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Please quote this reference in your reply: Report No. 22 of 2017/2018

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Mr TM Nkoana
Chairperson of the Board
Gateway Airport Authority Limited
Landros Mare' Street
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0700

Dear Mr. Nkoana

REPORT OF THE PUBLIC PROTECTOR IN TERMS OF SECTION 182(1) OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996 AND SECTION 8(1) OF THE PUBLIC PROTECTOR ACT, 1994

Kindly find attached a copy of the Public Protector Report no. 22 of 2017/18 into an investigation into the alleged maladministration, tender irregularity, misrepresentation of qualifications and wasteful expenditure against the former Chief Executive Officer of Gateway Airport Authority Limited, Mr TT Zulu.

Your attention is specifically directed to the remedial action contained in paragraph 7 of the report as well as the monitoring of the remedial action in paragraph 8.

Best wishes

ADV BUSISIWE MKHWEBANE
PUBLIC PROTECTOR OF THE
REPUBLIC OF SOUTH AFRICA
DATE: 02/10/2017

REPORT OF THE PUBLIC PROTECTOR IN TERMS OF SECTION 182(1)(b) OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996 AND SECTION 8(1) OF THE PUBLIC PROTECTOR ACT, 1994

PUBLIC PROTECTOR
SOUTH AFRICA

REPORT NO. 22 of 2017/18

ISBN 978-1-928366-44-7

Allegations of maladministration at Gateway Airport Authority Limited

REPORT ON AN INVESTIGATION INTO ALLEGED MALADMINISTRATION AGAINST THE BOARD, TENDER IRREGULARITY, MISREPRESENTATION OF QUALIFICATIONS AND WASTEFUL EXPENDITURE AGAINST THE FORMER CHIEF EXECUTIVE OFFICER OF GATEWAY AIRPORT AUTHORITY LIMITED, MR TT ZULU

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Executive Summary

(i) This is a report of the Public Protector in terms of section 182(1)(b) of the Constitution of the Republic of South Africa, 1996 (the Constitution) and section 8(1) of the Public Protector Act, 1994 (the Public Protector Act).

(ii) The report relates to an investigation into the alleged maladministration, tender irregularity, misrepresentation of qualifications and wasteful expenditure against the former Chief Executive Officer of Gateway Airport Authority Limited, Mr TT Zulu (the former CEO).

(iii) Mr T W Mogudi, (the Complainant), is the former employee of Gateway Airport Authority Limited (GAAL). He was suspended for various allegations of misconduct and eventually dismissed from his position as Senior Operations Manager by GAAL. He lodged a complaint with the Office of the Public Protector on 09 May 2014, alleging various administrative failures against the former CEO and the Board of Directors at GAAL (the Board).

(iv) In the main, the Complainant alleged the following:

(a) The former CEO deviated from the procurement process when appointing service providers to render services at GAAL;

(b) The former CEO misrepresented his qualifications and Curriculum Vitae (CV) when applying for the CEO position at GAAL;

(c) The Board failed to execute its fiduciary duties by irregularly appointing the former CEO despite the fact that he did not meet the minimum requirements of the CEO position;

(d) That the Board failed to authenticate and/or verify the validity of the former CEO's qualifications and CV;

(e) The Board failed to institute a disciplinary hearing against the former CEO as recommended by the Standing Committee on Public Accounts (SCOPA);

(f) The Board irregularly uplifted the former CEO's precautionary leave without taking him to a disciplinary hearing in terms of the SCOPA report; and

(g) The irregular appointment of Ernst & Young Auditors by the former CEO for the second forensic investigation and Mr Piet Venter as a consultant without following due process amounts to wasteful expenditure.

(v) On analysis of the complaint, the following issues were identified and investigated:

1. Regarding the alleged maladministration on the part of the former CEO

(a) Whether the former CEO appointed Mr Venter as a consultant in May 2011 for business development projects without following due processes.

(b) Whether the former CEO failed to implement the ratified Masilo Matsetela salaries benchmarking report.

(c) Whether the former CEO appointed Ernst & Young Auditors for the first forensic investigation without the approval of the Board.

(d) Whether the former CEO deviated from the procurement process by appointing Ernst & Young Auditors for the second forensic investigation without approval from the relevant authority.

(e) Whether the former CEO allowed Ernst & Young Auditors to determine the terms of reference for the second forensic investigation.

2. **Regarding the alleged misrepresentation of qualifications and CV by the former CEO**

(a) Whether the former CEO submitted a falsified copy of a matric certificate when applying for the CEO post at GAAL.

(b) Whether the former CEO submitted a falsified copy of a BA degree when applying for the former CEO post at GAAL.

(c) Whether the former CEO submitted a falsified copy of a BA Honours degree when applying for the CEO post at GAAL.

(d) Whether the former CEO submitted a falsified CV when applying for the CEO post at GAAL by mentioning that he completed the following modules at WITS: Programme and Project Management; Institutions and Public Policy; Monitoring and Evaluation; Scenario Planning and Public Policy Analysis etc.

3. **Allegations of wasteful expenditure**

a) Whether the former CEO appointed Mr Venter as a consultant to do business development projects which are the duties performed by the Business Development Manager, Ms. Lukoto, thereby duplicating duties and wasting public funds.

b) Whether the former CEO irregularly appointed Ernst & Young Auditors for a second forensic investigation for the same matters for which they were appointed for the first forensic investigation and whether the payment for

the second forensic report was double thereby wasting public funds for no justifiable cause.

4. **Regarding the alleged maladministration and irregularities by the Board**

(a) Whether the Board failed to execute its fiduciary duties by appointing the former CEO despite the fact that he did not meet the minimum requirements for the post.

(b) Whether the Board failed to authenticate and/or verify the former CEO's qualifications and CV.

(c) Whether the Board failed to execute its fiduciary duties by failing to institute a disciplinary hearing against the former CEO.

(d) Whether the Board irregularly uplifted the former CEO's precautionary leave without taking disciplinary action against him as recommended by the SCOPA report.

(vi) The investigation was conducted through correspondence, meetings; interviews; perusal of documents; application of relevant legislation and regulatory provisions.

(vii) Upon completion of the investigation, section 7(9) notices were issued and addressed to Mr Thulani Zulu, former Chief Executive Officer of GAAL, Mr Willie Mathonsi, Acting Chief Executive Officer of GAAL, Ms Glenda Sengoara, former Chairperson of the Board, GAAL and Ms Nandi Ndalane, Member of the Executive Council for the Department of Roads and Transport Limpopo Province.

(viii) In determining the standard that the GAAL and its functionaries should have complied with to avoid improper conduct or maladministration, the Public Protector was guided, as it is customary, by the Constitution, the Public Protector Act, the

Public Finance Management Act,1998 (PFMA), National Treasury Practice Notes and Regulations and GAAL Human Resources Policy and Procedure Manual.

(ix) Having considered the evidence uncovered during the investigation against the relevant regulatory framework, the Public Protector makes the following findings:

1. Alleged maladministration on the part of the former CEO

(a) Regarding whether the former CEO appointed Mr Venter as a consultant in May 2011 for projects without following due processes:

(aa) The allegation that Mr Venter was appointed as a consultant in May 2011 for business development projects without following due process is substantiated.

(bb) The former CEO appointed Mr Venter without following due process. The services of Mr Venter were not procured through a competitive bidding process.

(cc) The procurement process was initially done through the quotation system. However, no quotations were received during the first request for quotations. Mr Venter was appointed after being the only one to respond to the second request for quotations.

(dd) The former CEO acted in contravention of section 217 of the Republic of South Africa, 1996 read with section 51(a)(iii) of the PFMA which requires the accounting officers to ensure that their entities have and maintain an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost effective

(ee) The former CEO acted in contravention of the National Treasury Practice Note No. of 2007/2008, which requires the accounting officer to record and

approve the reasons if it is not possible to obtain at least three (3) written quotations.

(ff) The former CEO's conduct in appointing Mr Venter without following due process constitutes improper conduct as envisaged in section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(ii) of the Public Protector Act.

(b) Regarding whether the former CEO failed to implement the ratified Masilo Matsetela salaries benchmarking report:

(aa) The allegation that the former CEO failed to implement the Masilo Matsetela salaries benchmark report is not substantiated.

(bb) The former CEO did not fail to implement the Masilo Matsetela salaries benchmarking report. The report was implemented by the Board taking into consideration the available budget when taking the decision to implement it.

(cc) The former CEO did not conduct himself in a manner that constitutes improper conduct as envisaged in section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(ii) of the Public Protector Act as alleged.

(c) Regarding whether the former CEO appointed Ernst & Young Auditors for the first forensic investigation without the approval of the Board:

(aa) The allegation that the former CEO did not obtain the approval of the Board when appointing Ernst & Young Auditors for the first forensic investigation is not substantiated.

(bb) The Board was aware of the first forensic investigation and approval was granted on 12 August 2011.

(cc) The services were procured through a three quotation system in which PWC, Ernst & Young Auditors and KPMG, each submitted a quotation for consideration.

(dd) The former CEO did not conduct himself in a manner that constitutes improper conduct as envisaged in section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(ii) of the Public Protector Act as alleged.

