# NATIONAL ASSEMBLY

**FOR WRITTEN REPLY**

**QUESTION NO. 1298**

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**(INTERNAL QUESTION PAPER NO. 13)**

**Ms N P Sonti (EFF) to ask the Minister of Health:**

(a) What were the recommendations of the 2015 *Report of the Ministerial Task Team to Investigate Allegations of Administrative Irregularities, Mismanagement and Poor Governance at the Health Professions Council of South Africa*, (b) what number of the specified recommendations (i) have been carried out, (ii) have not been carried out and (iii) are in the process of being carried out and (c) why were no steps taken with regard to the recommendations which were not carried out? NW1399E

**REPLY:**

(a) The recommendations were as follows:

(1) To institute disciplinary and incapacity proceedings against the Registrar/CEO, COO and General Manager of Legal Services;

(2) To appoint an interim executive management team;

(3) That the incoming and future Councils of the HPCSA should undergo a structured induction process to ensure an understanding and appreciation by all its members of their legal and governance obligations;

(4) To address the recommendations of the KPMG Forensic Report of November 2011; and

(5) To institute a full organisational review and a proposal for a new governance and administrative structures for the future.

(b) (i) 4 out of 5 have been carried out and finalised, namely –

*To institute disciplinary and incapacity proceedings against the Registrar/CEO, COO and General Manager of Legal Services –*

Amicable settlement agreements were reached with the previous Registrar/CEO and COO. The settlement was done according to the legal advice the Council obtained.

*To appoint an interim executive management team*

Council had resolved that should the need arise to fill a vacuum within the Executive Management team, Council would attend to the appointments in line with the Act and the prescribed policies of Council.

All critical vacant senior management positions were filled with a diverse team that was able to ensure that the HPCSA upholds its mandate of protecting the public and guiding the professions.

*That the incoming and future Councils of the HPCSA should undergo a structured induction process to ensure an understanding and appreciation by all its members of their legal and governance obligations;*

The Council noted the recommendations and the inductions did occur and training was provided. Training of the Council and its structure are ongoing as detailed in the Council’s Annual Performance Plans.

See Council’s mid terms performance report attached under Annexure G1. As well as Councils Annual Performance Plan for 18/19 under Annexure G2.

*To address the recommendations of the KPMG Forensic Report of November 2011*

The Council reviewed the KPMG reports and its recommendations and resolved as follows –

1. **Recommendation One: Waymark Contract**

Extract from KPMG Report –

*“Although the Waymark contract provides for the rectification of errors by Waymark at their own cost, provided that the HPCSA informs Waymark of such faulty execution to the remedied, this course of action was not taken by the HPCSA.*

*We strongly recommend that the HPCSA obtain an independent legal opinion with regards to possible recourse in respect of the Waymark contract to remedy the ERS implementation issues.”.*

**Action by the previous Council**

(i) The matter was referred to legal counsel (i.e. Bowman Gilfillan) in 2012/2013.

(ii) Further to the opinion, Bowman Gilfillan advised that it would be necessary to interview Adv B Mkhize, the former Registrar/CEO. Unfortunately the previous Council went out of office before doing so because Adv Mkhize is no longer an employee of the Council.

**Action by current Council**

Council **RESOLVED** that the matter be closed due to effluxion of time and prescription having set in.

1. **Recommendation Two: Delegation of Authority**

Extract from KPMG Report –

*“Although the Delegation of Authority provides for various levels of authority for Senior Managers, the COO and the CEO, it places no limit on the amounts that EXCO could approve. Good governance suggests that the mandate, responsibilities and levels of authority of the EXCO be well-defined.*

*We recommend that the HPCSA review and revise its Delegation of Authority to provide more specific levels of authority to EXCO and indicate instances that may require referral to Council for consideration and approval.”.*

**Action by previous Council**

(i) The recommendation was noted and Management and the Human Resources and Remuneration Committee of Council in 2013 commenced with the revision of the Delegation of Authority (DOA) document, which was last reviewed in 2009;

(ii) The DOA served at the Council workshop in March 2015 and again in June 2015. Council resolved that the DOA be revised to incorporate all of the Council’s inputs and same will be tabled to the newly appointed Human Resources and Remuneration Committee of Council for final review prior to submission to Council for approval;

(iii) The Finance and Investment Committee of Council also ensured that the newly approved Supply Chain Management policy clearly defines the limit delegation of Council and Management

**Action by current Council**

Council noted the work undertaken by the previous Council and the resolved that the Delegations of Authority document would be considered and approved by the relevant Council structures;

The Delegations of Authority was approved by Council at its 3rd Ordinary Meeting held in September 2016 and is being implemented across all structures of Council.

