

PRESENTATION FROM COUNCIL TO THE PORTFOLIO COMMITTEE ON HIGHER EDUCATION AND TRAINING

PORTFOLIO COMMITTEE MATTERS	COUNCIL RESPONSE
<p>1. Role of Council in terms of 27 of the Higher Education Act</p>	<p>1.1 Legal and statutory functions of Council</p> <p>The Council of the Cape Peninsula University of Technology (CPUT), is established in terms of, and its functions prescribed in Section 27 of the Higher Education Act, Act 101 of 1997 (as amended) supplemented by Section 17 of the CPUT Statute (gazette on 17 May 2010, No. 33202.</p> <p>Council, as the highest governance authority of this University, must exercise its powers and perform its functions in an open, transparent and accountable manner.</p> <p>In order to ensure that Council exercises its powers and performing its functions, a Council member must at all times:-</p> <ul style="list-style-type: none"> i. serve the interests of the University and its staff, students and the public at large with the highest degree of integrity, objectivity, equity, fairness and ethically as befitting persons appointed to such office; ii. enhance the public and reputational image of the University; and iii. support the Vice-Chancellor in his or her fulfilment of objectives and policies of the institution. <p>The extensive functions of Council are detailed in the Council Charter.</p>

1.2 Composition and membership

- i) The Council is constituted in line with Section 27 (4) of the Higher Education Act, Act 101 of 1997 (as amended) as well as Section 18 (1) of the CPUT Statute. As promulgated in the Sections 27 (6) and Section 18 (2) of the above legislations, respectively, 60% of Council are neither employees nor students of the University. Therefore the majority (60%) of Council members are external and the rest is made of executive managers and internal constituencies as contemplated in above mentioned legislations.
- ii) Although the Council comprises representatives who are elected, designated or appointed from various external and internal structures, it is a unitary structure, and not a constituency based one. The demographics of South Africa, including gender, youth and disability were considered in relation to the composition of the Council, as prescribed in the Policy on Appointment of Council members. The composition of the Council reflects the responsibilities that are vested in the Council and the duty that it has to discharge and perform as representative body of the interests of the University's stakeholders and relevant external stakeholders.
- iii) **Council members serve on voluntary basis, are not paid a salary nor Board fees, but a stipend to cover their incidental expenses.**

1.3 Council Committees

- i) The Council is authorised to establish committees, in which Council members play an important role, to assist it in the execution of its duties, powers and authorities. The Council delegates to each of the committees established, such authority as is required to enable such committees to fulfil their respective functions.
- ii) The Council has established the following Committees:
 - o Executive Committee;
 - o Human Resources Committee;
 - o Audit Committee and Risk Oversight Committee;
 - o Remuneration Committee;
 - o Physical Planning Committee;
 - o Finance Committee;
 - o Governance and Ethics Committee (one of the very few University who have this critical committee) that deals with ethical leadership and ethics generally;

- ICT Governance Committee;
- Search and Selection Committee for Senior Appointments.

iii) Each committee have formal terms of reference which shall be approved by the Council. The Chairperson of each committee reports back to the Council at least on a quarterly basis, on the deliberations of such committee in terms of general principles of transparency and full disclosure.

iv) Council committees and members are authorised to obtain independent outside professional advice as and when considered necessary. The Secretary of Council assists the Council committees and members in obtaining any such professional advice.

1.4 Meetings of Council and Council Committees

- i) Council and its committees are legislated to meet four times a year; once in each term/quarter.
- ii) However, during the years of student protests and turmoil in the University, Council convened more meetings to deal with the situation on campus and to bring stability, as follows:

2015

- 28 March – Council
- 05 June - Special Council
- 19 June - Strategic Planning
- 20 June - Council
- 05 September – Council
- 29 October - Special Council
- 27 November - Strategic Planning
- 28 November - Council

Total of 8 meeting out of 6 per year.

2016

- 11 January – Special Council
- 19 March – Council
- 08 April – Special Council
- 24 June – Council Strategic Planning
- 25 June - Council
- 08 July – Special Council
- 03 September – Council
- 28 September – Special Council
- 22 October – Special Council
- 26 November – Council

Total of 10 meetings out of 6 per year.