(d) Regarding whether the former CEO deviated from the procurement process by appointing Ernst & Young Auditors for the second forensic investigation without approval of the relevant authority:

(aa) The allegation that the former CEO deviated from the procurement process by appointing Ernst & Young Auditors for the second forensic investigation without approval of the relevant authority is not substantiated.

(bb) There was a deviation from the normal procurement process on the second forensic investigation. The services were procured in terms of the Treasury Regulation No. 16A6.4 and was reported on 15 July 2013 to and approved by the Provincial Treasury and the Auditor-General (AG) in terms of the PFMA and the Treasury Regulations as well as the then Administrator, Mr Mokonyama.

(cc) The former CEO did not act in a manner that is alleged in contravention of clause 3.1 of the National Treasury Practice Note 6 of 2007/2008, which requires the CEO to report within ten (10) working days to the relevant Treasury and the AG, all cases where goods and services above the value

of R1million (VAT included) were procured in terms of Treasury Regulation No. 16A6.4.

(dd) The former CEO's conduct in appointing Ernst & Young Auditors for the second forensic investigation does not constitute improper conduct as envisaged in section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(ii) of the Public Protector Act.

(e) Regarding whether the former CEO allowed Ernst & Young Auditors to determine the terms of reference for the second forensic investigation:

(aa) The allegation that the former CEO allowed Ernst & Young Auditors to determine the terms of reference for the second forensic investigation is not substantiated.

(bb) The terms of reference for the second forensic investigation was determined by the multi-disciplinary Anti-Corruption Task Team (ACTT) which was established in 2010 by Minister Jeff Radebe as a Justice Crime Prevention Security (JCPS) cluster initiative identified a need for further investigation.

(cc) The ACTT also recommended that Ernst & Young Auditors be considered to be appointed for this service due to their prior knowledge of GAAL Financial and Human Resource system.

(dd) The conduct by the former CEO does not constitute improper conduct as envisaged in section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(ii) of the Public Protector Act.

2. Alleged misrepresentation of qualifications and CV by the former CEO

(a) **Regarding whether the former CEO submitted a falsified copy of a matric certificate when applying for the CEO post at GAAL:**

(aa) The allegation that the former CEO submitted a falsified copy of his matric certificate when he applied for the CEO post at GAAL is not substantiated.

(bb) The matric certificate was verified and confirmed by the Department of Basic Education (DBE) as authentic and valid.

(cc) The former CEO's conduct does not constitute improper conduct as envisaged in section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(ii) of the Public Protector Act.

(b) **Regarding whether the former CEO submitted a falsified copy of a BA degree when applying for the CEO post at GAAL:**

(aa) The allegation that the former CEO submitted a falsified copy of a BA degree when applying for the CEO post at GAAL is not substantiated.

(bb) The BA degree was verified and confirmed by the South African Qualifications Authority (SAQA) and the University of Zululand (UniZulu) as being valid and authentic.

(cc) The former CEO's conduct does not constitute improper conduct as envisaged in section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(ii) of the Public Protector Act.

(c) **Regarding whether the former CEO submitted a falsified copy of a BA Honours degree when applying for the CEO post at GAAL:**

(aa) The allegation that the former CEO submitted a falsified copy of a BA Honours degree when applying for the CEO post at GAAL is not substantiated.

(bb) The BA Honours was verified and confirmed by UniZulu and SAQA as being authentic and valid.

(cc) The former CEO's conduct does not constitute improper conduct as envisaged by section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(ii) of the Public Protector Act.

(d) Regarding whether the former CEO submitted a falsified CV when applying for the CEO post at GAAL by mentioning that he completed the following modules at WITS: Programme and Project Management; Institutions and Public Policy; Monitoring and Evaluation; Scenario Planning and Public Policy Analysis etc.

(aa) The allegation that the former CEO falsified his CV by including modules which he did not complete when applying for the CEO post is substantiated.

(bb) The former CEO falsified his CV when applying for the CEO post at GAAL by mentioning that he completed a module in Monitoring and Evaluation.

(cc) Although the modules were not a requirement for the post, the former CEO did not pass the Institutions & Public Policy and Monitoring & Evaluation modules as they do not appear on his academic record.

(dd) By falsifying his CV, the former CEO's conduct could constitute fraud.

(ee) The former CEO's conduct constitutes improper conduct as envisaged in section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(ii) of the Public Protector Act.

3. **Alleged wasteful expenditure**

(a) **Regarding whether the former CEO appointed Mr Venter as a consultant to do business development projects which are the duties performed by the Business Development Manager, Ms Lukoto, thereby duplicating duties and wasting public funds:**

(aa) The allegation that the former CEO appointed Mr Venter as a consultant to do business development projects which are the duties performed by the Business Development Manager, Ms Lukoto, thereby duplicating duties and wasting public funds is substantiated.

(bb) The scope of work performed by Mr Venter is the same as that of Ms Lukoto.

(cc) The former CEO's conduct constitutes improper conduct as envisaged in section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(ii) of the Public Protector Act.

(b) Regarding whether the former CEO irregularly appointed Ernst & Young Auditors for a second forensic investigation for the same matters for which they were appointed for the first forensic investigation:

(aa) The allegation that the former CEO irregularly appointed Ernst & Young Auditors for the second forensic investigation of the same matters for which they were appointed for during the first forensic investigation leading to a waste of public funds without justifiable reasons is not substantiated.

(bb) The former CEO deviated from the procurement process when Ernst & Young Auditors were appointed for the second forensic investigation.

(cc) The deviation was handled in terms of the National Treasury Practice Note 6 of 2007/2008 and PFMA, which requires the Accounting officer to report within 10 working days to the relevant Treasury and the AG, all cases where goods and services above the value of R1 million (VAT included) were procured in terms of Treasury Regulation No. 16A6.4.

(dd) The appointment of Ernst & Young Auditors was not in contravention of section 3.1 of the National Treasury Practice Note 6 of 2007/2008 which requires the CEO to report within ten (10) working days to the relevant Treasury and the Auditor General, all cases where goods and services above the value of R1 million (VAT included) were procured in terms of Treasury Regulations No.6A6.4.

(ee) The former CEO's conduct by appointing Ernst & Young Auditors for the second forensic investigation did not constitute improper conduct as envisaged in section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(ii) of the Public Protector Act.

4. Alleged maladministration and irregularities by the GAAL Board

(a) Regarding whether the Board failed to execute its fiduciary duties by appointing the former CEO of GAAL despite the fact he did not meet the minimum requirements of the CEO post:

(aa) The allegation that the Board failed to execute its fiduciary duties by appointing the former CEO without meeting the minimum requirements of the CEO post is substantiated.

(bb) The Board appointed the former CEO without him meeting the minimum requirements of the post. The post required a candidate with a Bachelor's degree and Masters of Business Administration or equivalent qualification.

(cc) The former CEO did not have a Masters of Business Administration qualification when he was appointed CEO in 2011. His highest qualification is a Bachelor of Arts degree and BA Honours in Communication Science.

(dd) The former CEO was appointed through a head-hunting method which is not provided for in terms of the GAAL Human Resources Policy and Procedure Manual.

(ee) The Board acted in contravention of the GAAL Human Resources Policy and Procedure Manual which provides that applicants must be employed purely on the basis of job related requirements, personal attributes, competence and abilities and must be given equal opportunities of employment.

(ff) The Board's conduct by appointing the former CEO without meeting the requirements of the post constitutes improper conduct as envisaged in section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(ii) of the Public Protector Act.

(b) Regarding whether the Board failed to authenticate and/or verify the former CEO's qualification records and the Curriculum Vitae:

(aa) The allegation that the Board failed to authenticate and/or verify the former CEO's qualifications and CV is substantiated.

(bb) The Board failed to authenticate and/or verify the former CEO's qualifications records and the CV.

(cc) The Board acted in contravention of the requirements of the advertisement of the CEO post of February 2009 which provided that the successful candidate would be required to do probity/security checks. No probity/security checks were conducted in respect of the former CEO.

(dd) The Board's conduct by failing to authenticate the CEO's qualifications constitutes improper conduct as envisaged in section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(ii) of the Public Protector Act.

(c) Regarding whether the Board failed to execute its fiduciary duties by failing to institute disciplinary hearing against the former CEO:

(aa) The allegation that the Board failed to execute its fiduciary duties by failing to institute a disciplinary hearing against the former CEO is substantiated.

(bb) The Board that appointed the former CEO was dissolved before the investigation against him was completed. The disciplinary hearing against the CEO could not continue in the absence of the Board.

(cc) The Board that took over on 1 November 2013 did not deal with the matter despite the undertaking that it would not ignore the gravity of the issues raised, nor be blind to them.

(dd) The Board's conduct in failing to institute disciplinary hearing against the former CEO constitutes improper conduct as envisaged in section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(ii) of the Public Protector Act.

(d) Regarding whether the Board irregularly uplifted the former CEO's precautionary leave without taking disciplinary action against him as recommended by the SCOPA report:

(aa) The allegation that the Board irregularly uplifted the former CEO's precautionary leave without taking disciplinary action against him as recommended by the SCOPA is not substantiated.

(bb) The former CEO's precautionary leave was uplifted by Mr Mokonyama after getting different legal opinions on the matter.

(cc) The Board's conduct does not constitute improper conduct as envisaged in section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(ii) of the Public Protector Act.

