

# SEDIBENG

## REPORT NO. 37 OF 2025/26

ISBN Number : 978-0-6398968-9-2

INVESTIGATION INTO ALLEGATIONS OF IRREGULAR APPOINTMENT OF MS MARIA MOKOENA AS THE ASSISTANT MANAGER: LICENSING BY THE FUNCTIONARIES OF THE SEDIBENG DISTRICT MUNICIPALITY

irregular  
DISTRICT MUNICIPALITY

APPOINTMENT

<b>TABLE OF CONTENTS</b>		
<b>ITEM</b>	<b>DESCRIPTION</b>	<b>PAGE</b>
	<b>LIST OF ACRONYMS AND ABBREVIATIONS</b>	<b>3</b>
	<b>EXECUTIVE SUMMARY</b>	<b>5</b>
<b>1.</b>	<b>INTRODUCTION</b>	<b>12</b>
<b>2.</b>	<b>COMPLAINT</b>	<b>13</b>
<b>3.</b>	<b>POWERS AND JURISDICTION OF THE PUBLIC PROTECTOR</b>	<b>14</b>
<b>4.</b>	<b>ISSUES IDENTIFIED FOR INVESTIGATION</b>	<b>15</b>
<b>5.</b>	<b>INVESTIGATION</b>	<b>15</b>
<b>6.</b>	<b>DETERMINATION OF ISSUE IN RELATION TO THE EVIDENCE OBTAINED AND CONCLUSIONS MADE WITH REGARD TO THE APPLICABLE LAWS AND PRESCRIPTS</b>	<b>22</b>
<b>7.</b>	<b>FINDINGS</b>	<b>71</b>
<b>8.</b>	<b>REMEDIAL ACTION</b>	<b>73</b>
<b>9.</b>	<b>MONITORING</b>	<b>75</b>

## LIST OF ACRONYMS AND ABBREVIATIONS

ACRONYMS AND ABBREVIATIONS	DESCRIPTIONS
CEO	Chief Executive Officer
CLO	Chief Licensing Officer
Cllr	Councillor
Committee	Recruitment and Selection Committee
Complainant	Mr Jack Mokalapa
Constitution	Constitution of the Republic of South Africa, 1996
CV	Curriculum Vitae
DLTC	Driver's License Traffic Centre
GPDE	Gauteng Provincial Department of Education
HEQSF	Revised Higher Education Qualifications Sub-Framework
IMATU	Independent Municipal and Allied Trade Union
Investigation Team	Public Protector Investigation Team
LGMSA	Local Government: Municipal Structures Act, 1998
LRA	Labour Relations Act, 1995
MHS	Municipal Health Service
MIE Report	MIE: Personal Credential Verification Certification Report
MSA	Local Government: Municipal Systems Act, 2000
MSR	Municipal Staff Regulations (Local Government: Municipal Systems Act, 2000)

---

Municipality	Sedibeng District Municipality
NATED	National Accredited Technical Education Diploma
NQF	National Qualifications Framework
NQF Act	National Qualifications Framework Act, 2008
SAMWU	South African Municipal Workers Union

## 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 recommendation of any matter investigated by her.
- (ii) The report relates to an investigation into allegations of an investigation of irregular appointment of Ms Maria Mokoena (Ms Mokoena) as an Assistant Manager: Licensing, by the functionaries of the Sedibeng District Municipality (the Municipality).
- (iii) The investigation originates from a complaint lodged with the Public Protector on 13 December 2022 by Mr Jack Mokalapa (the Complainant) who alleged irregular appointment of Ms Mokoena as an Assistant Manager: Licensing, by the functionaries of the Municipality.
- (iv) The Complainant alleged, *inter alia*, that:
  - (a) Ms Mokoena was appointed irregularly, in that there was interference with the interview scores;
  - (b) Ms Mokoena also submitted false documentation regarding her academic qualifications, suggesting that she had a Diploma in Licensing, but this was not true;

