed to ensure the maximising of skills and minimising of costs which may result in a restructure of the Department;

6.2 Overtime

serve to alert the Human Resources Department of any employees who have not attended the workplace and have not applied for annual leave, sick leave, study leave and/or family responsibility leave. This will serve to curb any abuse of overtime and leave procedures provided it is properly monitored.

Salary Levels

6.3

It is evident that a number of employees have been employed at salary levels which may be commensurate with the position that they occupy, however, is not commensurate with their qualifications and experience as a result of their irregular appointment into that position. As such, a freeze should be placed on annual increments and bonuses in respect of those positions.

Recruitment

6.4

The recruitment policies need to be compiled with in accordance with the provisions of the Public Service Act. Any deviations should result in disciplinary action taken against those employees involved in the recruitment process. Employees involved in the interview process need to be properly informed as to the requirements of the position (as per the advertisements) and have a proper understanding of what the position encompasses.

province to obtain employment in the public service as most of the governmental departments are situated in Pretoria. Given the above motivation for incurring relocations costs for lower level employees, we do not believe that this motivation suffices to justify the payment of relocation costs amounting close to two thirds of an employee's annual salary (which includes meals and laundry expenses). In the event that the relocation of a particular employee is essential, the relocation costs should be minimised as far as possible. The Department cannot be expected to fund the entire relocation costs of the employee as has been the case in this Department. Relocating employees should also bear some of the costs of relocation.

HR Support Policies and Procedures

The Human Resources Department needs to have a firm control of the Human Resources within the Department and must provide the necessary support to the various units ensuring that progressive discipline is adhered to and that there is due compliance with all policies and procedures.

There is a glaring gap in the filing of proper records within the Department. To this end, the Department should implement an active and diligent system of filing records for proper audit purposes in order to assist the Department with regards to any

6.6.2

6.6.1

6.6

it is our recommendation that the following employees have been, at least, grossly negligent in respect of the execution of their duties and their involvement in the recruitment process as well as in respect of the approval of overtime and the apportionment of the funds and should be disciplined.

- Mr. M Shiviti;

- Ms C Maubane;

- Mrs P Shange;

- Mr. S Mabasa;

- Mr. S Mashiloane;

- Ms V Mathobela (overtime);

- Ms Bahumi Matebesi (CFO);

- Dr. N Mkhize (overall responsibility to oversee the functions of the Department).