(viii) The appropriate remedial action that the Public Protector is taking in terms of section 182(1) (c) of the Constitution is the following:

(a) The MEC for Transport must:

(aa) Take cognisance of the findings regarding the unethical conduct and maladministration by the Board mentioned in this report;

(bb) Ensure that the Board considers the report and, where appropriate, take appropriate disciplinary action for financial misconduct in terms of section 84 of the PFMA;

(cc) Ensure that the Board considers the acts of maladministration and improper conduct referred to in the report and take appropriate disciplinary action against the officials of GAAL; and

(dd) Include in her oversight responsibilities with regard to GAAL as a State Owned Enterprise the monitoring of implementation of remedial action taken in pursuit of the findings in terms of powers conferred under section 182(1)(c) of the Constitution.

(b) The Chairman of the Board must ensure that:

(aa) The Board takes cognisance of the findings of maladministration and improper conduct by the former CEO and ensure that such conduct is not repeated and appropriate action is taken to recover any fruitless and wasteful expenditure incurred through the conduct of the former CEO;

(bb) The Board evaluates the effectiveness of GAAL's internal controls on Supply Chain Management and Human Resource processes to identify systemic deficiencies with a view to take corrective action to prevent a recurrence of the improprieties referred to in the report;

(cc) The Board reports to National Treasury and the Auditor-General particulars of the identified financial misconduct and the steps taken in connection with such financial misconduct, as contemplated in section 85 of the PFMA;

(dd) Ensure that the Board considers the report and where appropriate, take disciplinary action for financial misconduct in terms of section 84 of the PFMA;

(ee) The Board implements measures to recover losses as a result of the financial misconduct; and

(ff) The Board considers reporting a case of fraud with the South African Police Service against the former CEO for falsifying his CV.

REPORT ON AN INVESTIGATION INTO THE ALLEGED MALADMINISTRATION AGAINST THE BOARD, TENDER IRREGULARITY, MISREPRESENTATION OF QUALIFICATIONS AND WASTEFUL EXPENDITURE AGAINST THE FORMER CHIEF EXECUTIVE OFFICER OF GATEWAY AIRPORT AUTHORITY LIMITED, MR TT ZULU

1. INTRODUCTION

1.1 This is a report of the Public Protector issued in terms of section 182(1)(b) of the Constitution of the Republic of South Africa, 1996 (the Constitution) and section 8(1) of the Public Protector Act, 1994 (the Public Protector Act).

1.2 The report is submitted in terms of section 8(3) of the Public Protector Act to the following people to note the outcome of the investigation:

1.2.1 Honourable Stanley Mathabatha, the Premier of Limpopo Provincial Government;

1.2.2 Mr Nape Nchabeleng, the Acting Director General;

1.2.3 Honourable Nandi Ndalane, MPL, the Member of the Executive Council for Transport: Limpopo Provincial Government (the MEC);

1.2.4 Mr Samson Mahada, the Chairman of the Interim Board of Gateway Airport Authority Limited; and

1.2.5 Mr T W Mogudi (the Complainant) to inform him about the outcome of the investigation.

1.3 The report relates to an investigation into the alleged maladministration by the Gateway Airport Authority Limited Board (the Board), tender irregularity, misrepresentation of qualifications and wasteful expenditure against the Chief Executive Officer of Gateway Airport Authority Limited, Mr TT Zulu (the former CEO).

1.4 Gateway Airport Authority Limited (GAAL) is a schedule 3D Limpopo Provincial Government public entity under the Budget of the Department of Transport Safety and Security Liaison. It was established in March 1995 in terms of the Companies Act, 1973.

2. THE COMPLAINT

2.1 The Complainant is the former employee of GAAL. He was suspended for various allegations of misconduct and eventually dismissed from his position as Senior Operations Manager by GAAL. He lodged a complaint with the Public Protector on 09 May 2014.

2.2 In the main, the Complainant alleged the following:

2.2.1 The former CEO deviated from the procurement process when appointing service providers to render services at GAAL;

2.2.2 The former CEO misrepresented his qualifications and Curriculum Vitae (CV) when applying for the CEO position at GAAL;

2.2.3 The Board failed to execute its fiduciary duties by irregularly appointing the former CEO despite the fact that he did not meet the minimum requirements of the CEO position;

2.2.4 The Board failed to authenticate and/or verify the validity of the former CEO's qualifications and CV;

2.2.5 The Board failed to institute a disciplinary hearing against the former CEO as recommended by the Standing Committee on Public Accounts (SCOPA);

2.2.6 The Board irregularly uplifted the former CEO's precautionary leave without taking him to a disciplinary hearing in terms of the SCOPA report; and

2.2.7 The former CEO incurred wasteful expenditure when he irregularly appointed Ernst & Young Auditors for the second forensic investigation and Mr Piet Venter without following due process.

3. POWERS AND JURISDICTION OF THE PUBLIC PROTECTOR

3.1. The Public Protector is an independent constitutional body established under section 181(1) (a) of the Constitution to strengthen constitutional democracy through investigating and redressing improper conduct in state affairs.

3.2. Section 182(1) of the Constitution provides that:

"The Public Protector has the power as regulated by national legislation-

(a) to investigate any conduct in state affairs, or in the public administration in any sphere of government, that is alleged or suspected to be improper or to result in any impropriety or prejudice;

(b) to report on that conduct; and

(c) to take appropriate remedial action".

3.3 Section 182(2) directs that the Public Protector has additional powers and functions prescribed by legislation.

3.4. The Public Protector is further empowered by the Public Protector Act to investigate and redress maladministration and related improprieties in the conduct of state affairs. The Public Protector is also given power to resolve disputes through conciliation, mediation, negotiation or any other appropriate alternative dispute resolution mechanism.

3.5. GAAL is an organ of state and its conduct amounts to conduct in state affairs, as a result the matter falls within the ambit of the Public Protector's mandate.

3.6 The Public Protector's power and jurisdiction to investigate and take appropriate remedial action was not disputed by any of the parties.

3.7 In the *Economic Freedom Fighters* v *Speaker of the National Assembly and Others: Democratic Alliance* v *Speaker of the National Assembly and Others* the Constitutional Court per Mogoeng CJ held that the remedial action taken by the Public Protector has a binding effect.[1] The Constitutional Court further held that: "*When remedial action is binding, compliance is not optional, whatever reservations the affected party might have about its fairness, appropriateness or lawfulness. For this reason, the remedial action taken against those under investigation cannot be ignored without any legal consequences.*"[2]

4. THE INVESTIGATION

4.1 Methodology

4.1.1 The investigation was conducted in terms of section 182 of the Constitution and sections 6 and 7 of the Public Protector Act.

4.1.2 The Public Protector Act confers on the Public Protector the sole discretion to determine how to resolve a dispute of alleged improper conduct or maladministration. Section 6 of the Public Protector Act gives the Public Protector the authority to resolve any dispute or rectify any act or omission by any other means that may be expedient in the circumstances.

4.1.3 The investigation was conducted by way of correspondence, interviews, meetings, perusal of documents and applicable legislation in line with section 6(4)(b) of the Public Protector Act.

[1] [2016] ZACC 11; 2016 (3) SA 580 (CC) and 2016 (5) BCLR 618 (CC) at para [76].
[2] *Supra* at para [73].

4.2 Approach to the investigation

4.2.1 Like every Public Protector investigation, the investigation was approached using an enquiry process that seeks to find out:

(a) What happened?

(b) What should have happened?

(c) Is there a discrepancy between what happened and what should have happened and does that deviation amount to maladministration?

(d) In the event of maladministration what would it take to remedy the wrong or to place the Complainant as close as possible to where they would have been but for the maladministration or improper conduct?

4.2.2 The question regarding what happened is resolved through a factual enquiry relying on the evidence provided by the parties and independently sourced during the investigation. In this case, the factual enquiry principally focused on whether or not the Board acted improperly in relation to the appointment of the former CEO and various allegations of administrative failures against the former CEO of GAAL. Further information was requested from the Complainant through the discretionary letter but however, sufficient evidence was not received. The evidence was evaluated and a determination made on what happened based on a balance of probabilities.

4.2.3 The enquiry regarding what should have happened, focused on the law or rules that regulate the standard that should have been met by the Department or organ of state to prevent maladministration and prejudice.

4.2.4 The enquiry regarding the remedy or remedial action seeks to explore options for redressing the consequences of maladministration. Where a Complainant has suffered prejudice the idea is to place him or her as close as possible to where they would have been had the Department or organ of state complied with the regulatory framework setting the applicable standards for good administration.

4.3 **On analysis of the complaint, the following were issues considered and investigated:**

4.3.1 Regarding the alleged maladministration on the part of the former CEO:

(a) Whether the former CEO appointed Mr Venter as a consultant in May 2011 for projects without following due processes.

(b) Whether the former CEO failed to implement the ratified Masilo Matsetela salaries benchmarking report.

(c) Whether the former CEO appointed Ernst & Young Auditors for the first forensic investigation without the approval of the Board.

(d) Whether the former CEO deviated from the procurement process by appointing Ernst & Young Auditors for the second forensic investigation without approval from the relevant authority.

(e) Whether the former CEO allowed Ernst & Young Auditors to determine the terms of reference for the second forensic investigation.