- (c) Prior to her appointment, the South African Municipal Workers Union (SAMWU), requested that all successful and shortlisted candidates be vetted, but this was not done; and
  - (d) SAMWU also requested the functionaries of the Municipality to produce records of interviews, including the academic qualifications and scores as part of the grievance they instituted against the alleged irregular appointment, but the information was not provided.
- (v) Based on the analysis of the complaint, the following issue was considered and investigated:
- (a) Whether the functionaries of the Municipality irregularly appointed Ms Maria Mokoena as the Assistant Manager: Licensing while she did not meet the requirements of the post, if so, whether such conduct is improper as envisaged in section 182(1)(a) of the Constitution and amounts to maladministration in terms of section 6(4)(a)(i) of the Public Protector Act.
- (vi) 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 the relevant documents, application of relevant laws, case law, and related prescripts.
- (vii) Notices in terms of section 7(9)(a) of the Public Protector Act (the Notice/s) dated 08 August 2025 were issued to the following implicated and/or affected parties to provide them with an opportunity to respond to the intended findings and remedial action:
- (a) Cllr Makola: Executive Mayor of Sedibeng District Municipality;
  - (b) Mr Motsumi Mathe: Municipal Manager at the Sedibeng District

Municipality;

- (c) Ms Lerato Nkoli: The Director: Human Resources, Sedibeng District Municipality;
- (d) Ms Florence Mokgobu: Executive Director: Corporate Services, Sedibeng District Municipality;
- (e) Ms Maria Mokoena (Ms Mokoena);
- (f) Ms Madikgomo Ramonana (Ms Ramonana);
- (g) Ms Hlengiwe Charity Majola (Ms Majola);
- (h) Mr Samuel Mofokeng (Mr Mofokeng);
- (i) Ms Dipontsheng Louw (Ms Louw);
- (j) Ms Mapuleng Sedie (Ms Sedie);
- (k) Mr Micheal Ntungufhadzeni Nemangaya (Mr Nemangaya);
- (l) Mr Bheki Ngobese (Mr Ngobese);
- (m) Ms Nomasonto Julia Phakula (Ms Phakula);
- (n) Mr Mandla Freddy Buda (Mr Buda); and
- (o) Mr Jack Mokalapa: the Complainant.

(viii) Written responses to the Notices were received from:

- (a) Mr Ngobese on 19 August 2025 and 22 September 2025;
- (b) Mr Buda on 14 August 2025;
- (c) Ms Sedie on 19 August 2025 and 19 September 2025;
- (d) Ms Louw on 22 August 2025;
- (e) Ms Mokoena on 22 August 2025; and
- (f) Mr Nemangaya on 18 September 2025.

(ix) Oral responses to the Notices were received from:

- (a) Mr Ngobese on 17 September 2025;

- (b) Ms Sedie on 17 September 2025;
  - (c) Ms Louw on 17 September 2025;
  - (d) Mr Nemangaya on 17 September 2025;
  - (e) Mr Mofokeng on 17 September 2025;
  - (f) Ms Ramonana on 17 September 2025; and
  - (g) Ms Majola on 17 October 2025.
- (x) The responses and information/ evidence submitted in response to the Notices were duly considered by the Public Protector.
- (xi) Having regard to the evidence and regulatory framework determining the standard that the Municipality should have complied with, the following findings are made:
- (a) **Whether the functionaries of the Municipality irregularly appointed Ms Mokoena as the Assistant Licensing Manager while she did not meet the requirements of the post, if so, whether such conduct is improper as envisaged in section 182(1)(a) of the Constitution and amounts to maladministration in terms of section 6(4)(a)(i) of the Public Protector Act, 1994**
  - (aa) The allegation that the functionaries of the Municipality irregularly appointed Ms Mokoena as the Assistant Licensing Manager while she did not meet the requirements of the advertised post, is **substantiated**.
  - (bb) Evidence placed at the Public Protector's disposal indicates that on 21 December 2022, the Municipality appointed Ms Mokoena to a position of Assistant Licensing Manager without her meeting the minimum threshold

requirements for the post as stated in the job advertisement.