	<p>2017 20 January – Strategic Planning 13 March – Special Council 01 April – Council 23 June – Strategic Planning 24 June – Council 26 July – Special Council 02 September – Council 03 October – Special Council 23 October – Special Council 24 November – Strategic Planning 25 November - Council</p> <p>Total of 11 meeting out of possible 6 per year</p> <p>Therefore, in three (3) years, Council members attended a total of 29 meeting out of possible 18 meetings over a period of 3 years. It is also worth noting that:</p> <ol style="list-style-type: none"> 1. All the above meeting were quorate, including the special meeting called at short notice 2. All meetings were held on time, and special meetings different dates of the week depending on availability. Scheduled meetings on Saturdays. 3. Council members lost their leave days from their place of employment and for some, critical time for their businesses, in order to attend to the University business. 4. Council members were not paid for this extraordinary commitment besides the stipend that covers incidental expenses. 5. The majority of these meeting, particularly the special meeting were specifically convened to deal with the #feesmustfall student protest 6. The University, through the Council intervention, was able to conduct and finalise its academic activities every year. 7. All legally required reports such as Annual Report which includes the Audited Financial Statements signed off by auditors were completed and shared with Government via the Ministry of DHET as shareholder. Available and can be shared with Committee if requested, as these are public records. 8. For all these years, the University received unqualified Audit Reports.
<p>2. Leadership instability</p>	<p>2.1 False narrative of four Acting VCs within one year</p> <ol style="list-style-type: none"> i) The narrative that suggest that there were four (4) acting Vice-Chancellors within a period of a year is both factual incorrect and baseless. There were only two (2) acting Vice-Chancellor appointed by Council since the former VC was put on special leave, that is, from October 2016 until present, namely: <ol style="list-style-type: none"> a) Professor John Volmink: October 2016 to July 2017 b) Dr Chris Nhlapo: August 2017 until present.

- ii) Prof Louis Fourie who acting during October 2016, just before the former VC was put on special leave and before the appointment of Prof Volmink was appointed by the former VC. Prof Fourie's acting appointment was an arrangement made by the former VC since he was going to be out of office for a period of more than a week. Therefore, there were only two acting VCs appointed by Council; a body legislated to appoint a VC and an acting VC.
- iii) The Council resolution to appoint Dr Volmink as the acting VC was premised on the fact that the Deputy Vice-Chancellors were expected to witness in the disciplinary cases against the former VC either for the University or the former VC. Council therefore was avoiding a conflict of interest and wanted the DVCs to objectively participate in the disciplinary process. It should also be noted that Dr Volmink was asked to immediately step down as the Council member. Therefore, Dr Volmink never served the institution as an acting VC and Council member at the same time.

2.2. Former VC matter

- i) The former VC was put on special leave in October 2016 and the disciplinary process was initiated in January 2017 and concluded in September 2017 due to a number technicalities, legal and labour challenges.
- ii) The former VC resigned at the end of September 2017 after being found guilty of misconduct, but before the sanction was announced by the Chairperson of the DC.
- iii) Council closed this matter at its meeting held in November 2017 and the subsequent matters at the March 2018 meeting. The matter is therefore considered closed.

2.3 VC appointment process

- iv) When the office of the VC became vacant with effect from October 2017, Council set in motion the process of the appointment of a VC. The Project Plan was shared with the Portfolio Committee on Higher Education and Training.
- v) The advert has gone out during the weekend of 14-15 April 2018 and the process will be completed in August 2018 and the successful candidate may assume duties, earliest, by September 2018, and latest by 01 March 2019 depending on the availability. The date of 01 March 2019 is based on the fact that senior academics/management are normally required serve a notice period of six months.
- vi) There has been one acting VC (Dr Nhlapo) and this appointment is in place until the VC post is filled substantially. The advert for the post has gone through the approval process up to Council and the post was advertised, after consulting all the relevant structures.
- vii) The current acting VC (Dr Nhlapo) understands the Institution and has a profile that curbs the negativities in the system. He is building a good relationship with all stakeholders and the unions are starting to appreciate his engagements. He demonstrates evidence to be a good leader, and CPUT is fortunate to have him at this stage of the re-building of CPUT while the

