



REPORT NO.31

OF 2025/26

ISBN Number : 978-0-6398968-3-0

PROVINCIAL LEGISLATURE

INVESTIGATION INTO ALLEGATIONS OF THE IRREGULAR APPOINTMENT OF MS FEZEKA NKOMONYE TO THE POSITION OF EXECUTIVE MANAGER: CORPORATE SERVICES BY THE SPEAKER OF THE EASTERN CAPE PROVINCIAL LEGISLATURE

TABLE OF CONTENTS

ITEM	DESCRIPTION	PAGE
	LIST OF ACRONYMS AND ABBREVIATIONS	3
	EXECUTIVE SUMMARY	4
1.	INTRODUCTION	9
2.	THE COMPLAINT	9
3.	POWERS AND JURISDICTION OF THE PUBLIC PROTECTOR	11
4.	ISSUE IDENTIFIED FOR INVESTIGATION	12
5.	INVESTIGATION	13
6.	DETERMINATION OF THE ISSUES IN RELATION TO THE EVIDENCE OBTAINED AND CONCLUSIONS MADE WITH REGARD TO THE APPLICABLE LAWS AND PRESCRIPTS	16
7.	FINDINGS	45
8.	CONCLUSION	47

LIST OF ACRONYMS AND ABBREVIATIONS

ACRONYMS/ ABBREVIATIONS	DESCRIPTIONS
Constitution	Constitution of the Republic of South Africa, 1996
CV	Curriculum Vitae
ECPL	Eastern Cape Provincial Legislature
HR	Human Resources
HRP	Human Resource Plan
ID number	Identity number
MEC	Member of the Executive Council
MPL	Member of the Provincial Legislature
NLRD	National Learners' Records Database
NQF	National Qualifications Framework
NQF Act	National Qualifications Framework Act, 2008
Public Protector	Public Protector of the Republic of South Africa
Public Protector Act	Public Protector Act, 1994
Public Protector Rules	Rules Relating to Investigations by the Public Protector and Matters Incidental Thereto, 2018, as amended and promulgated under section 7(11) of the Public Protector Act
QC	Quality Councils

EXECUTIVE SUMMARY

- (i) 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 (Constitution), which empowers the Public Protector to report on any conduct in state affairs that is suspected to be improper or to result in any impropriety or prejudice and section 8(1) of the Public Protector Act, 1994 (Public Protector Act), which provides that the Public Protector may make known the findings, point of view or recommendations of any matter investigated by her.
- (ii) The report relates to an investigation into allegations of the irregular appointment of Ms Fezeka Nkomonye (Ms Nkomonye), to the position of Executive Manager: Corporate Services by the Speaker of the Eastern Cape Provincial Legislature (ECPL), Ms Helen Sauls-August (the Speaker).
- (iii) The complaint was lodged by an anonymous Complainant (the Complainant) on 27 March 2024. In essence, the Complainant alleged, *inter alia*, that:
 - (a) In 2023, the Eastern Cape Provincial Legislature (ECPL) took a decision to fill the position of the Executive Manager: Corporate Services, which was vacant in the institution.
 - (b) The post was advertised both internally and externally on 01 June 2023, for suitable candidates to apply. The advert contained the following requirements:
 - (aa) A Postgraduate Degree (NQF8) in Public Administration or Social Sciences or equivalent qualification in a related field;
 - (bb) A Master's Degree (NQF9) in a related field will be an added advantage;

- (cc) Eight (08) years' experience in corporate service environment or related field;
and
- (dd) Five (05) years at a Senior Management level as a minimum.
- (iv) The recruitment process for the post commenced with the shortlisting of candidates on 08 November 2023 and interviews were conducted on 11 December 2023.
- (v) The panel was appointed by the Speaker of the ECPL, Ms Sauls-August, in terms of the Recruitment Policy (the Policy) of the Legislature and the following individuals formed part of the panel:
 - (aa) The Deputy Speaker: Mr Mlibo Qoboshiyane – Chairperson;
 - (bb) Adv Innocent Netshitumbu – from the North-West Legislature;
 - (cc) Dr Nombuyiselo Makala – from the Eastern Cape Liquor Board;
 - (dd) Ms Lulu Sizani - from the Eastern Cape Public Service Commission; and
 - (ee) Mr Madoda Nkwali - Union observer.
- (vi) In terms of the Policy, the panel was appointed to recommend a suitably qualified candidate to the Speaker, but they recommended Ms Fezeka Nkomonye (Ms Nkomonye), a candidate who was not suitably qualified for the position as she does not meet the minimum requirements of the post, which is NQF 8 and NQF 9.

- (vii) Ms Nkomonye only possesses a Degree and a Diploma, which is equivalent to NQF level 7, she has never worked in a senior management environment and therefore should not have been shortlisted for the post.
- (viii) The person who qualified for the post was Mr Phakamisa Hobongwana (Mr Hobongwana), who was recommended second by the panel. The appointment of Ms Nkomonye is abuse of power by the Speaker and she should have rejected the recommendations of the panel based on the Human Resource Plan (HR Plan) of the Legislature, which is targeting a male candidate in Secretariat level, due to the fact that the Secretariat level has four (04) posts in the establishment of the Legislature and three (03) posts are already occupied by females.
- (ix) The HR Plan was tabled by the General Manager: HRM, Mr Bheki Gama (Mr Gama), during the shortlisting process and was accepted.
- (x) Based on the analysis of the complaint, the following issue was identified to inform and focus the investigation:
 - (a) Whether the Speaker of the Eastern Cape Provincial Legislature irregularly appointed the Executive Manager: Corporate Services, and if so, whether such conduct constitutes improper conduct under section 182(1)(a) of the Constitution and amounts to maladministration as contemplated in section 6(4)(a)(i) of the Public Protector Act, 1994.
- (xi) The investigation was conducted in terms of section 182(1) of the Constitution and section 6(4) of the Public Protector Act. It included an analysis of all relevant documents, application of relevant laws and related prescripts.
- (xii) On 19 August 2024, a Notice in terms of Rule 41(1) of the *Rules relating to investigations by the Public Protector and matters incidental thereto, 2018, as amended* (The Public Protector Rules) was issued to the

Complainant to afford him an opportunity to respond to the interim findings. The Complainant did not respond.

