



PUBLIC PROTECTOR
SOUTH AFRICA

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17 July 2017

Mr Vusithemba Ndimba
Acting Director General
Department of Arts and Culture
Private Bag X897
Pretoria
0001

Dear Acting Director General, Mr Ndimba

**INVESTIGATION INTO ALLEGATIONS OF UNDUE DELAY OR FAILURE TO
RESPOND AND ADDRESS THE CONCERNS RAISED BY THE SOUTH AFRICAN
ROADIES ASSOCIATION'S COMMUNICATION AND THE CONCEALMENT OF
THE REPORT BY THE DEPARTMENT OF ARTS AND CULTURE**

1. Kindly note that the Office of the Public Protector has received a complaint from Mr Freddie Nyathela (Complainant), the President of the South African Roadies Association (SARA), requesting that we investigate allegations of undue delay and/or failure to respond and address the concerns raised by SARA's

communication and the Concealment of the Report by the Department of Arts and Culture (DAC).

2. The investigation into the matter concerned is conducted in terms of Section 182 (1) of the Constitution of the Republic of South Africa, 1996 read with Sections 6 and 7 of the Public Protector Act, 1994 (Act 23 of 1994).

3. In essence, the allegations against the Department are *inter alia* the following:

3.1 **Allegations of undue delay or failure to respond and address the concerns raised by SARA to the Department of Arts and Culture, in relation to SARA's communication to the Department dated 11 August 2016, regarding Backstage Skills Academy South Africa initiative;**

3.1.1 In this regard the Complainant alleges that on 11 August 2016 SARA sent Communication to the Department to which to date the Department has not responded to the following enquiry: (The communication referred to herein is attached as Annexure A)

3.1.1.1 *"Why are all the technical and production reports and strategies not being made public or even provided to the industry participants?"*

3.1.1.2 *Why is DAC senior officials want to continue and insist to dictate to the industry players about the industry, when the Honourable Minister Mthethwa has advised clearly in his speech at the LETPC, on Thursday 14 May 2015? That the sector will be unwilling to witness or permit anything that undermines technical skills training ...?*

3.1.1.3 *Why is the DAC hiding the Technical and Production reports (2009 and 2015), which were commissioned by the DAC?*

3.1.1.4 *SARA disputes that there was an updated on the status of the November 2015 report presented at the 1st LETPC 2015, if so who from DAC provided the update and could the DAC provide evidence in this regard.*

3.1.1.5 *Why is the DAC incorporating the findings of the 2009 Task Team in the deliverables of the strategy, when the same 2009 report has been kept secretly till to date by the DAC, including the November 2015 report?"*

3.1.2 The Complainant avers that several follow ups have been made by SARA to the Department and there was no response which was provided in this regard.

3.1.3 Furthermore, the Complainant alleges that senior officials of the Department have been presenting false and untrue statements to Parliament about SARA, however, SARA has lodged a complaint to Parliament.

3.2 Allegations of undue delay or failure to respond to SARA challenging the Forensic Report produced by the Department of Arts and Culture and signed by Minister, Mr Nathi Mthethwa;

3.2.1 The Department appointed a Forensic Company named Business Innovations Group (Pty) Ltd (BIG) to conduct an investigation into the allegations brought by SARA against the National Arts Council (NAC).

3.2.2 However, upon release of the investigation report, it was not shared with the Complainant in its entirety.

3.2.3 The Complainant further alleges that the report does not fully address their complaint, meaning that there was information which was concealed either by the Department or by BIG.

3.2.4 SARA disputes the procedure which was followed by the NAC and the findings in the report provided by DAC.

3.2.5 The Complainant avers further that the CEO did not declare that she had previously worked with Mr Andries Dippenaar, a Forensic and Corruption Audit Investigator from BIG, a service provider appointed by the Department of Arts and Culture to conduct an investigation at the NAC in connection with SARA's complaint.

3.3 Allegations of the Department of Arts and Culture Concealment of the Final Forensic Report by the Business Innovation Group (Pty) Ltd.