4.3.2 Regarding the alleged misrepresentation of qualifications and Curriculum Vitae by the former CEO:

(a) Whether the former CEO submitted a falsified copy of a matric certificate applying for the CEO post at GAAL.

(b) Whether the former CEO submitted a falsified copy of a BA degree when applying for the CEO post at GAAL.

(c) Whether the former CEO submitted a falsified copy of BA Honours degree when applying for the CEO post at GAAL.

(d) Whether the former CEO submitted a falsified CV when applying for the CEO post at GAAL by mentioning that he completed the following modules at WITS: Programme and Project Management; Institutions and Public Policy; Monitoring and Evaluation; Scenario Planning and Public Policy Analysis etc.

4.3.3 Regarding the alleged Wasteful Expenditure:

(a) Whether the former CEO appointed Mr Venter as a consultant to do business development projects which are the duties performed by the Business Development Manager, Ms Lukoto, thereby duplicating duties and wasting public funds.

(b) Whether the former CEO irregularly appointed Ernst & Young Auditors for a second forensic investigation pertaining to the same matters for which they were appointed for the first forensic investigation.

4.3.4 Regarding the alleged maladministration and irregularities by the GAAL Board:

(a) Whether the Board failed to execute its fiduciary duties by appointing the former CEO despite the fact that he did not meet the minimum requirements of the post.

(b) Whether the Board failed to authenticate and/or verify the former CEO's qualifications and CV.

(c) Whether the Board failed to execute its fiduciary duties by failing to institute a disciplinary hearing against the former CEO.

(d) Whether the Board irregularly uplifted the former CEO's precautionary leave without taking disciplinary action against him as recommended by the SCOPA report.

4.4 The Key Sources of information

4.4.1 Documents

4.4.1.1 A copy of the advertisement for the position of the CEO at GAAL which closed on 04 February 2009.

4.4.1.2 A copy of CV of Prince Thulane Trevor Zulu/Manqele.

4.4.1.3 A copy of a National Senior Certificate Examination issued in the names of Trevor Thulani Manqele on 01 January 1983.

4.4.1.4 Copies of Bachelor of Arts and Honours Bachelor of Arts from the University of Zululand and academic records issued in the names of Manqele Trevor Thulani on 06 July 1991 and 26 June 1993 respectively.

4.4.1.5 A copy of the statement of academic records obtained on 13 August 2014 from the University of the Witwatersrand (Wits), Johannesburg in respect of Mr Thulani Trevor Zulu.

4.4.1.6 Memorandum (Memo) from Mr Thulani Trevor Zulu dated 16 August 2011 addressed to the Chairperson of the Board, Mr Gaby Magomola, to apply for a bursary to study a Master's degree.

4.4.1.7 Appointment letter of Mr TT Zulu as the CEO of GAAL.

4.4.1.8 Human Resources Policy and Procedure Manual.

4.4.1.9 A copy of the Masilo Matsetela Benchmarking Report.

4.4.1.10 Copies of the quotations from Price Waterhouse Coopers, Ernst & Young and KPMG in respect of the first forensic investigation at GAAL.

4.4.1.11 Minutes of a Board meeting held on 12 August 2011 for approval of the first forensic investigation.

4.4.1.12 Copy of a request for proposals: Project Manager Consultant (4 months non-renewable contract).

4.4.1.13 Memo from Mr Trevor Thulani Zulu to the former Chairman of the Board, Mr Gaby Magomola regarding the appointment of Mr Piet Venter as Project Manager.

4.4.2 Interviews conducted

4.4.2.1 Meeting held on 30 October 2014 with HR Officer, Mr Mankga Matsedi of GAAL.

4.4.3 Correspondence sent and received

The original complaint was contained in the Public Protector's complaint form dated 11 April 2014 from the Complainant. The other correspondences included the following:

4.4.3.1 Letter dated 01 July 2014 from the Public Protector to the Chairperson of the Board at GAAL;

4.4.3.2 Letter dated 17 July 2014 from GAAL Chairperson of the Board to the Public Protector;

4.4.3.3 Letter dated 23 July 2014 from the Public Protector to the Chairperson of the Board;

4.4.3.4 Letters dated 15 July 2013 from the former CEO addressed to the Auditor General and Limpopo Provincial Treasury to report deviation from Supply Chain Processes as per Treasury Regulations number 16/11/6;

4.4.3.5 Copies of emails exchanged between Shirley Mahanyele, the former CEO, Daniel Malesa, Shonisani Lukoto and Motatesi Mantsho between 13 April 2011 and 31 May 2011 discussing the appointment of Mr Venter as Project Manager;

4.4.3.6 Letter dated 14 July 2011 from Managing Director of Village Management Consulting (VMC), Mr Letepe Maisela, addressed to HR Manager at GAAL, Mr Daniel Malesa regarding the probity/security checks on the former CEO;

4.4.3.7 Letter dated 16 April 2013 from the then Administrator, Mr Mokonyama addressed to the former CEO to withdraw notice of suspension against him;

4.4.3.8 Email sent to the University of Zululand dated 15 October 2014;

4.4.3.9 Email received from the University of Zululand dated 17 October 2014;

4.4.3.10 Email received from Thandeka Ndlovu, Coordinator HR Contact Centre at King Shaka International Airport dated 16 October 2014;

4.4.3.11 Letter dated 27 October 2014 from Public Protector to the Chairperson of the Board;

4.4.3.12 Letter dated 3 December 2014 addressed to Managing Director of Village Management Consulting, Mr Letepe Maisela;

4.4.3.13 Letter dated 4 December 2014 addressed to the former CEO; and

4.4.3.14 Email dated 12 December 2014 received from Village Management.

4.4.4 Legislation and other prescripts

4.4.4.1 The Constitution

4.4.4.2 Public Protector Act

4.4.4.3 Public Finance Management Act, 1 of 1999 (PFMA)

4.4.4.4 National Treasury Practice Note No. 6 of 2007/2008

4.4.4.5 National Treasury Practice Note No. 8 of 2007/2008

4.4.4.6 Human Resources Policy and Procedure Manual

5. THE DETERMINATION OF THE ISSUES IN RELATION TO THE EVIDENCE OBTAINED AND CONCLUSIONS MADE WITH REGARD TO THE APPLICABLE LAW AND PRESCRIPTS

Alleged maladministration on the part of the former CEO

5.1 Regarding whether the former CEO appointed Mr Venter as a consultant in May 2011 for business development projects without following due processes:

Common Cause issues

5.1.1 It is common cause that the former CEO appointed Mr Venter as a consultant for business development projects at GAAL.

Issues in dispute

5.1.2 It is in dispute whether due process was followed when Mr Venter was appointed as a consultant for business development projects at GAAL.

5.1.3 The Complainant alleged that the former CEO appointed Mr Venter as a consultant for business development projects at GAAL without following procurement processes.

5.1.4 GAAL indicated that the procurement process was initially done through the quotation system. However no quotations were received during the first request for quotations.

5.1.5 During the second request for quotation, Mr Venter was the only one who responded to the second request and was recommended for appointment by the former CEO. No reasons were recorded and approved by the former CEO or his/her delegate. Mr Magomola approved his appointment without competition.

5.1.6 This was also corroborated by the former Financial Manager at GAAL, Ms Mahanyele, in her affidavit dated 14 January 2016. Ms Mahanyele confirmed that the appointment of Mr Venter as a consultant for the business development projects was never advertised or followed a procurement process. This resulted in an irregular and wasteful expenditure.

5.1.7 The former CEO did not respond to the Public Protector's section 7(9) notice served on him on 14 March 2017.

5.1.8 It can be concluded that due process was not followed in the appointment of Mr Venter when procuring the consultancy services.

Application of the relevant law

5.1.9 Section 217(1) of the Constitution read with section 51(a) (ii) of the PFMA provides that when an organ of state in the national, provincial or local sphere of government, or any other institution identified in national legislation, contracts for goods and services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective.

5.1.10 In terms of clause 3.3(1)(2) and (3) of the National Treasury Practice Note No.8 of 2007/2008 the threshold values for the procurement of works and services above the transaction value of R10 000-00, but not exceeding R500 000-00 (VAT included), the accounting officer should invite and accept written price quotations for requirements up to an estimated value of R500 000-00 from as many supplies as possible, that are registered on the list of prospective suppliers; where no suitable suppliers are available from the list of prospective suppliers, written price quotations may be obtained from other possible suppliers and if it is not possible to obtain at least three (3) written price quotations, the reasons should be recorded and approved by the accounting officer.

5.1.11 Section 4.4.1.6(a) and (c) of the GAAL Supply Chain Management Policy (SCM Policy) provides that for the procurements of requirements above the transaction value of R30 000-00 but not exceeding R500 000-00 (VAT included), the CEO should invite and accept written price quotations for requirements up to an estimated value of R500 000-00 from as many suppliers as possible that are registered on the list of prospective suppliers; and if it is not possible to obtain at least three (3) written price quotations, the reasons should be recorded and approved by the CEO or his/her delegate.

5.1.12 The transaction value in respect of the appointment of Mr Venter was above R10 000-00 but below R500 000-00. The CEO did not follow the correct procurement process when appointing Mr Venter as a consultant for the business development projects. The appointment of Mr Venter was in violation of the GAAL supply chain management policy and National Treasury Practice Note No. 8 of 2007/2008.