- (xiii) Having regard to the evidence and regulatory framework determining the standard that should have been complied with, the following findings are made:
- (a) Whether the Speaker of the Eastern Cape Provincial Legislature irregularly appointed the Executive Manager: Corporate Services, and if so, whether such conduct constitutes improper conduct under section 182(1)(a) of the Constitution and amounts to maladministration as contemplated in section 6(4)(a)(i) of the Public Protector Act, 1994
- (aa) The allegation that the Executive Manager: Corporate Services was irregularly appointed by the Speaker of the ECPL, is **not substantiated**.
- (bb) The evidence before the Public Protector establishes that the recruitment and appointment of the Executive Manager: Corporate Services at the Eastern Cape Provincial Legislature (ECPL) was conducted in accordance with the governing legislative framework and the ECPL Recruitment and Selection Policy.
- (cc) The advertised minimum requirements of a postgraduate qualification at NQF 8, eight years' relevant experience, and five years at senior management level were met by Ms Nkomonye, whose qualifications and experience were independently verified with SAQA. Nkomonye possessed extensive relevant experience totalling sixteen (16) years.
- (dd) The selection panel recommended the top three candidates, including Ms Nkomonye and Mr Hobongwana, with Ms Nkomonye achieving the highest combined score. The allegation that the HR Plan targeted a male candidate is unsubstantiated. At the time of shortlisting, the two Executive

Manager positions were vacant, and the HR Plan did not stipulate gender-specific requirements.

- (ee) The Speaker lawfully exercised her discretion in appointing the highest-scoring candidate in accordance with Paragraph 12.3 of the ECPL Recruitment and Selection Policy and was consistent with the principles of fairness, merit-based selection, and transparency, as required by section 195(1) of the Constitution.
- (ff) Based on the above, the investigation could not establish any impropriety or procedural irregularity in the appointment of the Executive Manager: Corporate Services by the Speaker of the ECPL.
- (gg) Accordingly, the conduct of the Speaker does not constitute improper conduct as envisaged in section 182(1)(a) of the Constitution and maladministration as contemplated in section 6(4)(a)(i) of the Public Protector Act.
- (hh) Based on the findings recorded in paragraph (xiii) above, the Public Protector will not take remedial action as contemplated in section 182(1)(c) of the Constitution.

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 23, of 1994 (the Public Protector Act).
- 1.2 The report is submitted in terms of section 8(1) read with section 8(3) of the Public Protector Act and Rule 40(b) of the *Rules Relating to Investigations by the Public Protector and Matters Incidental Thereto*, 2018, as amended (Public Protector Rules), which empower the Public Protector to make known the findings of an investigation, to the following affected parties, for such persons to note the outcome of the investigation:
- 1.2.1 Ms Helen Sauls-August, the Speaker of the Eastern Cape Provincial Legislature; and
- 1.2.2 Anonymous, the Complainant.
- 1.3 The report relates to an investigation into allegations of the irregular appointment of Ms Fezeka Nkomonye (Ms Nkomonye) to the position of Executive Manager: Corporate Services by the Speaker of the Eastern Cape Provincial Legislature (ECPL), Ms Helen Sauls-August (the Speaker).

2. THE COMPLAINT

- 2.1 The investigation originates from a complaint lodged with the Public Protector by an anonymous Complainant (the Complainant) on 27 March 2024, in terms of section 6(1) of the Public Protector Act.
- 2.2 The Complainant alleged, *inter alia*, that:

- 2.2.1 In 2023, the Eastern Cape Provincial Legislature (ECPL) took a decision to fill the position of the Executive Manager: Corporate Services, which was vacant in the institution.
- 2.2.2 The post was advertised both internally and externally on 01 June 2023, for suitable candidates to apply. The advert contained the following requirements:
- 2.2.2.1 A Postgraduate Degree (NQF8) in Public Administration or Social Sciences or equivalent qualification in a related field;
- 2.2.2.2 A Master's Degree (NQF9) in a related field will be an added advantage;
- 2.2.2.3 Eight (08) years' experience in corporate service environment or related field; and
- 2.2.2.4 Five (05) years at a Senior Management level as a minimum.
- 2.2.3 The recruitment process for the post commenced with the shortlisting of candidates on 08 November 2023 and interviews were conducted on 11 December 2023.
- 2.2.4 The panel was appointed by the Speaker of the ECPL, Ms Sauls-August, in terms of the Recruitment Policy (the Policy) of the Legislature and the following individuals formed part of the panel:
- 2.2.4.1 The Deputy Speaker: Mr Mlibo Qoboshiyane – Chairperson;
- 2.2.4.2 Adv Innocent Netshitumbu – from the North-West Legislature;
- 2.2.4.3 Dr Nombuyiselo Makala – from the Eastern Cape Liquor Board;
- 2.2.4.4 Ms Lulu Sizani - from the Eastern Cape Public Service Commission; and
- 2.2.4.5 Mr Madoda Nkwali - Union observer.

- 2.2.5 In terms of the Policy, the panel was appointed to recommend a suitably qualified candidate to the Speaker, but they recommended Ms Fezeka Nkomonye (Ms Nkomonye), a candidate who was not suitably qualified for the position as she does not meet the minimum requirements of the post, which is NQF 8 and NQF 9.
- 2.2.6 Ms Nkomonye only possesses a Degree and a Diploma, which is equivalent to NQF level 7, she has never worked in a senior management environment and therefore should not have been shortlisted for the post.
- 2.2.7 The person who qualified for the post was Mr Phakamisa Hobongwana (Mr Hobongwana), who was recommended second by the panel. The appointment of Ms Nkomonye is abuse of power by the Speaker and she should have rejected the recommendations of the panel based on the Human Resource Plan (HR Plan) of the Legislature, which is targeting a male candidate in Secretariat level due to the fact that the Secretariat level has four (04) posts in the establishment of the Legislature and three (03) posts are already occupied by females.
- 2.2.8 The HR Plan was tabled by the General Manager: HRM, Mr Bheki Gama (Mr Gama), during the shortlisting process and was accepted.

3. POWERS AND JURISDICTION OF THE PUBLIC PROTECTOR

3.1 The Public Protector is an independent constitutional institution 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 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 the additional powers and functions prescribed by national legislation.

3.4 The Public Protector’s powers are regulated and amplified by the Public Protector Act which states, amongst others, that the Public Protector has the powers to investigate and redress maladministration and related improprieties in the conduct of state affairs.

3.5 The Eastern Cape Provincial Legislature is an organ of state as envisaged in section 239 of the Constitution and its conduct amounts to conduct in state affairs. As a result, the Public Protector is satisfied that the complaint falls within its competency to conduct an investigation as envisaged in section 182(1)(a) of the Constitution and section 6(4) of the Public Protector Act.

4. ISSUE IDENTIFIED FOR INVESTIGATION

4.1 Based on the analysis of the complaint, the following issue was identified to inform and focus the investigation:

4.1.1 Whether the Speaker of the Eastern Cape Provincial Legislature irregularly appointed the Executive Manager: Corporate Services and, if so, whether such conduct constitutes improper conduct as envisaged in section 182(1)(a) of the Constitution and amounts to maladministration as contemplated in section 6(4)(a)(i) of the Public Protector Act, 1994.

5. INVESTIGATION

5.1 Methodology

5.1.1 The investigation was conducted in accordance with section 182(1)(a) of the Constitution, read with sections 6 and 7 of the Public Protector Act.

5.1.2 The Public Protector Act confers on the Public Protector the sole discretion to determine how to investigate with due regard to the circumstances of each case.