3.3.1 The Complainant avers that the Department failed to provide SARA with a copy of the final forensic report by BIG.

4. To assist the Public Protector in determining whether there are grounds in the allegations lodged with the office, we would appreciate it if you could kindly respond to all the above allegations and provide the office with the following documentation and any information that may assist in this regard.

4.1 Did the Department receive the above mentioned questions from SARA and fail to respond and acknowledge receipt? If the answer to this question is in the affirmative, kindly provide the Public Protector with the reasons for the Department's failure to address the questions from SARA.

4.2 If the answer to the above is negative, kindly provide the Public Protector with the copies of the response provided to SARA.

4.3 Further provide the Public Protector with copies of all the response provided to Parliament in respect of SARA, including supporting documentary proof in substantiation of the reports.

4.4 Whether the Department failed to provide a response to SARA when they challenged the Forensic Report? If the answer to this question is in the affirmative, kindly provide the Public Protector with the reasons for the Department's failure to address the appeal from SARA.

4.5 If the answer to the above is negative, kindly provide the Public Protector with the copies of the response provided to SARA.

4.6 Further provide a copy of the Final Forensic Report by Business Innovations Group (Pty) Ltd in connection with an investigation into the allegations brought by SARA against the National Arts Council (NAC) signed by the Minister.

- 4.7 Further indicate if the Department was aware of the conflict of interest between Mr Andries Dippenaar, a Forensic and Corruption Audit Investigator from BIG and the CEO of NAC? If so, kindly provide a copy of declaration from both parties (the CEO and Mr Andries Dippenaar).
5. The Public Protector would be pleased if you could kindly acknowledge receipt of this letter upon receiving it, and furnish the office with the requested information and documentation at your earliest convenience, but no later than 08 August 2017 to enable us to conclude the investigation timeously.
6. We look forward to hearing from you.

Kind regards,



PFUNZO MHELEMBE
SENIOR INVESTIGATOR: GOOD
GOVERNANCE & INTEGRITY
PRETORIA

From: Freddie Nyathela
Sent: 11 August 2016 08:21 PM
To: Vusithemba Ndimba
Cc: 'Monica Newton'; 'Charles Mabaso'; 'Leonah Smith'; 'Sibongile Besani'; 'Mandla Mthembu'; 'Nompumelelo Victoria Mbebe-Johnson'; 'EneedK@dac.gov.za'; 'Sipho Ndlovu'; 'Given Mditshwa'; Training; Operations; Accounts; 'Ajabulile Mtiya'; 'Vera Magadana'; 'jmahlangu@parliament.gov.za'; 'xtom@parliament.gov.za'
Subject: "URGENT....URGENT....URGENT" RE: Response to SARA Backstage Skills Academy Proposal

Dear Acting Director-General Ndimba,

Your attached letter received from Mr Collen Hlatshwayo today 11 August 2016 at 04:02 PM, and the communication thread below and attached refers.

Please note that your attached letter is full of omissions, dishonest statement and not responding to SARA's questions in the below communication dated 28 July 2016 at 07:57 PM.

1. The DAC has never genuinely supported the Technical and Production sector, even the support for Africa's first ever Live Event Technical and Production Conference (LETPC), was only supported because of the intervention of the Honourable Minister Mthethwa and the former Chief of Staff Mr Nicholas Maweni- fact.

The DAC continues to choke the transformation process, which is facilitated by the Department of Trade and Industry, see attachment- communication from the DTI to the DAC regarding this critical matter

SARA asks again

Why are all the Technical and Production reports and strategies not being made public or even provided to the industry (players) participants?

Why is DAC senior officials want to continue and insist to dictate to the industry players about the industry, when the Honourable Minister Mthethwa has advised clearly as follows in his speech at the LETPC, on THURSDAY 14th MAY 2015?

"In fact, this gathering marks a turning point in that the sector will be unwilling to witness or permit anything that undermines technical skills training and development for world class education and qualifications."

"We have reached this point where you, as a sector, will be seen to be taking your fate and future into your own hands."

2. The DAC has and is still failing the Technical and Production sector, by also choking even to facilitate support for the sector (working strategy) with CATHSSETA, the DTI, including the bilateral agreements.