1. **Recommendation Three: Possible Disciplinary Action**

Extract from KPMG Report –

*“The appointment of at least two consulting firms, namely BPLC and Kakanyo, were not done in accordance with the HPCSA’s procurement policies and procedures. Furthermore, certain expenses paid to service providers could potentially have been avoided, had the Registrar acted in the best interest of the HPCSA by demanding that Waymark rectify the implementation problems at their own cost. In addition, a number of payments to Kakanyo were approved without the proposals having been appropriately approved in terms of the HPCSA’s procurement policies and procedures.*

*We recommend that the HPCSA considers whether there are sufficient grounds to institute disciplinary action against the following officials for non-compliance with the HPCSA’s procurement policies and procedures and possible failure to act in the best interest of the HPCSA:*

*• Ms O’Reilly;*

*• Adv Boikanyo; and*

*• Mr Mphahlele.*

*More in-depth investigations may be required into the matters referred to above in order to prepare specific reports and supporting evidence that could be used during a disciplinary hearing, if necessary.”.*

**Action by previous Council: MMC O’ Reilly**

(i) The matter was considered by Council in December 2011 and Council resolved to institute disciplinary action against Ms O’Reilly. The matter was further handled through the office of the President and Legal Counsel: Mponyana Ledwaba Inc.

(ii) The matter was closed.

**Action by previous Council: Adv Boikanyo & Mr S Mphahlele**

(i) The matter was considered by Council in December 2011 and no action was taken.

(ii) The Matter was reconsidered by Council and in February 2013, the Registrar/ CEO, Dr Mjamba-Matshoba, addressed correspondence to Adv Boikanyo and Mr Mphahlele requesting them to provide explanations for the alleged non-compliance.

(iii) Both parties provided a response to the Registrar/CEO and the matter was closed in line with the Disciplinary Code of Council.

**Action by Current Council**

In reference to Adv T Boikanyo and Mr S Mphahlele, Council resolved that the matter be closed as the explanations provided by the employees were considered and accepted therefore re-opening the matter would be tantamount to double jeopardy and contrary to law.

1. **Recommendation Four: Compliance with the HPCSA’s policies and procedures**

Extract from KPMG Report –

*“We recommend that the HPCSA communicates its policies and procedures to its staff on a regular basis, through, for example, annual declarations in which the staff acknowledge that they are familiar with the contents of such policies and procedures. This will ensure compliance therewith to avoid the recurrence of, inter alia, the following:*

* *That a contract, used by another government department, was used as the basis for concluding a contract with a service provider; and*
* *That the contract was signed without it having been reviewed by the HPCSA’s Legal Department.”.*

**Action by previous Council**

(i) The recommendation was noted and Management in 2012 introduced a process for contract review and developed a contract document control sheet which details the relevant line managers that needs to sign off and approve the contract prior to final sign off.

(ii) The contracts are then housed with the Senior Manager Legal Services and the Office of the Registrar.

**Action by current Council**

Council noted the mechanisms implemented by Council and resolved that it be monitored accordingly.

(b) (ii) None

(iii) Recommendation number *5. Full organizational review and submit proposals to the Minister for the reform of the administrative and governance structures of the health professions”*

In executing the MTT recommendation No. 5, Council embarked on a Turnaround Strategy, to enhance our effectiveness and efficiencies through streamlined services.

Thus, for the past 12 months, Council has been moving towards building a new organisation that will be reputable for its innovation, professionalism and excellence in service delivery.

The Turnaround Strategy has focussed on five key workstreams that are critical to achieving the above-mentioned objective, namely: Vision & Design (Operating Model design), Business Process Re-engineering, Structure & People (Organisational Design), IT and Governance.

Benefits from the Turnaround Strategy are already being realised by HPCSA and their customers through the reduction of turnaround times in the Registration Department and the elimination of backlog practitioner registration applications. Implementation of additional Quick-Wins are underway. A Complaints Handling Unit within Ethics & Professional Conduct is being piloted with the objective of reducing the turnaround time and accuracy of the initial perusal of complaints received by the HPCSA. A complaints backlog reduction plan is also being developed for immediate implementation. Analysis on HPCSA’s governance structure is still underway.

Council at its 9th Ordinary meeting in March 2018, tasked Fever Tree Consulting and Secretariat to embark on a consultative process with all the relevant structures of Council and submit a comprehensive report in the subsequent meetings of Council inclusive of the following:

* 1. Revised Terms of Reference for all Committees of Council including the proposed Inter-Board Committee of Council
  2. Terms of Reference for the Proposed Committees of the Professional Boards including the Joint Standing Committee/s of Professional Boards
  3. New Delegations of Authority
  4. A clear framework on the functioning of Council, Professional Boards and Secretariat in view of the Proposed Committees of Council & Professional Boards, the New Functional/Organizational Design and the New Delegations of Powers/Duties.
  5. The rationale behind the proposed new committee structures of Council and Professional Boards

Other Issues in MTT Report: Council further resolved that all the Professional Board incidents that form part of the report was reviewed and addressed as a matter of urgency. This was done in consultation with the relevant constituencies (e.g. Professional Boards and its committees).

(c) Not Applicable

END.