5.2 Approach to the investigation

5.2.1 The process of investigation included an exchange of documents and information with the Complainant and the ECPL, including the analysis of the relevant documentation and the consideration and application of relevant laws, regulatory framework and prescripts.

5.2.2 The investigation was approached using an enquiry process that seeks to determine:

5.2.2.1 What happened.

5.2.2.2 What should have happened.

5.2.2.3 Is there a discrepancy between what happened and what should have happened.

5.2.2.4 In the event of a violation, what remedial action should be taken.

5.2.3 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. Evidence is evaluated and a determination is made on what happened based on a balance of probabilities. In this case, the factual enquiry principally focused on

whether the appointment of the Executive Manager: Corporate Services by the Speaker of the ECPL was irregular.

5.3 Key sources of information

5.3.1 Documents

5.3.1.1 Complaint dated 25 March 2025 [sic], from the Complainant and received by the Public Protector on 27 March 2024;

5.3.2 Notice in terms of *Rule 23 (1) of the Public Protector Rules*, as amended relating to the investigation by the Public Protector addressed to the Speaker of the ECPL to respond to the allegations raised by the Complainant, dated 24 July 2024;

5.3.3 Response letter from the Speaker of the ECPL to the Rule 23(1) Notice, dated 29 August 2024;

5.3.4 Notice in terms of section 7(4)(b) of the Public Protector Act, 1994 from the Public Protector Investigation Team addressed to the Chief Executive Officer of the South African Qualifications Authority (SAQA), requesting confirmation of Ms Nkomonye's qualifications and the NQF level thereof, dated 17 February 2025;

5.3.5 Letter from the Public Protector Investigation Team to the Speaker of the ECPL requesting clarity regarding the issues that were raised by the union observer copies of the invitation letters that were sent to the selection committee, dated 18 February 2025;

5.3.6 Email from SAQA confirming the qualifications of Ms Nkomonye and the NQF level thereof, dated 03 March 2025;

- 5.3.7 Response letter from the Speaker of the ECPL clarifying the Union's role in the interviews and providing the invitation letters to the selection committee, dated 07 March 2025;
- 5.3.8 Additional response letter from SAQA confirming the qualifications of Ms Nkomonye and the NQF level thereof, dated 11 March 2025;
- 5.3.9 Letter from the Public Protector Investigation Team to the Secretary of the ECPL requesting the exact date upon which the advertisement for the position was published; and
- 5.3.10 Response letter from the Secretary of the ECPL confirming the grade for the position of Executive Manager: Corporate Services and providing a copy of the advertisement.

5.4 **Legal Framework**

- 5.4.1 Constitution of the Republic of South Africa, 1996;
- 5.4.2 Public Protector Act, 1994;
- 5.4.3 National Qualifications Framework Act, 2008; and
- 5.4.4 Eastern Cape Provincial Legislature Recruitment and Selection Policy, adopted on 21 April 2015.

5.5 **Notice issued in terms of Rule 41(1) of the Public Protector Rules**

- 5.5.1 Rule 41 (1) of the Public Protector Rules provides that when the Public Protector intends concluding a complaint by means of a closing report, the Complainant shall be informed in writing accordingly and be given an opportunity to make representations in connection with the intended

closure of the complaint within fourteen (14) days of delivery of the notification.

5.5.2 A Rule 41(1) Notice dated 18 August 2025, was issued to the Complainant on 19 August 2025, to afford him an opportunity to make representations thereto by 02 September 2025.

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

6.1 Whether the Speaker of the Eastern Cape Provincial Legislature irregularly appointed the Executive Manager: Corporate Services and, if so, whether such conduct constitutes improper conduct as envisaged in section 182(1)(a) of the Constitution and amounts to maladministration as contemplated in section 6(4)(a)(i) of the Public Protector Act, 1994

Common cause

6.1.1 On 22 May 2023, the ECPL advertised the post of Executive Manager: Corporate Services, internally and externally, with the closing date stated as 02 June 2023.

6.1.2 On 08 February 2024, the Speaker of the ECPL approved the appointment of Ms Nkomonye to the position, following the recommendations of the selection panel.

6.1.3 Ms Nkomonye accepted the offer of employment on 14 February 2024.

Issue in dispute

- 6.1.4 The issue for the Public Protector's determination is whether the Speaker of the ECPL complied with the applicable recruitment and selection criteria and applicable prescripts in the appointment of Ms Nkomonye to the position of Executive Manager: Corporate Services.

Complainant's version

- 6.1.5 The Complainant alleged that the Speaker's appointment of Ms Nkomonye to the position of Executive Manager: Corporate Services was irregular, on the basis that she was not academically suitably qualified, as her qualifications did not meet the advertised NQF 8 and NQF 9 requirements.
- 6.1.6 The Complainant further contended that the Speaker ought to have rejected the panel's recommendation, because the ECPL Human Resource Plan targeted a male candidate at Secretariat level, given that three (03) of the four (04) Secretariat posts were already occupied by women. It is contended that Mr Hobongwana, who was ranked second in the panel's recommendations, ought to have been appointed to the position.

Response from Ms Helen Sauls August, the Speaker of the ECPL

- 6.1.7 On 24 July 2024, a Notice in terms of *Rule 23(1) of the Public Protector Rules* was issued by the Investigation Team to the Speaker, raising the allegations and soliciting a response.
- 6.1.8 The Speaker responded on 29 August 2024 and stated, *inter alia*, that:
- 6.1.8.1 The post of Executive Manager: Corporate Services was advertised in May 2023, with the closing date of 02 June 2023;

- 6.1.8.2 She appointed the panel, with the exception of the Union observer;
- 6.1.8.3 Ms Nkomonye met the minimum requirements since she had attained a post-graduation diploma in Public Administration from Regenesys School of Public Administration in November 2022, which is at NQF Level 8 and the SAQA confirmation on the qualification was obtained;
- 6.1.8.4 Ms Nkomonye is studying towards a Master's degree in Public Management with Regenesys, which is equivalent to NQF Level 9. However, a qualification at NQF Level 9 was not a minimum requirement, but an added advantage;
- 6.1.8.5 Her work experience shows that she was qualified to be shortlisted for the interviews as indicated below:
- (a) In 2007 – 2009, she worked as the Chief Operations Officer at the level of middle management at Ngquza Hill Local Municipality;
 - (b) In 2009 – 2011, she worked as a Member of the Provincial Legislature (MPL) at the level of a Whip;
 - (c) In 2011 – 2014, she worked as a Senior Manager (Chief of Staff) for three (03) years, in the Office of the Member of the Executive Council (MEC) for Finance;
 - (d) In 2019 – 2022, she worked as the MEC at the Department of Sports, Arts and Culture; and
 - (e) From 2022 until her employment, she worked as a MPL at the level of Chairperson of the Committee overseeing the Executive and relevant Departments.