	<p>post is being filled.</p> <p>2.4 Deputy Vice-Chancellors (next level of leadership in management)</p> <p>The University currently has three (3) Deputy Vice-Chancellors position and the following current incumbents have been in their positions since their appointments:</p> <ul style="list-style-type: none"> i) Prof Anthony Staak: DVC: Teaching and Learning: 2006 until present. ii) Dr Chris Nhlapo: DVC: Research, Innovation, Technology and Partnership: 2008 until present, but subsequently appointed as acting VC in August 2017 and Prof Marshall Sheldon (Dean of Engineering) appointed as acting DVC: RITP. iii) Prof Louis Fourie: DVC: Knowledge, Technology and Partnership: July 2014 until present (currently undergoing medical boarding).
<p>3. Filling of vacancies</p>	<p>Council is responsible for the appointment of all senior management (Grades 1 – 4), that is, Deans of Faculties and Executive managers. Since September 2014, Council has appointed the following incumbents in senior management position:</p> <ul style="list-style-type: none"> 1. Executive Director: Infrastructure Development and Facilities Management: Ms Sibusisiwe Sibanda: August 2015 to date 2. Executive Director: Office of the VC: Dr Octavia Mkhabela: August 2015 until she resigned in October 2017 3. Executive Director: Human Capital: Mr Monde Mondli: January 2017 – January 2017 4. Dean of Business and Management Sciences: Prof Paul Green: February 2018 to date 5. Dean of Engineering: Prof Marshall Sheldon: January 2018 to date (Prof Moll, Associate Dean: acting in this positions since Prof Sheldon is now the acting DVS: RITP). 6. Executive Director: Human Capital: Ms Amanda Glaeser: February 2018 to date 7. Acting Dean of Students: Mr Vuyisile Voyi: February 2018 to date (position is advertised) <p>Council has advertised the following positions:</p> <ul style="list-style-type: none"> 1. Vice-Chancellor: incumbent resigned in September 2017 and the position to be filled, earliest, in September 2018. 2. Deputy Vice-Chancellor: Teaching and Learning: incumbent retiring in December 2018 and the position to be filled in January 2018. 3. Dean of Students: incumbent resigned in February 2018 and the position to be filled September 2018 (earliest).
<p>4. Oversight on implementation of policies by management</p>	<p>In discharging its oversight, Council receives quarterly reports from the following structures:</p> <ul style="list-style-type: none"> 1. Senior management via the VC's Report and Council committee Reports. 2. Senate on academic matters. 3. Advice from the Institutional Forum, which is a stakeholder-based organisation. 4. Direct reports from stakeholders once the internal channels have been exhausted.

Council had intervened on the following matters that were either not implemented, partially implemented, incorrectly implemented or delayed by management:

- a) Internal controls and risk management measures on residences management, billing and collections of fees.
- b) Prioritisation of the appointment of the compliance and risk officers/managers.
- c) Interventions and measures to manager contracts and to hold service providers accountable through performance management clauses.
- d) The development and approval of a properly costed master Plan on maintenance of buildings, academic space and residence.
- e) Implementation of the 50% percentile to the median across the board without any conditions/requirements.
- f) Management to deal with perceived or potential corruption, fraudulent and unethical behaviours in residences, a decision that was reiterated at the March 2018 meeting.
- g) The development of a Student Accommodation Policy and complementary procedures, benchmarked against national and international norms, including, although not limited to, recommendations on what constitutes a student room, responsibilities of the University, responsibilities of the occupants, maintenance standards, etc.
- h) Corrective measures and consequential management of staff that were not performing to the acceptable standards in residence management and dealing with the culture of lack of accountability both from students and residence staff.
- i) Framework for cost-saving measures, including the items to be prioritised as well as the strategic objectives to be delivered and those that would be affected.
- j) Decision to top-up the salaries of cleaning, and gardens and grounds staff with effect from 01 September 2016.
- k) Failure to implement the Climate and Culture Survey results despite numerous decision and directives by Council Committees and Council on this matter.