Conclusion

5.1.13 Based on the evidence gathered and legal prescripts considered it can be concluded that the former CEO did not follow the procurement processes when appointing Mr Venter as a consultant for GAAL projects.

5.1.14 The former CEO acted in contravention of clause 3.3(1) (2) and (3) of the National Treasury Practice Note No.8 of 2007/2008, which requires the Accounting Officer to record and approve the reasons if it is not possible to obtain three (3) written quotations.

5.2 Regarding whether the former CEO failed to implement the ratified Masilo Matsetela salaries benchmarking report:

Common cause issues

5.2.1 It is common cause that the Board appointed Masilo Matsetela to, among others, conduct salary benchmarking of GAAL employees.

Issues in dispute

5.2.2 The Complainant contended that the former CEO failed to implement the salaries benchmarking report. He indicated that the report was implemented selectively and prejudiced other employees, including the Complainant.

5.2.3 GAAL, on the other hand, argued that report was implemented. GAAL also indicated that according to the final report submitted by the service provider, the report had 10th to 90th percentiles determinations on various salary bands. The Board took into consideration the available budget when taking the decision to implement the report. The two reports were drafted in January and February 2011 and guided the Board in taking a decision on whether the employees of GAAL were underpaid or overpaid taking into consideration the market data.

5.2.4 According to the letter from GAAL dated 18 July 2014 the Complainant as part of the management team, assisted in implementing the revised salaries to other employees. The Complainant's salary was then increased from R800 200-00 to R817 035-10 which is between 25th and 50th percentile.

5.2.5 GAAL furthermore indicated that the increment was approved by the Chairperson of the Human Resources Committee and not the former CEO.

Conclusion

5.2.6 It follows from the evidence discussed that the Matsetela salary benchmarking report was implemented.

5.3 Regarding whether the former CEO appointed Ernst & Young Auditors for the first forensic investigation without the approval of the Board:

Common cause issues

5.3.1 It is common cause that the former CEO appointed Ernst & Young Auditors for the first forensic investigation.

Issues in dispute

5.3.2 It is disputed whether the former CEO obtained the approval of the Board when appointing Ernst & Young Auditors for the first forensic investigation.

5.3.3 The Complainant alleged that the former CEO did not obtain the approval of the Board when appointing Ernst & Young Auditors for the first forensic investigation.

Application of the relevant law

5.3.4 Section 51(a)(iii) of the PFMA provides that the former CEO must ensure that the entity has and maintains an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective.

5.3.5 The evidence obtained indicates that the services of Ernst & Young Auditors were procured through a three quotation system in which PWC, Ernst & Young Auditors and KPMG, each submitted a quotation for consideration. The Board was aware of the forensic investigation.

5.3.6 The evidence also indicates that the Board had a meeting on 12 August 2011 at the New Terminal Building. It was noted on the minutes at item 5.1 that the Board approved that a forensic audit be commissioned by the former CEO and that the scope be extended to cover up to 12 August 2011.

Conclusion

5.3.7 It can be concluded on the evidence and applicable legal prescripts discussed that the former CEO obtained approval of the Board when appointing Ernst & Young Auditors for the first forensic investigation.

5.4 Regarding whether the former CEO deviated from the procurement process by appointing Ernst & Young Auditors for the second forensic investigation without approval of the relevant authority:

Common cause issues

5.4.1 It is common cause that the former CEO deviated from the procurement process when appointing Ernst & Young Auditors for the second forensic investigation.

Issues in dispute

5.4.2 The Complainant alleged that the former CEO deviated from the procurement process by appointing Ernst & Young Auditors for the second forensic investigation without approval of the relevant authority.

Application of relevant laws

5.4.3 Section 4.4.1.7(a) and (f) of the SCM Policy provides that the CEO should invite competitive bids for all procurements above the transaction value of R500 000-00 (VAT included); and should it be impractical to invite competitive bids for specific procurement, e.g. in urgent or emergency cases or in cases of a sole supplier, the CEO may procure the required goods or services by other means, such as price quotations or negotiations in accordance with Treasury Regulation 16A6.4. The reasons for deviating from inviting competitive bids should be recorded and approved by the CEO or their delegate. The CEO is required to report within ten (10) working days to the relevant treasury and the Auditor-General of South Africa (AGSA) all cases where goods and services above the value of R1 million (VAT inclusive) were procured in terms of Treasury Regulation 16A6.4. The report must include the description of the goods or services, the name(s) of the supplier(s), the amount(s) involved and the reasons for dispensing with the prescribed competitive bidding process.

5.4.4 GAAL admitted that there was a deviation from the normal procurement process on the second forensic investigation. The services were procured in terms of the Treasury Regulation No. 16A6.4 and was reported on 15 July 2013 to and

approved by the Provincial Treasury and the Auditor General in terms of the PFMA and the Treasury Regulations and Mr Mokonyama.

5.4.5 In terms of section 41 of the PFMA, the CEO is required to submit to the relevant Treasury or the AG information, returns, documents, explanations and motivations as may be prescribed or as the relevant Treasury or the AGSA may require.

5.4.6 The CEO is also required in terms of clause 3.1 of the National Treasury Practice Note 6 of 2007/2008, to report within ten (10) working days to the relevant Treasury and the AG, all cases where goods and services above the value of R1 million (VAT included) were procured in terms of Treasury Regulation No. 16A6.4.

5.4.7 The deviation was reported to the AGSA and the Provincial Treasury on 15 July 2013, in terms of the PFMA and Treasury Regulations. The evidence received indicates that two letters dated 15 July 2013 each were addressed to the AGSA and the Treasury respectively with the subject: "*report on deviation from Supply Chain Processes as per Treasury Regulation No. 16A6.4*".

5.4.8 The evidence obtained indicates that the second forensic investigation project was also approved by Mr Mokonyama in a memorandum dated 01 July 2013, who also recommended that the deviation should be reported to the Treasury and AGSA within 10 days of the award.

Conclusion

5.4.9 It can be concluded that the former CEO did not deviate from the procurement process by appointing Ernst & Young Auditors without the approval of the relevant authority.

5.5 Regarding whether the former CEO allowed Ernst & Young Auditors to determine the terms of reference for the second forensic investigation:

Common cause issues

5.5.1 It is common cause that the Board approved the implementation of a forensic investigation in August 2011 and Ernst & Young Auditors were subsequently appointed to conduct the forensic investigation.

5.5.2 It is also common cause that Ernst & Young Auditors' scope of investigation focused mainly on human resources, supply chain and financial management and covered the period 01 July 2009 to 31 December 2010. The scope of investigation included the following: obtaining a better understanding of the relevant policies and procedures; selecting a sample of transactions and or appointments for further analysis; imaging of hard drives of selected computers in the organization; determining if grounds exist for instituting criminal and or disciplinary proceedings; and compilation of a report setting out the findings.

Issues in dispute

5.5.3 It is in dispute whether Ernst & Young Auditors were allowed to determine the terms of reference for the second forensic investigation.

5.5.4 During the first forensic investigation, Ernst & Young Auditors recommended amongst others that GAAL consider further investigation into the procurement of goods and services from the following suppliers: Electrical Motor Rewiring; Truerecaps-Prime Furniture; Raydan Civils cc; LJ Rock Blasting and Breaking; and Bopedi Bapedi Trading and Projects cc.

5.5.5 The evidence obtained indicates that the multi-disciplinary Anti-Corruption Task Team (ACTT) which was established in 2010 by Minister Jeff Radebe as a Justice Crime Prevention Security (JCPS) cluster initiative investigated certain findings in the Ernst & Young Auditors' report and discovered various incidents of fraud and or corruption committed by a GAAL Manager. The ACTT also identified a need for further investigation on the findings of the Ernst & Young Auditors report. The

ACTT recommended that the investigation should also concentrate on the following: verify the status of each service provider with CIPC; correlate the names of bank account holders into which payments for goods and services were made for the period 01 January 2009-31 December 2012 with the CIPC database; and verify whether payments made were actually paid into the service provider's real account.

5.5.6 The ACTT further recommended that Ernst & Young Auditors be considered to be appointed for this service due to their prior knowledge of GAAL Financial and Human Resource system and had already conducted preliminary investigations in respect of the above mentioned suppliers which would have to be re-done should a new service provider be appointed.

5.5.7 Based on the ACTT's recommendations, the former CEO submitted a memorandum dated 11 June 2013 to Mr Mokonyama with the subject: "*continuation of forensic service by Ernst & Young Auditors*", requesting for approval to authorize GAAL in terms of Treasury Regulations, to deviate from the normal procurement process and appoint Ernst & Young Auditors to continue with the second forensic investigation.

5.5.8 According to the Memorandum, the terms of reference in respect of the first and second forensic investigation were not the same and the terms of reference of the first forensic investigation were determined by the Board whereas the ACTT determined the terms of reference of the second forensic investigation.

Conclusion

5.5.9 It can be concluded that the former CEO did not allow Ernst & Young Auditors to determine the terms of reference for the second forensic investigation.