- 6.1.8.6 The HR plan does not specify the gender required to fill this position, however, as per the Employment Equity Profile of 30 September 2023, the institution had one (01) African female (Secretary to the Legislature) and one (01) Indian female (Chief Financial Officer) at the time of shortlisting, as the two (02) Executive Manager posts were still vacant and not filled yet; and
- 6.1.8.7 The selection committee made recommendations to the appointing authority in line with the Policy on Recruitment and Selection for the appointment of any of the top three (03) candidates, with Ms Nkomonye having scored the highest.
- 6.1.9 In support of her response dated 29 August 2024, the Speaker furnished the Investigation Team with the following documentation:

Advertisement for the post of Executive Manager: Corporate Services

- 6.1.9.1 A copy of the undated advertisement, advertised in an unnamed newspaper with Ref. No: 09/2023, with a closing date of 02 June 2023.
- 6.1.9.2 The minimum requirements for the post in the advertisement were reflected as follows:
- A Postgraduate Degree (NQF8) in Public Administration or Social Sciences or equivalent qualification in a related field;
 - A master's degree (NQF9) in a related field will be an added advantage;
 - Eight (08) years' experience in a corporate service environment or related field; and
 - Five (05) years at a Senior Management level as a minimum.

Eastern Cape Provincial Legislature Recruitment and Selection Policy

- 6.1.10 A document titled: “*Eastern Cape Provincial Legislature Recruitment and Selection Policy*”, adopted by the Executive Committee on 21 April 2015, provides as follows:
- 6.1.10.1 Paragraph 5.1 of the Policy indicates that the policy is applicable in the recruitment of all positions of the Eastern Cape Provincial Legislature except for politically appointed staff;
- 6.1.10.2 Paragraph 6.1 of the Policy states that the Human Resource Plan shall serve as a guiding document on matters relating to recruitment and selection processes;
- 6.1.10.3 Paragraph 6.2 of the Policy states that the Human Resource Plan shall clearly identify the nature of the appointment for the staffing of specific posts or categories of posts, as this will inform the nature of the recruitment processes; and
- 6.1.10.4 In terms of paragraph 6.3 of the Policy, the recruitment and selection processes must give due preference to internal candidates and applicants from the designated groups in line with the Employment Equity Plan of the Legislature.

Eastern Cape Provincial Legislature Human Resource Plan

- 6.1.11 A document titled: “*Eastern Cape Provincial Legislature Human Resource Plan*” (HRP), dated 31 March 2021, provides as follows:
- 6.1.11.1 The HRP depicts the organisational structure (Demand and Supply) for a three (03) year period from the 2020/21 financial year until the 2022/23 financial year; and

6.1.11.2 There are four (04) posts for the position of Executive Manager for the three (03) financial years, as follows:

Task Grade & Title	Post Supply		
	20/21	21/22	22/23
Executive Manager	4	4	4

6.1.12 A document titled: “*Employment Equity as at 30 September 2023*”, as shown below:

Level	AM	IM	CM	WM	Total males	AF	IF	CF	WF	Total Females	Grand Total
Executive Management (grade 19 -22)	0	0	0	0	0	1	1		0	2	2
Top Management (grade 17)	5	0	0	0	5	4	0		0	4	9
Professionally qualified and experienced specialists and mid-management (grade 14 -15)	13	0	0	0	13	13	0		2	16	29
Skilled technical and academically qualified workers, middle management, supervisors, Foremen and superintendents (grade 8-2)	46	0	2	0	48	53	0		0	55	103
Semi-skilled and discretionary decision making (grade 4-7)	17	0	1	0	18	32	0		4	36	54
Unskilled and defined decision making (grade 3)	11	0	0	0	11	26	0		0	26	37
Total	92	0	3	0	95	129	1		6	139	234

Curriculum Vitae of shortlisted candidates for the post of Executive Manager: Corporate Services

6.1.13 The Curriculum Vitae (CV) of the seven (07) candidates, who were shortlisted for the post of Executive Manager: Corporate Services reflects the following:

Candidate	Qualifications	Work Experience
F Nkomonye	<ul style="list-style-type: none"> • Bachelor Artium Degree (2000-2002) • Post-Graduate Diploma in Public Management (2021-2022) 	<ul style="list-style-type: none"> • Member of the Provincial Legislature (August 2022 to date of application) • MEC - Department of Sport, Recreation, Arts and Culture (May 2019 – August 2022) • Member of the Eastern Cape Provincial Legislature (May 2014 - May 2019) • Head of Ministry (Office of the MEC). Eastern Cape Provincial Planning and Treasury (2010 - 2014) • Member of the Eastern Cape Provincial Legislature (2009-2010) • Senior Operations Officer at the Ingquza Hill Local Municipality (2007 -2009)

		<ul style="list-style-type: none"> • Committee Clerk (2006 -2007)
PA Hobongwana	<ul style="list-style-type: none"> • B.A Honours Industrial Relations (2003) • Diploma in Telecommunication (1997) • B.A Honours Communication (1994) • B.A Communication (1993) 	<ul style="list-style-type: none"> • Executive Manager: Corporate Services at the ECPL (when required to act as the secretary of the legislature (April 2018 - present) • Head of Office for the Deputy Minister of Water and Sanitation (November 2015 – March 2018) • Media and Liaison in the office of the Deputy Minister (June 2014 – November 2015) • Chief Operations Officer at the ECPL (2007 - 2013) • Member of the Eastern Cape Provincial Legislature (June 1999 – April 2007) • Senior Communication Officer at East London Municipality (July 1996 -June 1999) • Programme Coordinator at National Progressive Primary Health Care Network (April 1994 – July 1996)

		<ul style="list-style-type: none"> • Trainee Manager at Radue Weir Holdings (November 1993 -April 1994) • Tutor at the University of Fort Hare (February to October 1993)
Candidate C	<ul style="list-style-type: none"> • MBA (2017) • B Admin (1997) 	<ul style="list-style-type: none"> • Group CFO at Department of Economic Development and Environmental Affairs (July 2010 - present) • Chairperson of the CFO & Finance Manager’s Forum for legislatures, including national parliament (2006-2008) • General Manager: Finance at the ECPL (1998-2008) • Assistant Director at the ECPL (1998-1999) • Senior Accountant at the ECPL (1996-1998) • Accountant at the ECPL (1995-1996) • Chief Accounting Clerk at the Department of Transport (1992-1995) • Personal Clerk at former Ciskei Personnel