- (cc) Evidence gathered during investigation revealed that Ms Mokoena does not possess a three (03) year Degree or Diploma as stipulated in the job advertisement published on the municipal website on 30 July 2021 with a closing date of 16 August 2021.
- (dd) SAQA also confirmed after conducting a verification process that none of Ms Mokoena's academic qualifications could be classified as a "three-year degree or National Diploma" as per the requirements for the Assistant Licensing Manager position.
- (ee) The Public Protector ascertained that there was no documentary evidence that the Human Resource Directorate verified the qualifications of the shortlisted candidates prior to the appointment of the successful candidates as required by subparagraph 15.6 of the Recruitment Policy.
- (ff) The shortlisting process conducted on 25 August 2021 revealed that the functionaries of the Municipality omitted to scrutinise the application documents as well as the Curriculum Vitae (CVs) of shortlisted candidates, as they did not meet the inherent requirements for the job.
- (gg) The interview session held by the Investigation Team on 17 September 2025, revealed that the interview panel, namely Mr Nemangaya, Ms Louw, Ms Majola and Mr Mofokeng did not peruse the application documents of the candidates nor acquaint themselves with the contents of the job advertisement to ascertain whether the candidates met the inherent minimum requirements for the job.
- (hh) Mr Ngobese conceded that the selection panel neither possessed the requisite skills nor knowledge required for executing a proper recruitment and selection

process aligned with the Recruitment Policy.

- (ii) Mr Ngobese's final recommendations to the then Acting Municipal Manager, Mr Netshivhale, had material administrative errors as set out in evidence and it also did not alert Mr Netshivhale to the discrepancy regarding Ms Mokoena's academic suitability for the job as stated in the advertisement.
- (jj) The selection panel did not have any comprehensive knowledge concerning the distinction between a short skills course or programme and a formal qualification equivalent to the SAQA identification, levels and credits.
- (kk) In view of the above highlighted irregularities in the appointment process for Ms Mokoena, the Public Protector finds that the conduct of the functionaries of the Municipality was inconsistent with sections 33 and 195 of the Constitution and in breach of Paragraphs 9, 10.4, 17.5 of the Recruitment Policy and Clause 21 of the MSR.
- (ll) In the circumstances, the conduct of the functionaries of the Municipality amounts to improper conduct in terms of section 182(1)(a) of the Constitution and maladministration in terms of section 6(4)(a)(i) of the Public Protector Act.
- (xii) The appropriate remedial action taken in terms of section 182(1)(c) of the Constitution, are the following:

### **The Executive Mayor**

- (aa) **Within ninety (90) calendar days** from the date of receipt of this report, in terms of section 56(1) LGMSA, 1998, table the report before the Municipal Council for deliberation and obtain approval for the appropriate and effective course of action to address the irregular appointment of Ms Mokoena to the position of

Assistant Manager Licensing.

### The Municipal Manager

- (bb) **Within ninety (90) calendar days** from the date of receipt of this report, as obligated by section 15(6)(a) of the PAMA, take effective and appropriate corrective action against the following functionaries of the Municipality (who are still in the employ of the Municipality) responsible for the selection and recruitment of Ms Mokoena, whilst she did not meet the minimum requirements of the job advertisement:
- (a) Mr Ngobese
  - (b) Mr Nemangaya
  - (c) Ms Louw
  - (d) Ms Majola
  - (e) Ms Mofokeng
- (cc) **Within sixty (60) calendar days** from the date of receipt of this report, in line with section 195(1)(h) of the Constitution read with section 10(1)(a) of the PAMA and section 55(1)(b) of the MSA, ensure that all functionaries appointed to participate in recruitment processes are trained to comply with recruitment prescripts to ensure adherence with the prescribed qualifications and procedural requirements.

## 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 This report is submitted in terms of section 8(1) read with section 8(3) of the Public Protector Act, which empowers the Public Protector to make known the findings of an investigation, to affected parties, for such persons to note the outcome of the investigation and to implement the remedial action, where applicable:

1.2.1. Cllr Makola: Executive Mayor;

1.2.2. Mr Mathe: Municipal Manager;

1.2.3. Ms Nkoli: Director: Human Resources;

1.2.4. Ms Mokgobu: Executive Director: Corporate Services;

1.2.5. Ms Mokoena;

1.2.6. Ms Ramonana;

1.2.7. Ms Majola;

1.2.8. Mr Mofokeng;

1.2.9. Ms Louw;

1.2.10. Ms Sedie;

1.2.11. Mr Nemangaya;

1.2.12. Mr Ngobese;

1.2.13. Ms Phakula;

1.2.14. Mr Buda; and

1.2.15. Mr Mokalapa, the Complainant.

1.3 The report relates to an investigation into allegations of the irregular appointment of Ms Maria Mokoena (Ms Mokoena) as the Assistant Manager: Licensing, by the functionaries of the Sedibeng District Municipality (the Municipality).