SARA asks again

Why is the DAC hiding the Technical and Production reports (2009 and 2015), which were commissioned by the DAC?

It is **Lies...** pathological **lies**, no update on the status of the November 2015 report was ever presented at the 1st LETPC 2015.

Who from the DAC provided the update and could the DAC provide evidence regarding this update?

Why is the DAC incorporating the findings of the 2009 Task Team in the deliverables of the so called strategy, when the same 2009 report has been kept secretly till to date by the DAC, including the November 2015 report??

presented by who from the DAC and why it not even captured in the report of the LETPC 2015 report, which SARA submitted to the DAC???

3. This confirms the arrogance, bully and disgusting conduct by senior officials of the DAC, to continue to choke transformation and skills development in the sector and the DAC following words confirms that.

"The DAC approved the report and incorporated its findings and recommendations into the current Events Technical and Production Services Strategy"

Why the DAC did not even bother to engage the industry players or even communicate about this mentioned process??? Bully, Dishonesty and Disgusting-perpetuation of pre 1994 Agenda.

4. Please note that this response is viewed by SARA as a continuation by DAC senior officials to choke transformation and skills development in the sector making up excuses, just to make sure that the African Children are not exposed and empowered with these scarce and critical "Technical and Production" skills and knowledge, just to perpetuate the pre 1994 agenda and to make sure that African Children "remain hewers of wood and drawers of water". Fact.

The fact and truth of this matter is that; SARA is the only accredited training organisation in South Africa and beyond, to deliver the Live Event Technical and Production Qualification training for more than 15 years with the SETA's, with a great and unmatched track record and outcomes/deliverables, which the DAC cannot match, especially when it comes to youth empowerment and opportunities.

Please also note below the following recommendations of the LETPC 2015

- NQF upgrade
- Skills needs analysis forecast
- Increase integration and transformation across sector

- A training centre (Academy) for the sector.

The Department has failed dismally to address and support skills problems in the sector, even when the department is participating (involved) with CATHSSETA and other so called stakeholders- fact.

Please also note again, that the Backstage Skills Academy South Africa is a must have, especially to urgently address critical issues of Transformation and Skills Development in a White male dominated industry, and this great initiative is also supported by the industry players, including the Associations of employers (companies) in the sector- see attached letter, which was submitted to the DAC- fact.

5. It is another fact; that DAC has under-spent for the past 21 years and has wasteful expenditure and corruption, which is stated in all the previous Auditor-General Reports.

As mentioned; the so called "Mzansi Golden Economy" MGE, is an initiative of the DDG Monica Newton and her friend, which then she consulting for the DAC before she was appointed as the CEO of the NAC and the DDG of the DAC- fact.

6. The sector "Technical and Production" have Professional Associations and industry bodies i.e. Technical Production Services Association (TPSA) and Southern African Communications Industries Association (SACIA), including SARA as the only accredited training organisation, which is black owned and run, appreciated all over the world.

Fact: the DAC senior officials are driven by jealousy, animosity and personalization of issues of national interest, just continue to choke transformation and skills development initiatives, especially those instigated by SARA.

Another **Lies**; no interim committee was set up at the LETPC 2016 *"to ensure that the work continues and to engage with government, including the DAC, DTI and other departments so that the sector as a whole is engaged in collective development"*

The only and genuine industry structure; is the "Transformation Forum" which has been facilitated by the DTI, to ensure that the Transformation work continues and to engage with government, including the DTI, and which the DAC is only verbally supporting, that is why it is omitted in the attached DAC nonsensical letter.

Please note that SARA is stating the truth nothing else..... not making any inaccurate and disrespectful statements or accusations about the DAC officials.

It is also a fact; that DAC senior officials continue to **Lie**, just to frustrate and choke genuine transformation and skills development in this Lilly White industry and SARA looks forward to the appropriate forum to address such dishonesty directly

Ps Racism and double standards at play.... inside the DAC, totally against Transformation and SARA can substantiate this treacherous and **evil** conduct.

SARA looks forward to hear from the DAC soon

Please advise any questions

Sincerely

Freddie Nyathela

President

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