Council therefore exercised its oversight responsibility by providing the necessary advice and guidance to the management on the above matters.

<p>5. Progress Made to address student and labour issues</p>	<p>The implementation of the Council decision is the responsibility of management. Council monitors and oversee progress made on the implementation of Council decision on stakeholder matters through the report of the VC and as well as escalation of matters to the Council by the relevant stakeholders.</p> <p>The following are the pertinent decision made by Council in respect of students and labour issues:</p> <p>5.1 Student matters</p> <p>a) Council meeting: 21 June 2014: Residences</p> <ul style="list-style-type: none"> i) A proper assessment for the state of student residences be conducted and a comprehensive report be compiled as speedily as possible; ii) The VC ensures that the shortcomings in the student residence were addressed; and iii) The VC takes corrective action against individual/s that was/were not performing to the acceptable standards in this area; iv) The VC develops a Student Accommodation Policy and complementary procedures, benchmarked against national and international norms, including, although not limited to, recommendations on what constitutes a student room, responsibilities of the University, responsibilities of the occupants, maintenance standards etc.; and v) The report on all above matters be presented at the September 2014 Council meeting. <p>The Strategy and Policy on Student Housing and Placement were developed by management in 2016 (two years later) and approved by Council on 25 June 2016. However, the challenge has been the implemented of the Strategy and Policy by management.</p> <p>b) Council meeting: 28 March 2015: Audit Findings on Residences</p> <p>Council noted with concern the Audit findings on Residences as well as the report from the AROC and resolved that:</p> <ul style="list-style-type: none"> i) The VC circulates to Council members within 14 days an Action Plan addressing the critical problems identified in the Audit Report on Residences, including, immediate (quick wins), short-term and long term intervention; ii) The Action Plan to include the responsible staff members for each action item, timelines and the budget requirements; iii) The Action Plan be accompanied by measures for accountability and consequential management; and iv) A Policy on Residence and/or Student Accommodation, which had been requested by Council on various occasions, be tabled at the June 2015 Council meeting via the relevant Council Committee; v) Council members conduct a visit to all Residences to determine the condition of student residences; vi) The Registrar determine the date in consultation with the Chairperson and VC for the visit to residences and coordinate such visits across all campuses; and
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- vii) A special meeting of Council be convened soon thereafter to consider the reports from various Council Task Teams who visited the residences.

This was the third of the Council members' in-loco inspection of residences since 2009 without some of the critical matters, conditions and maintenance issues being addresses. Since this was a recurring problem, Council had to get involved in operational matters.

c) Council meeting: 20 June 2015: Audit Findings on Residences

Council **endorsed** the recommendations that:

- i) The matter would remain on the AROC agenda as Residences and Security were highlighted as serious risks for the University;
- ii) AROC would provide the Residences Department with an opportunity to rectify the situation with the support of the internal auditors within certain timelines;
- iii) A security system be implemented at the Athlone Campus Residence;
- iv) An action plan with timeframes and the required financial resources be tabled at the Committee;
- v) The acting Dean: Student Affairs attend the next AROC meeting with a representative to assist with the reporting on the progress made with regard to the challenges highlighted in Residences to date; and
- vi) The VC ensure that the required financial resources be made available for the implementation of the Action Plan.

d) Council meeting: 27 November 2015: CPUT Residence Audit Findings and Action Plan

- i. the Physical Planning and Finance Committees would deal with the maintenance plan and timelines as well as the funding of plan respectively;
- ii. management to deal with the culture of lack of accountability both from the students and residence staff and inculcate positive behavioural changes on students; and
- iii. **management put in place measures to deal with perceived or potential corruption, fraudulent activities and unethical behaviours in residences.**

e) Council meeting: 28 September 2018: Stakeholder Engagement Report and Action Plan on student matters

Council resolved that the VC prepare and circulate to Council members a comprehensive Stakeholder Engagement Plan no later than Monday, 03 October 2016.