		<p>Administration (1991-1992)</p> <ul style="list-style-type: none"> • Accounting Clerk at former Ciskei Department of Tourism and Aviation (1987 – 1991) • Manageress - Totalisator Agency Board (1984 – 1987)
<p>Candidate D</p>	<ul style="list-style-type: none"> • Public Service SMS Pre-entry Programme (2021) • CPMD (2008 and some of the modules were completed in 2016) • Masters -Policy Studies (1998) • Certificate: Human Resources - Staffing (1999) • BA Honours: Public Administration (1997) • Bachelor of Arts (1995) 	<ul style="list-style-type: none"> • Municipal Manager - Inxuba Yethemba Local Municipality (March 2018 -March 2023) • Executive Director: Local Economic Development (LED) Human Settlement and Planning - Matjhabeng Local Municipality (March 2012 - January 2017) • Municipal Manager – Metsimaholo Local Municipality (October 2009 – February 2012) • Director: Local Economic Development (LED), Housing and Urban Planning - Metsimaholo Local Municipality (June

		<p>2008 – September 2009)</p> <ul style="list-style-type: none"> • Municipal Manager - Amathole District Municipality (November 2004 – January 2008) • Director: Strategic Planning – Department of Correctional Services (October 2003 – October 2004) • Portfolio Councillor Human Resources – Amathole District Municipality (February 2001 to October 2003)
<p>Candidate E</p>	<ul style="list-style-type: none"> • Master of Public Administration (2020) • Post-Grad Diploma in Public Sector Monitoring and Evaluation (2019) • B-Tech Degree in Human Resource Management (2012) • National Diploma in Human Resource Management (2004) 	<ul style="list-style-type: none"> • Director: Human Resource Administration, HR Planning, OD & Change Management – Eastern Cape Treasury (September 2019 – to date) • Deputy Director: Conditions of Service - Eastern Cape Treasury (January 2016 – August 2019) • Deputy Director – Conditions of Service, Policy Development

		<p>and Recruitment and Selection – Office of the Premier (July 2014 – December 2015)</p> <ul style="list-style-type: none"> • Deputy Director – HRS (2014) • Assistant Director: HRS - Office of the Premier (October 2012 – June 2014) • Senior HR Practitioner: Human Resource Services – Office of the Premier (January 2008 – September 2012) • Human Resource Clerk -Department of Health (October 2004 – December 2007) • Leave Specialist - Deloitte and Touch Company (project under the Department of Education) (April 2002 – March 2004)
Candidate F	<ul style="list-style-type: none"> • Bachelor of Arts (1994) • Higher Diploma in Education (1994) • Bachelor of Administration • Masters in administration (2006) 	<ul style="list-style-type: none"> • Municipal Manager- Sakhiziwe Local Municipality (2006-2011 and 2011 -2016) • Assistant Director: HRM – Department of Education (August

	<ul style="list-style-type: none"> • Diploma in Local Government Management (2007) • Certificate for the successful completion of Nyukela Public Service SMS Pre-entry Programme (2021) 	<p>1995 – December 2005)</p>
<p>Candidate G</p>	<ul style="list-style-type: none"> • B-Tech Degree: Policing (2005) • B. Admin Degree: HR Management and Public Sector Management (2000) • B Admin: Honours (Industrial Psychology) (2001) • National Certificate: Financial Management (CPMD) (2013) 	<ul style="list-style-type: none"> • Director: Corporate and Shared Services - Enoch Mgijima Local Municipality (February 2023 – date) • Municipal Manager – Sakhisizwe Municipality (October 2020 - November 2022) • Acting Municipal Manager -Makana Local Municipality (October 2017 – January 2018) • Director: Corporate and Shared Services- Makana Local Municipality (August 2017 – October 2020) • Acting Municipal Manager – Ngqushwa Municipality (June 2014 – March 2015) • Director: Corporate & Shared Services - Nhqushwa Local

		<p>Municipality (May 2014 – July 2017)</p> <ul style="list-style-type: none"> • Forensic Investigator – NEXIA SAB&T (November 2013 -May 2013) • Director: Corporate Services – Sakhisizwe Local Municipality (May 2008 – May 2013) • Investigator -National Prosecuting Authority (Scorpions) (2004 - 2008) • Interpreter – CCMA (2002-2004) • Tutor -University of Fort Hare (January 2001 – December 2001)
--	--	---

Declaration of Interest

6.1.14 A document titled: “*Declaration of interest in a shortlisting and interview process*”, dated 08 November 2023, was signed by the following panel members:

6.1.14.1 Mr Mlibo Qoboshiyane;

6.1.14.2 Ms Lulama Viwe Sizani;

6.1.14.3 Dr Nombuyiselo Makala; and

6.1.14.4 Adv Lutendo Innocent Netshitumbu.

Scores for Shortlisted Candidates

6.1.15 The score sheets for each shortlisted candidate were provided. The final scoring percentages determined by the Panellists, from highest to lowest out of 100 were as follows:

Name of Candidate	Qoboshiyane M	Sizani LV	Makala N	Netshitumbu LI	Total Interview Score
Ms F Nkomonye	85	84	69	91	329
Mr P A Hobongwana	91	76	77	79	323
Candidate C	85	81	59	72	297
Candidate D	73	64	73	56	266
Candidate E	53	47	56	56	212
Candidate F	66	52	39	40	197
Candidate G	45	25	49	35	154

Results of Interviews

6.1.16 A document titled: “Results for Interviews”, dated 11 December 2023, signed by the panellists, the Union Observer, Mr Nkwali and the HR Support, Ms T N Mpako-Somandi (Ms Mpako-Somandi), recommended the following candidates in order of preference:

Surname	Initials	M/F	Final Score				
			Panellist 1	Panellist 2	Panellist 3	Panellist 4	Total
1. Nkomonye	F	F	85	91	69	84	329

2. Hobongwana	P A	M	91	79	77	76	323
3. Candidate C		F	85	72	59	81	297

“Request for approval: Filling of a vacant post of Executive Manager: Corporate Services”

6.1.17 A memorandum dated 26 January 2024, sought the approval of the Honourable Speaker of the ECPL for the appointment of a suitable candidate to the vacant post of an Executive Manager: Corporate Services in line with the recommendations made by the selection committee.

6.1.18 The memorandum stated that the post of Executive Manager: Corporate Services became vacant as a result of the expiry of the contract for Mr P A Hobongwana, on 30 June 2023.

6.1.19 A selection committee was appointed by the Speaker of the Legislature to manage the process of shortlisting and interviewing, and comprised of:

- (a) Honorable M Qoboshiyane (Deputy Speaker of the ECPL) - Chairperson of the selection committee;
- (b) Doctor N Makala (Chief Executive Officer of the Eastern Cape Liquor Board) - Member of the Selection Committee;
- (c) Commissioner L Sizani (Public Service Commission) - Member of the Selection Committee; and
- (d) Adv Netshitumbu (Secretary to the North-West Provincial Legislature) - Member of the selection committee.

6.1.20 The following officials also participated in the process of filling the post:

- (e) Mr M Nkwali represented organised labour (NEHAWU);
- (f) Ms T N Mpako-Somandi, Ms Y Ntloko and Mr Lumeza provided Human Resource support to the selection committee; and
- (g) Mr M Sauli provided the Information Technology support to the selection committee.