Alleged misrepresentation of qualifications and CV by the former CEO

5.6 Regarding whether the former CEO submitted a falsified copy of matric certificate when applying for the CEO post at GAAL:

Issues in dispute

5.6.1 The Complainant alleged that the former CEO submitted a falsified copy of his matric certificate when he applied for the CEO post at GAAL.

5.6.2 GAAL submitted that it enlisted the services of the South African Qualifications Authority (SAQA) to verify the former CEO's qualifications. SAQA confirmed that the matric certificate of the former CEO was not available. According to GAAL, it received a copy of the matric certificate from the former CEO with the following names: Trevor Thulani Manqele. The matric certificate does not have an ID number. The matric certificate was issued on 01 January 1983.

5.6.3 In a letter dated 23 September 2014, the former CEO gave the Public Protector permission to investigate his credentials and academic qualifications from all the institutions he enrolled with for his degrees and diplomas. He also indicated that he formally changed his surname from Manqele to his biological father's surname, Zulu. This was corroborated by information obtained from the Department of Home Affairs (DHA).

5.6.4 The Department of Basic Education (DBE) furnished the Public Protector with a copy of the Senior Certificate (STD 10) of Manqele Trevor Thulani with examination no. 82023170-3. The DBE also confirmed that the Senior Certificate of the candidate is authentic and valid.

Conclusion

5.6.5 It can be concluded that the former CEO did not submit a falsified copy of matric certificate when applying the CEO post.

5.7 **Regarding whether the former CEO submitted a falsified copy of a BA degree when applying for the CEO post at GAAL:**

Issues in dispute

5.7.1 The Complainant alleged that the former CEO submitted a falsified copy of a BA degree when applying for the CEO post at GAAL.

5.7.2 The GAAL submitted that it enlisted the services of SAQA which confirmed that the former CEO has a BA degree.

5.7.3 In the email received from the University of Zululand (UniZulu) dated 17 October 2014, Mr Thami Mngadi, Manager: Certification Management confirmed that the BA degree obtained by the former CEO was authentic and valid.

Conclusion

5.7.4 It can be concluded that the former CEO did not submit a falsified copy of a BA degree when applying for the CEO post.

5.8 **Regarding whether the former CEO submitted a falsified copy of a BA Honours degree when applying for the CEO post at GAAL:**

Issues in dispute

5.8.1 The Complainant alleged that the former CEO submitted a falsified copy of a BA Honours degree when applying for the CEO post at GAAL.

5.8.2 GAAL confirmed that according to their records, the former CEO obtained a BA Honours qualification from the University of Zululand in 1992.

5.8.3 In the email received from the University of Zululand dated 17 October 2014, Mr Thami Mngadi, Manager: Certification Management confirmed that the BA

Honours degree obtained by the former CEO was authentic and valid. The certificate was issued in the names of Manqele Trevor Thulani.

Conclusion

5.8.4 It can be concluded that the former CEO did not submit a falsified copy of a BA Honours degree when applying for the CEO post.

5.9 Regarding whether the former CEO submitted a falsified Curriculum Vitae when applying for the CEO post at GAAL by mentioning that he has completed the following modules at Wits: Programme and Project Management, Institutions and Public Policy, Monitoring and Evaluation, Scenario Planning and Public Policy Analysis:

Common cause issues

5.9.1 It is common cause that the former CEO did not provide evidence to proof that he has passed the institutions and public policy as well as monitoring and evaluation modules.

5.9.2 The former CEO did not respond to the Public Protector's section 7(9) notice served on him on 14 March 2017.

Issues in dispute

5.9.3 It is disputed that the former CEO completed the modules as alleged in his Curriculum Vitae. The Complainant alleged that he did not complete the following modules at Wits: Programme and Project Management, Institutions and Public Policy, Monitoring and Evaluation, Scenario Planning and Public Policy Analysis.

5.9.4 According to the former CEO's CV, he enrolled for a Master of Arts (MA) in Public Policy at Wits Business School and completed the following modules: Programme

and Project Management; Institutions and Public Policy; Monitoring and Evaluation; Scenario Planning; and Public Policy Analysis.

5.9.5 The information furnished by GAAL in a letter dated 14 August 2014, which information was received from Wits indicates that the former CEO registered for a Masters of Management in Public Policy in 2008 and only passed the following modules, Programme and Project Management; Economic and Public Finance; Public Policy Analysis & Management as well as Scenario Planning.

5.9.6 The Institutions and Public Policy; and Monitoring & Evaluation modules do not appear on his academic record from Wits. The academic record also indicates that the former CEO failed to complete the requirements for the qualification of Masters of Management in Public Policy.

5.9.7 The Board was supposed to verify qualifications of the former CEO before the appointment. Mr Letepe Maisela from VMC has confirmed in writing that as the former CEO was recruited from his agency, he was not requested to do security checks.

Conclusion

5.9.8 Based on the evidence presented it can be concluded that the former CEO falsified his Curriculum Vitae by including modules which he did not complete when applying for the CEO post.

Alleged wasteful expenditure

5.10 Regarding whether the former CEO appointed Mr Venter as a consultant to do business development projects which are the duties performed by the Business Development Manager, Ms Lukoto, thereby duplicating duties and wasting public funds:

Common cause issues

5.10.1 It is common cause that the former CEO appointed Mr Venter as a consultant to do business development projects at GAAL.

Issues in dispute

5.10.2 The Complainant alleged that the former CEO appointed Mr Venter as a consultant to do business development projects which are the duties performed by the Business Development Manager, Ms Lukoto, thereby duplicating duties and wasting public funds.

5.10.3 GAAL indicated that the scope of work performed by Mr Venter differed from that of Ms. Lukoto. The appointment was approved by Mr Magomola.

5.10.4 GAAL indicated that the duties for which Mr Venter was appointed differed from those for which Ms Lukoto was appointed. Therefore there was no duplication of duties and consequently a waste of public funds.

5.10.5 The following is a comparison of the duties performed by Mr Venter and Ms Lukoto:

MR VENTER'S DUTIES	MS LUKOTO'S DUTIES
Identify and implement key strategic projects in line with the 5 years strategic plan, supporting GAAL's corporate mission, vision and values.	Aviation development
Put policies and practices in place to attract business opportunities from the non-aeronautical side of GAAL's business.	Increase no-aeronautical revenue
Managing activities and resources in support of current identified and new projects.	Marketing
Establish an economic environment that will improve shareholder return	Corporate communication and stakeholder management
Conceptualizing, managing and implementing projects as identified by the Board and Management of GAAL	Corporate social investment

Creating a network of contracts within government and business across various sectors that will contribute to the economic development of Polokwane International Airport.	Representing GAAL

Conclusion

5.10.6 It can be concluded that the scope of the work performed by Mr Venter is the same as that of Ms Lukuto.

5.11 Regarding whether the former CEO irregularly appointed Ernst & Young Auditors for a second forensic investigation for the same matters for which they were appointed for the first forensic investigation:

Issues in dispute

5.11.1 The Complainant alleged that the former CEO irregularly appointed Ernst & Young Auditors for the second forensic investigation for the same matters for which they were appointed for during the first forensic investigation leading to a waste of public funds without justifiable reasons.

5.11.2 GAAL indicated in the letter dated 17 July 2014 that the scope of work regarding the second forensic investigation was not the same as the first forensic investigation. It is true that for the first forensic investigation report, an amount of R315 457-38 was paid and for the second forensic investigation report an amount of R755 965-92 was paid. This is due to the fact that during the first forensic investigation a total of 262 hours was estimated and during the second forensic investigation a total of 520 hours was estimated.

5.11.3 The letter received from GAAL dated 17 July 2014 indicates that there was a deviation from the procurement process when Ernst & Young Auditors were appointed for the second forensic investigation. However the deviation was handled in terms of the National Treasury Practice Note 6 of 2007/2008 and PFMA, which requires the Accounting officer to report within 10 working days to the relevant Treasury and the AG, all cases where goods and services above the value

of R1 million (VAT included) were procured in terms of Treasury Regulation No. 16A6.4.

5.11.4 GAAL also indicated that the scope of work regarding the two appointments was not the same. During the first forensic investigation, the scope of investigation focused mainly on human resources, supply chain and financial management and amongst others, included the following:

(a) Obtaining a better understanding of the relevant policies and procedures;
(b) Selecting a sample of transactions and or appointments for further analysis;
(c) Imaging of hard drives of selected computers in the organisation;
(d) Determining if grounds exist for instituting criminal and or disciplinary proceedings; and
(e) Compilation of a report setting out the findings.

5.11.5 In the report of the first forensic investigation, Ernst & Young Auditors recommended that GAAL consider further investigation into the procurement of goods and services from the following suppliers:

(a) Electrical Motor Rewiring;
(b) Truerecaps-Prime Furniture;
(c) Raydan Civils cc;
(d) LJ Rock Blasting and Breaking; and
(e) Bopedi Bapedi Trading and Projects cc

5.11.6 ACTT also identified a need for further investigation on the findings of the Ernst & Young Auditors' report and recommended that the investigation should also concentrate on the following:

(a) Verify the status of each service provider with CIPC;
(b) Correlate the names of the bank account holders into which payments for goods and services were made in the period 1 January 2009-31 December 2012 with the CIPC database; and
(c) Verify whether payments made were actually paid into the service provider's real account. The evidence obtained indicates that the scope of

investigation of the second forensic investigation was not the same as the first investigation.