The above report was never provided to Council and was subsequently overtaken by events since the VC was put on special leave in October 2016.

f) Council meeting: 24 June 2017 : Residence Update

- i. Management prepares the following reports for consideration at the next Council meeting scheduled for 2 September 2017, via the relevant Committee: -
 - (a) a comprehensive Residence Management Strategic Implementation Plan with clear activities, responsible person and timelines, including how the existing problems such as residence occupancy, squatting, student safety and maintenance would be addressed in the residences;
 - (b) a progress report on the implementation of the 2014 Residence Action Plans on the Internal Audit finding, including the costs associated with the findings;
 - (c) the confirmation that Residence Strategy adhere to the National Norms and Standards; and
 - (d) A report on a consultative process with the SRC and the Infrastructure and Facilities Department on maintenance of residences.
- ii. A joint workshop between PPCC and SSCC members be arranged; where the EDs: Student Affairs and IDFM would present a consolidated report covering all infrastructural related issues, action plans with clear timelines to resolve the identified residence maintenance issues;
- iii. Management establish an Operational Maintenance Task Team chaired by the ED: IDFM to consider into all residence infrastructural and maintenance issues.

g) Council meeting: 02 September 2017: Residence Update

- i) unregistered people and rogue elements staying on CPUT residences must be removed immediately;
- ii) Management resolves all issues pertaining to student accommodation and residences as soon as possible to avoid student protest;
- iii) the total collapse of the Student Affairs Department must be immediately addressed by executive management with guidance and advise from the Human Resources Committee of Council;
- iv) the grievances and complaints from students against the Student Affairs leadership be thoroughly investigated and addressed by the acting VC; and
- v) the Student Affairs Division be capacitated with highly skilled and experienced staff members to provide the required and necessary services to students.

h) Council meeting: 02 September 2017: Student Disciplinary Process

- i) Management, with the support of the relevant stakeholders, do whatever was necessary to bring back the rule of law, restore the dignity of the University and to protect the staff, students and the public property;
- ii) management reactivate the student disciplinary code and charge the implicated students accordingly;
- iii) The Acting VC and the ED: IDFM draft a comprehensive factual report on the events that led to the disruption of the EXCO meeting convened on Friday, 18 August 2017

- iv) The above report to be supplemented by the complaint form and statements from witnesses; and
- v) A full enquiry be conducted to get to the bottom of the challenges experienced by the University over the past few years and determine the activities and incidents that led to the current situation on campus and all-time low point in the history of the University.

IF Advice on student ill-discipline: 02 September 2017

Council **endorsed** the following IF resolution in respect of Student ill-discipline, that:-

- i) Management, with the support of Council and other critical stakeholders, collectively and decisively deal with student violence and ill-discipline and bring to book those responsible for criminal activities, intimidation of staff and other students as well as vandalising of the public property;
- ii) Management root out the rogue elements among students, bring back the Rule of Law and reactivate the student disciplinary code and processes;
- iii) All university stakeholders to work hand in hand with Management to bring back normalcy within the University, restore its former glory and take it to new heights; and
- iv) Henceforth, the University only engage with legitimate and legislated student structures.

i) Council meeting: 27 November 2017: VC's Report

- i) Management, via the Student Affairs Division, implement awareness programmes to conscientise students about peaceful protests and the value of public property and the rights of others;
- ii) Management improves communication, branding and profiling of CPUT achievements and milestones;
- iii) Management makes every effort to ensure that those students that were found responsible for destruction of public property as well as intimidation of staff and students do not register at CPUT in 2018, based on the outcomes of the DC process;
- iv) Management thoroughly work on the security plan for 2018 and beyond; and
- v) Through Senate, a dialogue be convened on the 4th industrial revolution and the role and place of CPUT.

The above reflects the many attempts by Council to resolve the student affairs and residence matters, including the guidance and advice provided to the management to resolve these matters.

5.2 Labour Matters

a) Council Meeting: 25 March 2015

Council **ratified** the recommendations by the HRCC,:

- i) the correction of the 600 staff who were below the 50th percentile to the median without condition or requirements;
- ii) To delegate its authority to the HRCC to approve salary increases for levels 5 -18 in order to fast-track the approval process;
- iii) Salary negotiations commence as soon as possible and be finalised before the end of each year for the following year; and
- iv) The VC to negotiate a multi-year salary agreement with the Unions in future.