6.1.21 In terms of the memorandum, the selection committee convened on 08 November 2023. A total of fourteen (14) applications were received in response to the advertisement. Seven (07) candidates were shortlisted.

6.1.22 The interviews were held on 11 December 2023, at the Regent Hotel and all members of the selection committee were in physical attendance.

6.1.23 The selection committee recommended the appointment of any of the following top three (03) candidates:

- (a) Ms F Nkomonye;
- (b) Mr P A Hobongwana;
- (c) Candidate C.

6.1.24 The Speaker of the ECPL signed the memorandum on 08 February 2024, and approved the appointment of Ms Nkomonye.

Appointment Letter of Ms Nkomonye

6.1.25 The Secretary to the Legislature, Ms N Ngcakani (Ms Ngcakani) signed a document dated 14 February 2024, titled: "*Appointment as Executive Manager: Corporate Services: Yourself*".

Offer of employment form

- 6.1.26 Ms Nkomonye signed the acceptance of employment form on 14 February 2024.

Response from Ms Lerato Dhladhla, SAQA

- 6.1.27 On 17 February 2025, the Investigation Team issued a Notice in terms of section 7(4)(b) of the Public Protector Act, 1994 to Ms N Starr (Ms Starr), the Chief Executive Officer of the South African Qualifications Authority (SAQA), requesting confirmation of Ms Nkomonye's qualifications and NQF level.

- 6.1.28 Ms Lerato Dhladhla (Ms Dhladhla) from the Verifications section at SAQA, responded in an email dated 03 March 2025 and attached an affidavit dated 27 February 2025, deposed to by Ms Phumzile Mtsweni, Manager: Verifications stating, *inter alia*, that:

- 6.1.28.1 On 17 February 2025, she received a request from the Public Protector to verify the learner achievements of Fezeka Nkomonye. No certificates or other supporting documents were provided in support of the request;

- 6.1.28.2 Having followed the process of verifying the information as presented against the records kept by SAQA in terms of its verification responsibility, she has satisfied herself that the following record/s with their achievement status were found on the NLRD using names and ID numbers:

Qualification/Part Qualification	Institution	Achievement Year	Achievement Status	NQF level
Senior Certificate	Department of Basic Education	1998	Achieved	04
Bachelor of Arts	University of Durban Westville (now known	2002	Achieved	07

	as University of Kwazulu-Natal)			
Postgraduate Diploma in Public Management	Regenesys	2022	Achieved	08

Response letter from Ms N Starr, the Chief Executive Officer of SAQA

6.1.29 On 11 March 2025, an additional response was received from Ms Starr, the Chief Executive Officer of SAQA, stating, *inter alia*, that:

6.1.29.1 The Public Protector requested SAQA to confirm the following:

- (a) The level of the Postgraduate Diploma in Public Management;
- (b) The qualifications for Ms Nkomonye; and
- (c) If Ms Nkomonye's qualification is a NQF level 7 or 8.

6.1.29.2 The NQF consists of ten (10) levels with three (03) coordinated sub-frameworks that are coordinated by three (03) quality councils (QC) as follows:

- (a) General and Further Education and Training Qualifications Sub-Framework for qualifications from NQF level 1 to 4 and managed by Umalusi;
- (b) Occupational Qualifications Sub-Framework for qualifications from NQF level 1 to 8 and managed by the Quality Council for Trades and Occupations; and
- (c) Higher Education Qualifications Sub-Framework for qualifications from NQF level 5 -10 and managed by the Council on Higher Education.

- 6.1.29.3 Each QC developed its sub-framework policy, indicating the qualification types with credits to be registered on the NQF.
- 6.1.29.4 All post-graduate diplomas on the Higher Education Qualifications Sub-framework are registered at NQF level 8. They are generally multi or interdisciplinary in nature to strengthen and deepen a learner's knowledge in a particular discipline or profession. Learners must have an appropriate degree at NQF level 7 to access a Postgraduate Diploma. Learners who completed a Postgraduate Diploma meet the entry requirements for admission to a Master's Degree.
- 6.1.29.5 SAQA therefore confirms that:
- (a) The Postgraduate Diploma in Public Management (SAQA ID#24353) from the Regenesys Business School is registered on the NQF at NQF level 8;
 - (b) An affidavit confirming Ms Nkomonye's qualifications was forwarded on 03 March 2025; and
 - (c) Ms Nkomonye's qualification is at NQF level 8.

Response from Ms Helen Sauls-August, the Speaker of the ECPL

- 6.1.30 On 18 February 2025, the Investigation Team sent a letter to the Speaker noting that the memorandum dated 26 January 2024, from the Secretary of the Legislature Ms Ngcakani to the Speaker, stated that concerns were raised by the Union observer with regards to the results of the interviews.
- 6.1.31 The Investigation Team requested information on the issues raised by the Union and also copies of the invitation letters that were sent to the Selection Committee to participate in the interviews.

6.1.32 The Speaker responded in a letter dated 07 March 2025, received by the Investigation Team on 06 May 2025, stating, *inter alia*, that:

6.1.32.1 In response to the claim that the Union did not agree with panellists in terms of the outcome of the interviews, it should be noted that this matter was raised during the interview process. The Selection Committee followed the standard procedure, basing its decision on the scoring of all candidates in line with clause 12.3 of the Recruitment and Selection Policy, “*the selection committee shall make recommendations to the appointing authority based on the results of the interview process*”; and

6.1.32.2 It is important to clarify that the Union’s role in the process is limited to that of an observer and does not include scoring candidates. Furthermore, the report does not indicate any procedural irregularities in the recruitment process for the Executive Manager: Corporate Services.

6.1.33 In support of her response, the Speaker furnished the Investigation Team with the following documentation:

Appointment as Chairperson and member of the ECPL recruitment and selection panel for the posts of Executive Manager letter to Mr M Qoboshiyane

6.1.33.1 A letter titled: “*Appointment as Chairperson and member of the ECPL recruitment and selection panel for the posts of Executive Manager: Corporate Services and Executive Manager: Parliamentary Services*”, dated 10 October 2023, from the Speaker of the ECPL to Mr Qoboshiyane, the then Deputy Speaker of the ECPL.

6.1.33.2 In the letter, Mr Qoboshiyane was appointed as the Chairperson and member of the Selection Committee, with the responsibility to oversee the process, to assist with the shortlisting and interview process, to pay attention to the equity status of the occupational class relevant to the post

and to ensure that the process is fair, adheres to the principles of equity and that no applicant is subjected to any form of unfair discrimination.

Request for the Secretary of the North-West Legislature to serve as a member of the ECPL recruitment and selection panel to Ms L Sizani

- 6.1.33.3 A letter titled: “*Request for your services as a member of the ECPL recruitment and selection panel for the posts of Executive Manager: Corporate Services and Executive Manager: Parliamentary Services*”, dated 10 October 2023, from the Speaker of the ECPL to Ms Sizani, the then Public Service Commissioner. In the letter, Ms Sizani’s services were requested as a member of the recruitment and selection panel.