Conclusion

5.11.7 It can be concluded that the scope of work regarding the first and second forensic investigation was not the same.

Alleged maladministration and irregularities by the GAAL Board

5.12 Regarding whether the Board of directors failed to execute their fiduciary duties by appointing the former CEO despite the fact that he did not meet the minimum requirements of the CEO post:

Common cause issues

5.12.1 It is common cause that the Board has a fiduciary responsibility to provide good corporate governance to the management of GAAL and the enterprise at large.

Issues in dispute

5.12.2 The Complainant alleged that the Board failed to execute its duties by appointing the former CEO despite the fact that he did not meet the minimum requirements of the CEO post.

5.12.3 No response was received from the former chairperson of the GAAL Board. The Public Protector's section 7(9) notice could not be served on her as she could not be traced. GAAL could not furnish the Public Protector with the forwarding address.

Application of the relevant law

5.12.4 Clause 4 of the GAAL HR Policy and Procedure Manual (the recruitment policy) governs the recruitment and appointment of personnel at GAAL. The Policy

provides that the recruitment of personnel shall be in accordance with GAAL organizational requirements as well as the provisions of the Labour Relations Act, the Basic Conditions of Employment Act, the Employment Equity Act, the Constitution and fair recruitment practices.

5.12.5 The recruitment policy does not give provision for head hunting. Clause 4.1.2 provides that applicants must be employed purely on the basis of job related requirements, personal attributes, competencies and abilities and must be given equal opportunities of employment.

5.12.6 According to the advertisement for the position of former CEO which closed on 04 February 2009, the requirements were: A Bachelor's degree and Masters of Business Administration or equivalent qualification, a track record as a robust leader with at least 10 years airport operations, marketing and airport management experience.

5.12.7 According to GAAL, it is not clear whether the former CEO was appointed in terms of the advertisement that closed on 04 February 2009, because he was only appointed in January 2011.

5.12.8 GAAL also indicated that it looks like the qualifications; application and motivation letter were not submitted during the application stage as required by the advertisement. The GAAL did not have the former CEO's application letter in his personal file.

5.12.9 The former CEO's highest qualifications as confirmed by UniZulu are a BA degree and BA Honours degree in Communication Science. Airports Company South Africa (ACSA) confirmed his appointment from 01 April 1997 as Manager Business & Market Development and he was later appointed as Manager Government Relations at King Shaka International Airport until his resignation on 15 December 2010. The former CEO has more than 10 years' experience in the Aviation environment.

5.12.10 Assuming that the former CEO was appointed in terms of the February 2009 advert, the conclusion is that the former CEO did not meet the requirements of the position as advertised.

5.12.11 The evidence obtained from Wits indicates that the former CEO did not have a Masters of Business Administration or the equivalent when the post was advertised.

Conclusion

5.12.12 It can be concluded that the Board failed in its duties by appointing the former CEO of GAAL despite the fact that he did not meet the minimum requirements of the post.

5.13 Regarding whether the Board failed to authenticate and/or verify the authenticity of the former CEO's qualification records and the Curriculum Vitae:

Common cause issues

5.13.1 It is common cause that the Board failed to authenticate and comply with the requirements for the advertised position of CEO.

Issues in dispute

5.13.2 The Complainant alleged that the Board failed to authenticate and/or verify the authenticity of the former CEO's qualification records and the CV.

5.13.3 No response was received from the former chairperson of the GAAL Board. The Public Protector's section 7(9) notice could not be served on her as she could not be traced. GAAL could not furnish the Public Protector with the forwarding address.

5.13.4 According to the advertisement that closed on 04 February 2009, it was required that the successful candidate undergo security clearance.

5.13.5 Assuming that the former CEO was recruited in terms of the February 2009 advertisement this requirement would not have been complied with.

5.13.6 The VMC confirmed in a letter dated 11 December 2014 that GAAL did not ask them to conduct security checks on the former CEO. In the letter dated 14 July 2011 from Mr Maisela which was addressed to Mr Malesa. The letter states that: *"it is the norm and part of our Governance and Risk Management procedure at Village Management Consulting to conduct probity/security checks when appraising a potential candidate for clients. In Mr Manqele/Zulu's case there was no such a request from client and this was not done."*

Conclusion

5.13.7 The Board did not comply with the requirements of the advertisement by failing to authenticate the former CEO's qualification records and CV. This failure by the Board to comply with the requirements of its own advertisement constitutes an irregularity.

6. FINDINGS

Having considered the evidence uncovered during the investigation against the relevant regulatory framework, the Public Protector makes the following findings:

Alleged maladministration on the part of the former CEO

6.1. Regarding whether the former CEO appointed Mr Venter as a consultant for projects without following due process:

6.1.1 The allegation that the appointment of Mr Venter as a consultant in May 2011 for projects without following due process is substantiated.

6.1.2 The former CEO appointed Mr Venter without following due process. The services of Mr Venter were not procured through a competitive process.

6.1.3 The procurement process was initially done through the quotation system. However, no quotations were received during the first request for quotations. Mr Venter was appointed after being the only one to respond to the second request for quotations.

6.1.4 The former CEO acted in contravention of the National Treasury Practice Note No. 8 of 2007/2008, which requires the Accounting Officer to record and approve the reasons if it is not possible to obtain at least three (3) written price quotations.

6.1.5 The former CEO acted in contravention of section 51(a)(iii) of the PFMA which requires the Accounting Officers to ensure that their entities have and maintain an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost effective.

6.1.6 The former CEO's conduct in appointing Mr Venter without due process constitutes improper conduct as envisaged in section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(ii) of the Public Protector Act.

6.2. Regarding whether the former CEO failed to implement the ratified Masilo Matsetela salaries benchmarking report:

6.2.1 The allegation that the former CEO failed to implement the Masilo Matsetela salaries benchmark report is not substantiated.

6.2.2 The former CEO did not fail to implement the Masilo Matsetela salaries benchmarking report. The report was implemented by the Board taking into consideration the available budget when taking the decision to implement it.

6.2.3 The former CEO did not conduct himself in a manner that constitutes improper conduct as envisaged in section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(ii) of the Public Protector Act as alleged.

6.3 Regarding whether the former CEO appointed Ernst & Young Auditors for the first forensic investigation without the approval of the Board:

6.3.1 The allegation that the former CEO did not obtain the approval of the Board when appointing Ernst & Young Auditors for the first forensic investigation is not substantiated.

6.3.2 The Board was aware of the first forensic investigation and approval was granted on 12 August 2011.

6.3.3 The services were procured through a three quotation system in which PWC, Ernst & Young Auditors and KPMG, each submitted a quotation for consideration.

6.3.4 The former CEO did not conduct himself in a manner that constitutes improper conduct as envisaged in section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(ii) of the Public Protector Act as alleged.

6.4 Regarding whether the former CEO deviated from the procurement process by appointing Ernst & Young Auditors for the second forensic investigation without approval of the relevant authority:

6.4.1 The allegation that the former CEO deviated from the procurement process by appointing Ernst & Young Auditors for the second forensic investigation without approval of the relevant authority is not substantiated.

6.4.2 The deviation was reported on 15 July 2013 to and approved by the Provincial Treasury and the Auditor General in terms of the PFMA and the Treasury Regulations and Mr Mokonyama.

6.4.3 The former CEO did not act in contravention of clause 3.1 of the National Treasury Practice Note 6 of 2007/2008, which requires the former CEO to report within ten (10) working days to the relevant Treasury and the AG, all cases where goods and services above the value of R1million (VAT included) were procured in terms of Treasury Regulation No. 16A6.4.

6.4.4 The former CEO's conduct by appointing Ernst & Young Auditors for the second forensic investigation does not constitute improper conduct as envisaged in section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(ii) of the Public Protector Act.

6.5 Regarding whether the former CEO allowed Ernst & Young Auditors to determine the terms of reference for the second forensic investigation:

6.5.1 The allegation that the former CEO allowed Ernst & Young Auditors to determine the terms of reference for the second forensic investigation is not substantiated.

6.5.2 The terms of reference for the second forensic investigation was determined by the multi-disciplinary Anti-Corruption Task Team (ACTT) which was established in 2010 by Minister Jeff Radebe as a Justice Crime Prevention Security (JCPS) cluster initiative identified a need for further investigation.

6.5.3 The conduct by the former CEO does not constitute improper conduct as envisaged in section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(ii) of the Public Protector Act.

Alleged misrepresentation of qualifications and CV by the former CEO

6.6 Regarding whether the former CEO submitted a falsified copy of matric certificate when applying for the CEO post at GAAL:

6.6.1 The allegation that the former CEO submitted a falsified copy of his matric certificate when he applied for the CEO post at GAAL is not substantiated.

6.6.2 The matric certificate was verified and confirmed by the Department of Basic Education (DBE) as being authentic and valid.

6.6.3 The former CEO's conduct does not constitute improper conduct as envisaged in section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(ii) of the Public Protector Act.

6.7 Regarding whether the former CEO submitted a falsified copy of a BA degree when applying for the CEO post at GAAL:

6.7.1 The allegation that the former CEO submitted a falsified copy of a BA degree when applying for the CEO post at GAAL is not substantiated.