None of the above decision were implemented by Management (i, iii and iv). The 2018 salary negotiations have not yet been finalised. Last year it was finalised and implemented in August 2017.

b) Council meeting: 26 July 2017: Issuing of the contract to insourced workers

Council **noted** the report and raised the following comments:-

- i) Council decision on insourcing of workers still stands and must be implemented by management;
- ii) Management should have communicated openly and on time to workers and other affected parties on the progress in respect of the implementation of insourcing;
- iii) Contracts for insourced workers have been drafted, job descriptions were prepared and position graded
- iv) The University was still considering various options in respect of the conditions of service and benefits for the insource in line with Section 197 of the Labour Law; and
- v) The harmonisation of benefits would be implemented in phases over a defined period of time.
- vi) Council acknowledged and apologised to workers for the communication breakdown between Management and Insourced Workers;
- vii) Council decision on the implementation of insourcing remains and must be immediately implemented;
- viii) contracts of employment be finalised for all affected workers by end of August (30/08/2017);
- ix) all affected workers be captured on the payroll system and issued with employee numbers no later than 25th August 2017;
- x) Council closely and constantly monitor the implementation of insourcing on a weekly basis via the acting Vice-Chancellor and the relevant line function; and

	<p>xi) the Acting Vice-Chancellor institutes an inquiry on the lack of implementation of insourcing by the responsible relevant executive managers.</p> <p>c) Council meeting: 02 September 2017: Insourced workers</p> <p>Council commended Management for meeting the deadlines set by Council in respect of Insourced Workers and resolved that:-</p> <ul style="list-style-type: none"> i) the final report on insourcing of workers be tabled at the forthcoming HRCC meeting scheduled for 29 September 2017; ii) While the University acknowledge the political alliance between workers, however, the workers could not be led by students on workers related matters as these were governed different laws and regulations; and iii) Management immediately arranges the induction session for all insourced workers as soon as possible. <p>d) Council meeting: 02 September 2017: Insourcing</p> <p>Council ratified the following FinCom round robin decisions in respect of the insourcing:-</p> <ul style="list-style-type: none"> i) Management issue all insourced workers with pre-contract letters stipulating that the workers were University employees. This should be actioned by Monday, 31 July 2017; ii) the information of all insourced workers should be upload onto the system, and the Finance Division should issue system generated payslips on 25th August 2017; iii) all insourced workers should receive full contracts and letters of appointment stipulating their salary components based on the 2017 annual salary budget of R86,9m on or before 31st August 2017; iv) the condition of services and benefits for insourced workers to be regularized with those of current employees over a period of two (2) years, in line with the financial position of the University; and v) a Task Team be established via the Human Resources Committee of Council to thoroughly consider the leave benefits for various categories of insourced workers due to projected financial implications on leave benefits. <p>Lastly, Council can deal only with a matter brought to its attention via the reports from the relevant stakeholders mentioned above. However, if the stakeholders choose to direct issues to the Portfolio Committee and other external bodies without following the internal channels first, then Council cannot report on those issues until they are brought to the attention of Council for proper engagement.</p>
<p>6. Meetings and resolutions taken to address the issues</p>	<p>As reflected above, particularly in respect of the student and labour matters.</p>

<p>7. Investigations/commission conducted and findings and recommendations and implementation thereof</p>	<ul style="list-style-type: none"> a) Climate and Culture Survey: recommended to management for implementation and to be monitored by HRCC: no firm report ever submitted to Council by management despite numerous mandates. b) Internal Audit Report on Residences: Monitored by the Audit and Risk Oversight Committee. Challenges on implementation. c) Council in-loco residence inspections: Report tabled at Council and integrate into the overall Internal Audit Residence Action Plan. d) Yekiso Commission of Inquiry: The independent Commission of Inquiry commenced in March 2018 and is expected to finalise its task at the end of July 2018.
<p>8. Infrastructure department issues</p>	<p>Mainly covered under the Student matters as they mainly relate to the Maintenance of residences. The Council, through the Physical Planning and Finance Committees had set aside funds for backlog maintenance, improvement of security and access controls in residences.</p>