Request for the Secretary of the North-West Legislature to serve as a member of the ECPL recruitment and selection panel to Mr Dantjie

- 6.1.33.4 A letter titled: “*Request for the Secretary of the North-West Legislature to serve as a member of the ECPL recruitment and selection panel*”, dated 10 October 2023, from the Speaker of the ECPL to Mr Dantjie, a member of the North-West Legislature. In the letter, the participation of Adv L I Netshitumbu, the Secretary in the North-West Legislature, was requested to serve as a member of the selection panel.

Request for the Secretary of the North-West Legislature to serve as a member of the ECPL recruitment and selection panel to Mr Dantjie
letter to Dr N Makala

- 6.1.33.5 A letter titled: “*Request for your services as a member of the ECPL recruitment and selection panel for the posts of Executive Manager: Corporate Services and Executive Manager: Parliamentary Services*”, dated 10 October 2023, from the Speaker of the ECPL to Dr Makala, the Chief Executive Officer of the Eastern Cape Liquor Board. In the letter, Dr Makala’s services were requested as a member of the recruitment and selection panel.

Response from Ms N Ngcakani, the Secretary to the Legislature

- 6.1.34 On 06 August 2025, the Investigation Team sent a letter to the Secretary of the Legislature, Ms N Ngcakani, requesting her to provide the exact date that the advertisement was published, to confirm the grade for the position of Executive Manager: Corporate Services and whether the written approval of the Speaker was obtained prior to advertising the position.
- 6.1.35 Ms Ngcakani responded in an e-mail dated 06 August 2025, stating that in terms of the ECPL grading system, the position of Executive Manager: Corporate Services is Grade 20.
- 6.1.36 In support of her response dated 06 August 2025, Ms Ngcakani furnished the Investigation Team with the following documentation:

Advertisement

- 6.1.36.1 The advertisement for the post of Executive Manager: Corporate Services as published in the Herald Newspaper, on 22 May 2023.

Request for approval: Advertisement of one post of Executive Manager: Corporate Services

- 6.1.37 A memorandum with the subject: “*Request for approval: Advertisement of one post of Executive Manager: Corporate Services*”, dated 28 March 2023, seeking the approval of the Speaker of the ECPL for the internal and external advertisement of the post. The Speaker of the ECPL approved and signed the memorandum on 09 May 2023.

Notice issued in terms of Rule 41(1) of the Public Protector Rules

- 6.1.38 Rule 41(1) of the Public Protector Rules provides that when the Public Protector intends concluding a complaint by means of a Closing Report provided for in Rule 40(b), the Complainant shall be informed in writing accordingly and be given an opportunity to make representations in connection with the intended closure of the complaint within fourteen (14) days of delivery of the notification.
- 6.1.39 Rule 41(2) of the Public Protector Rules provides that the Public Protector may, if the Complainant has not responded within the prescribed time frame of fourteen (14) days, proceed with the closing of the file.
- 6.1.40 A Notice in terms of Rule 41 (1) of the Public Protector Rules, dated 18 August 2025, was issued to the Complainant on 19 August 2025, affording him an opportunity to make representations in connection with the intended closure of the complaint by 02 September 2025, however, no response was received.

Applicable Law

The Constitution of the Republic of South Africa, 1996

- 6.1.41 Section 2 of the Constitution states that the Constitution is the supreme law of the Republic and that law or conduct inconsistent with it is invalid, and the obligations imposed by it must be fulfilled.
- 6.1.42 Section 195(1) of the Constitution provides that public administration must be governed by the democratic values and principles enshrined in the Constitution, including the following principles:
- (a) A high standard of professional ethics must be promoted and maintained;

- (b) Efficient, economic and effective use of resources must be promoted;
- (c)
- (d)
- (e)
- (f) Public administration must be accountable;
- (g)
- (h) Good human resource management and career development practices, to maximise human potential, must be cultivated;
- (i) Public administration must be broadly representative of the South African people, with employment and personnel management practices, based on ability, objectivity, fairness and the need to redress the imbalances of the past to achieve broad representation.

Eastern Cape Provincial Legislature Recruitment and Selection Policy, adopted on 21 April 2015 (the Policy)

- 6.1.43 Paragraph 6 of the Policy deals with recruitment and selection and states that the HRP shall serve as a guiding document on matters relating to recruitment and selection processes.
- 6.1.44 Paragraph 6.2 states that the HRP shall clearly identify the nature of appointment for the staffing of specific posts or categories of posts and this will inform the nature of the recruitment processes.
- 6.1.45 Paragraph 10.2 of the Policy states that all posts at Grade 14 and above shall be advertised internally and externally simultaneously.
- 6.1.46 Paragraph 10.4 of the Policy states that a written approval of the Speaker must be obtained before a post at Grade 14 or above is advertised.
- 6.1.47 In terms of paragraph 11.1 and 11.2 of the Policy, the Speaker shall appoint at least four people to constitute a Selection Committee for a

vacant post for a member of the Secretariat and members of the Selection Committee in respect of the position of a Secretariat, need not be employees of the Legislature.

6.1.48 Paragraph 11.4 states that the Secretary, in consultation with the Speaker shall appoint at least four officials, including an external panellist to constitute a Selection Committee for all other posts.

6.1.49 Paragraph 12 of the Policy dealing with the responsibilities of the Selection Committee, states that:

12.1 *“It is the responsibility of the Selection Committee to shortlist suitable candidates from submitted applications for a particular post.*

12.2 *The Selection Committee must ensure that shortlisted candidates are given an equal and fair opportunity to present their candidature and are assessed against the set criteria on the basis of the job description and requirements, information from curricula vitae and other documents accompanying the application form, and information obtained during the interviewing process.*

12.3 *The Selection Committee shall make recommendations to the appointing authority based on the results of the interview process”.*

6.1.50 Paragraph 13 of the Policy deals with the selection process and states that:

“13.1;

13.2;

13.3 For this purpose:

- (a) *Short-listing should be undertaken through scrutinizing all applications with due consideration of the general and particular requirements of the post.*
- (b) *Only information available from the application documents, such as qualifications and/or experience, should be considered.*
- (c) *An assessment of applications against minimum requirements for candidature must give due consideration for a reasonable balance between educational qualification, work experience and potential to do the job.*
- (d) *.....”*

6.1.51 Paragraph 14.2 of the Policy indicates that the appointment to a post at Grade 14 or above must be approved by the Speaker.

6.1.52 In terms of paragraph 14.4 of the Policy, the Selection Committee does not make a final decision but makes recommendations for approval by the appointing authority.

6.1.53 Paragraph 14.5 of the Policy indicates that submissions for approval of appointment must be made by the Chairperson of the Selection Committee assisted by the HR personnel to the appointing authority with further recommendations from a relevant member of the Secretariat where applicable.