6.7.2 The BA degree was verified and confirmed by the South African Qualifications Authority (SAQA) and the UniZulu as being valid and authentic.

6.7.3 The former CEO's conduct does not constitute improper conduct as envisaged in section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(ii) of the Public Protector Act.

6.8 **Regarding whether the former CEO submitted a falsified copy of a BA Honours degree when applying for the CEO post at GAAL:**

6.8.1 The allegation that the former CEO submitted a falsified copy of a BA Honours degree when applying for the CEO post at GAAL is not substantiated.

6.8.2 The BA Honours was verified and confirmed by UniZulu and SAQA as being authentic and valid.

6.8.3 The former CEO's conduct does not constitute improper conduct as envisaged by section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(ii) of the Public Protector Act.

6.9 **Regarding whether the former CEO submitted a falsified CV when applying for the CEO post at GAAL by mentioning that he completed the following modules at WITS: Programme and Project Management; Institutions and Public Policy; Monitoring and Evaluation; Scenario Planning and Public Policy Analysis etc.**

6.9.1 The allegation that the former CEO falsified his Curriculum Vitae by including modules which he did not complete when applying for the CEO post is substantiated.

6.9.2 The former CEO falsified his CV when applying for the CEO post at GAAL by mentioning that he completed a module in Monitoring and Evaluation.

6.9.3 Although the modules were not a requirement for the post, the former CEO did not pass the Institutions & Public Policy and Monitoring & Evaluation modules as they do not appear on his academic record.

6.9.4 By falsifying his CV, the former CEO's conduct could constitute fraud.

6.9.5 The former CEO's conduct constitutes improper conduct as envisaged in section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(ii) of the Public Protector Act.

Alleged wasteful expenditure

6.10. **Regarding whether the former CEO appointed Mr Venter as a consultant to do business development projects which are the duties performed by the Business Development Manager, Ms Lukoto, thereby duplicating duties and wasting public funds:**

6.10.1 The allegation that the former CEO appointed Mr Venter as a consultant to do business development projects which are the duties performed by the Business Development Manager, Ms Lukoto, thereby duplicating duties and wasting public funds is substantiated.

6.10.2 The scope of work performed by Mr Venter is the same as that of Ms Lukoto.

6.10.3 The former CEO's conduct constitute improper conduct as envisaged in section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(ii) of the Public Protector Act.

6.11 Regarding whether the former CEO irregularly appointed Ernst & Young Auditors for a second forensic investigation for the same matters for which they were appointed for the first forensic investigation:

6.11.1 The allegation that the former CEO irregularly appointed Ernst & Young Auditors for the second forensic investigation of the same matters for which they were

appointed for during the first forensic investigation leading to a waste of public funds without justifiable reasons, is not substantiated.

6.11.2 The former CEO deviated from the procurement process when Ernst & Young Auditors were appointed for the second forensic investigation.

6.11.3 The deviation was handled in terms of the National Treasury Practice Note 6 of 2007/2008 and PFMA.

6.11.4 The appointment of Ernst & Young Auditors was not in contravention of section 3.1 of the National Treasury Practice Note 6 of 2007/2008 which requires the former CEO to report within ten (10) working days to the relevant Treasury and the Auditor General, all cases where goods and services above the value of R1 million (VAT included) were procured in terms of Treasury Regulations No.6A6.4.

6.11.5 The former CEO's conduct in appointing Ernst & Young Auditors for the second forensic investigation did not constitute improper conduct as envisaged in section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(ii) of the Public Protector Act.

Alleged maladministration and irregularities by the GAAL Board

6.12 Regarding whether the Board failed to execute its fiduciary duties by appointing the former CEO of GAAL despite the fact he did not meet the minimum requirements of the post:

6.12.1 The allegation that the Board failed to execute its fiduciary duties by appointing the former CEO without meeting the minimum requirements of the CEO post is substantiated.

6.12.2 The Board appointed the former CEO without him meeting the minimum requirements of the post.

6.12.3 The former CEO did not have a Masters of Business Administration qualification when he was appointed CEO in 2011. His highest qualification is a Bachelor of Arts degree and BA Honours in Communication Science.

6.12.4 The former CEO was appointed through a head hunting method which is not provided for in terms of the GAAL Human Resources Policy and Procedure Manual.

6.12.5 The Board acted in contravention of the GAAL Human Resources Policy and Procedure Manual which provides that applicants must be employed purely on the basis of job related requirements, personal attributes, competence and abilities and must be given equal opportunities of employment.

6.12.6 The Board's conduct by appointing the former CEO without meeting the requirements of the post constitutes improper conduct as envisaged in section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(ii) of the Public Protector Act.

6.13 Whether the Board failed to authenticate and/or verify the former CEO's qualification records and the Curriculum Vitae:

6.13.1 The allegation that the Board failed to authenticate and/or verify the former CEO's qualifications and CV is substantiated.

6.13.2 The Board failed to authenticate and/or verify the former CEO's qualifications records and the CV.

6.13.3 The Board acted in contravention of the requirements for the advertisement of the former CEO post of February 2009 which provided that the successful candidate would be required to do probity/security checks. No probity/security checks were conducted in respect of the former CEO.

6.13.4 The Board's conduct by failing to authenticate the former CEO's qualifications constitutes improper conduct as envisaged in section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(ii) of the Public Protector Act.

6.14 Regarding whether the Board failed to execute its fiduciary duties by failing to institute disciplinary hearing against the former CEO:

6.14.1 The allegation that the Board failed to execute its fiduciary duties by failing to institute a disciplinary hearing against the former CEO is substantiated.

6.14.2 The Board that appointed the former CEO was dissolved before the investigation against him was completed. The disciplinary action against the former CEO could not continue in the absence of the Board.

6.14.3 The Board that took over on 1 November 2013 did not deal with the matter despite the undertaking that it would not ignore the gravity of the issues raised, nor be blind to them.

6.14.4 The Board's conduct in failing to institute disciplinary hearing against the former CEO constitutes improper conduct as envisaged in section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(ii) of the Public Protector Act.

6.14 Regarding whether the allegation that the Board irregularly uplifted the former CEO's precautionary leave without taking him to a disciplinary hearing in terms of the response to the SCOPA:

6.15.1 The allegation that the Board irregularly uplifted the former CEO's precautionary leave without taking him to a disciplinary hearing in terms of the response to the SCOPA is not substantiated.

6.15.2 The former CEO's precautionary leave was uplifted by Mr Mokonyama, after getting different legal opinions on the matter.

6.15.3 The Board's conduct does not constitute improper conduct as envisaged in section 182(1) of the Constitution and maladministration as envisaged in section 6(4)(a)(ii) of the Public Protector Act.

7. REMEDIAL ACTION

The Public Protector takes the following remedial action in terms of section 182(1)(c) of the Constitution:

7.1 The MEC for Transport must:

7.1.1 Takes cognisance of the findings regarding the unethical conduct and maladministration by the Board mentioned in the report;

7.1.2 Ensure that the Board considers the report and, where appropriate, take appropriate disciplinary action for financial misconduct in terms of section 84 of the PFMA;

7.1.3 Ensure that the Board considers the acts of maladministration and improper conduct referred to in the report and take appropriate disciplinary action against the officials of GAAL; and

7.1.4 Include in her oversight responsibilities with regard to GAAL as a State Owned Enterprise the monitoring of implementation of remedial action taken in pursuit of the findings in terms of the powers conferred under section 182(1)(c) of the Constitution.

7.2 **The Chairperson of the Board must ensure that:**

7.2.1 The Board takes cognisance of the findings of maladministration and improper conduct by the former CEO and ensure that such conduct is not repeated and appropriate disciplinary action is taken to recover any fruitless and wasteful expenditure incurred through the conduct of the former CEO;

7.2.2 The Board evaluates the effectiveness of GAAL's internal controls on Supply Chain Management and Human Resource processes to identify systemic deficiencies with a view to take corrective action to prevent a recurrence of the improprieties referred to in the report;

7.2.3 The Board reports to National Treasury and the Auditor-General particulars of the identified financial misconduct and the steps taken in connection with such financial misconduct, as contemplated in section 85 of the PFMA; and

7.2.4 The Board considers the report and, where appropriate, take appropriate disciplinary action for financial misconduct, in terms of section 84 of the PFMA;

7.2.5 The Board implements measures to recover losses as a result of financial misconduct; and

7.2.6 The Board considers reporting a case of fraud with the South African Police Service against the former CEO for falsifying his CV.

8. MONITORING

8.1 The MEC must submit an implementation plan indicating how the remedial action referred to in paragraphs 7.1 above will be implemented, within 30 working days from the date of the report.

8.2 The Chairperson of the Board must submit an implementation plan indicating how the remedial action referred to in paragraphs 7.2 above will be implemented, within 30 days from the date of the report.

8.3 All actions requested in this report as part of the remedial action the Public Protector has taken in terms of the Public Protector's powers under section 182(1)(c) of the Constitution must be finalised within six months from the date of the report.

ADV BUSISIWE MKHWEBANE
PUBLIC PROTECTOR OF THE
REPUBLIC OF SOUTH AFRICA
DATE: 02/10/2017

Assisted by: Mr Mapheto M D and Limpopo Office