National Qualifications Framework Act, 2008

6.1.54 Section 13(1) of the NQF Act, provides that the role of SAQA is to advance the objectives of the NQF, oversee the implementation of the NQF and ensure the achievement of its objectives, with respect to records of education and training, maintain a national learners' records database comprising registers of national qualifications, part-qualifications, learner achievements, recognised professional bodies, professional designations and associated information.

Analysis

- 6.1.55 The evidence before the Public Protector confirmed that the post of Executive Manager: Corporate Services was duly advertised 22 May 2023, in line with Paragraph 10.2 of the ECPL Recruitment and Selection Policy, which requires posts at Grade 14 or above to be advertised internally and externally. The advertised requirements for the post included a minimum of a postgraduate qualification at NQF level 8, with a master's degree (NQF9) as an added advantage, together with eight (08) years' relevant experience in a corporate services environment and at least five (05) years at senior management level.
- 6.1.56 Evidence further indicates that at the time of the interviews, Ms Nkomonye held a Postgraduate Diploma in Public Administration obtained in November 2022, which was independently confirmed by SAQA on 11 March 2024 to be at NQF level 8, thereby meeting the minimum requirements as advertised. Therefore, the Complainant's contention that the successful candidate, Ms Nkomonye, did not possess the minimum qualifications for the position and that Mr Hobongwana was the only suitably qualified candidate is not supported by the evidence. Although the Complainant argued that Ms Nkomonye did not hold a Master's degree (NQF 9), this was not a minimum requirement, but rather an added advantage.
- 6.1.57 The evidence further confirms that Ms Nkomonye had extensive relevant experience: three (03) years as a Member of the Executive Council (MEC), six (06) years and ten (10) months as a Member of the Provincial Legislature, four (04) years as Head of Ministry in Provincial Treasury, and two (02) years at middle management level in local government, cumulatively amounting to sixteen (16) years in a corporate services or related environment. This exceeded the minimum requirement of eight (08) years, including five (05) years at senior management level.

- 6.1.58 In accordance with Paragraph 12.3 of the ECPL Recruitment and Selection Policy, the panel recommended Ms Nkomonye, who achieved the highest combined score of 82.3% and Mr Hobongwana, who scored 80.8%. The Policy allows the appointing authority to select any of the top three candidates; in this instance, the Speaker exercised her discretion to appoint the highest-scoring candidate, i.e. Ms Nkomonye, who met the advertised criteria.
- 6.1.59 The allegation that the ECPL Human Resource Plan targeted a male candidate at Secretariat level, in light of three (03) of the four (04) Secretariat posts already being occupied by females, is without merit. The applicable Employment Equity Profile indicates that at the time of shortlisting, the two Executive Manager positions were vacant and the HR Plan did not impose gender-specific requirements for the position.
- 6.1.60 The Speaker's decision, made pursuant to Paragraph 12.3 of the ECPL Recruitment and Selection Policy, to appoint Ms Nkomonye on 08 February 2024, was grounded in the panel's recommendations and the principle of selecting the highest-scoring candidate who satisfied the advertised requirements. The appointment was therefore consistent with the constitutional imperatives of public administration set out in section 195(1) of the Constitution, including fairness, merit-based selection, and transparency.

Conclusion

- 6.1.61 On the basis of the evidence, the Public Protector concludes that the recruitment, selection and appointment process of Ms Nkomonye to the position of Executive Manager: Corporate Services was lawful, procedurally fair and substantively justified.
- 6.1.62 The advertisement and selection process complied with the ECPL Recruitment and Selection Policy and Ms Nkomonye met the minimum

academic qualification (NQF 8), as confirmed by SAQA. In addition, she possessed the requisite years of experience at senior and executive management levels.

6.1.63 The allegation that the employment equity profile for the filling of the post favoured the appointment of a male was not substantiated, as the HR plan and the employment equity profile did not prescribe a gender requirement.

6.1.64 The Speaker acted within her powers and in accordance with the applicable legal and policy framework by appointing one of the top three recommended candidates, in this case, the candidate with the highest score.

6.1.65 Accordingly, the Speaker's appointment of Ms Nkomonye have been lawful, rational and consistent with the principles of public administration. The complaint that the appointment was irregular or biased is not sustained.

7. FINDINGS

Having regard to the evidence and the regulatory framework determining the standard that the Speaker of the ECPL should have complied with, the Public Protector makes the following findings:

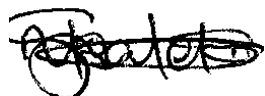
7.1 **Whether the Executive Manager: Corporate Services was irregularly appointed by the Speaker of the Eastern Cape Provincial Legislature and, if so, whether such conduct is improper as envisaged in section 182(1)(a) of the Constitution and amounts to maladministration as contemplated in section 6(4)(a)(i) of the Public Protector Act, 1994**

7.1.1 The allegation that the Executive Manager: Corporate Services was irregularly appointed by the Speaker of the ECPL, is **not substantiated**.

- 7.1.1.1 The evidence before the Public Protector establishes that the recruitment and appointment of the Executive Manager: Corporate Services at the Eastern Cape Provincial Legislature was conducted in accordance with the governing legislative framework and the ECPL Recruitment and Selection Policy.
- 7.1.1.2 The advertised minimum requirements of a postgraduate qualification at NQF 8, eight years' relevant experience, and five years at senior management level were met by Ms Nkomonye, whose qualifications and experience were independently verified with SAQA. Nkomonye possessed extensive relevant experience totalling sixteen (16) years.
- 7.1.1.3 The selection panel recommended the top three candidates, including Ms Nkomonye and Mr Hobongwana, with Ms Nkomonye achieving the highest combined score. The allegation that the HR Plan targeted a male candidate is unsubstantiated. At the time of shortlisting, the two Executive Manager positions were vacant, and the HR Plan did not stipulate gender-specific requirements.
- 7.1.1.4 The Speaker lawfully exercised her discretion in appointing the highest-scoring candidate in accordance with Paragraph 12.3 of the ECPL Recruitment and Selection Policy and was consistent with the principles of fairness, merit-based selection and transparency, as required by section 195(1) of the Constitution.
- 7.1.1.5 Based on the above, the investigation could not establish any impropriety or procedural irregularity in the appointment of the Executive Manager: Corporate Services by the Speaker of the ECPL.
- 7.1.1.6 Accordingly, the conduct of the Speaker of the ECPL does not constitute improper conduct as envisaged in section 182(1)(a) of the Constitution and maladministration as envisaged in section 6(4)(a)(i) of the Public Protector Act, 1994.

8. CONCLUSION

- 8.1 The Public Protector considers this matter as finalised and cannot take it further.



ADV KHOLEKA GCALEKA
PUBLIC PROTECTOR
REPUBLIC OF SOUTH AFRICA
DATE: 31 DECEMBER 2025

Assisted by Ms S Lwana
Provincial Representative: Eastern Cape