## 2. THE COMPLAINT

2.1. The complaint was lodged with the Public Protector on 13 December 2022, by Mr J Mokalapa (Complainant), alleging the irregular appointment of Ms Maria Mokoena (Ms Mokoena) as the Assistant Manager: Licensing, by the functionaries of the Sedibeng District Municipality (the Municipality).

2.2. The Complainant alleged, *inter alia*, that:

2.2.1. Ms Mokoena was appointed irregularly, in that there was interference with the interview scores;

2.2.2. Ms Mokoena also submitted false documentation regarding her academic qualifications, suggesting that she had a Diploma in Licensing, but this was not true;

2.2.3. Prior to her appointment, the South African Municipal Workers Union (SAMWU), requested that all successful and shortlisted candidates be vetted, but this was not done; and

2.2.4. SAMWU also requested the functionaries of the Municipality to produce records of interviews, including the academic qualifications and scores as

part of the grievance they instituted against the alleged irregular appointment, but the information was not provided.

### **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 of the Republic of South Africa, 1996 (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 the additional powers and functions prescribed by national legislation. 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.

3.4. The Municipality is an organ of state in terms of 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. ISSUES 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 functionaries of the Municipality irregularly appointed Ms Maria Mokoena as the Assistant Manager: Licensing while she did not meet the requirements of the post, if so, whether such conduct is improper as envisaged in section 182(1)(a) of the Constitution and amounts to maladministration in terms of section 6(4)(a)(i) of the Public Protector Act.

#### **5. INVESTIGATION**

##### **5.1. Investigation Process**

5.1.1. The investigation process included exchange of documents with the Sedibeng District Municipality (the Municipality), the South African Qualifications Authority (SAQA) as well as the analysis of relevant documentation and information obtained during the investigation, consideration and application of the relevant laws and prescripts.

##### **5.2. Methodology**

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

5.2.2. The Public Protector Act confers on the Public Protector the sole discretion

to determine the format and procedure to be followed in conducting any investigation with due regard to the circumstances of each case.

5.3. Approach to the investigation

5.3.1. The approach to the investigation included the exchange of documents, analysis of the relevant documentation, and consideration and application of the relevant laws, regulatory framework, and prescripts.

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

- (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, abuse of power, or other improper conduct?
- (d) In the event of a violation, what action should be taken?

5.3.3. 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. In this case, the factual enquiry principally focused on the conduct of the functionaries of the Municipality in the recruitment for the post of Assistant Manager: Licensing.

5.3.4. The enquiry regarding what should have happened focuses on the law or rules that regulate the standards that should have been met by the functionaries of the Municipality to prevent improper conduct, prejudice, and/or maladministration.

5.3.5. The inquiry regarding the remedy or remedial action seeks to explore options for redressing the consequences of improper conduct and maladministration.

#### 5.4. **Investigation Process**

5.4.1. The investigation process commenced with correspondence to the then Municipal Manager, Mr Thomas Nkaza (Mr Nkaza), on 31 January 2023, wherein he was informed of the investigation as well as the information required from him.

#### 5.5. **Key sources of information**

##### 5.5.1. **Correspondence exchanged**

5.5.1.1. A complaint form from the Complainant to the Public Protector, dated 13 December 2022;

5.5.1.2. The Notice of investigation in terms of Rule 23(1) dated 31 January 2023 issued by the Public Protector Investigation Team (Investigation Team) to Mr Nkaza, the then Municipal Manager, requesting a response to the allegations raised by the Complainant;

5.5.1.3. A response letter from the Municipality's Acting Municipal Manager: Mr Makhubu (Mr Makhubu), to the Investigation Team accompanied by supporting documentary evidence/annexures responding to the allegations raised by the Complainant, dated 31 October 2023;

5.5.1.4. Email correspondence from Mr Dan Moepadira (Mr Moepadira), Gauteng Provincial Department of Education (GPDE) to Ms Mapuleng Sedie (Ms

Sedie) from the Municipality's Human Resources Department, containing a screenshot verifying the authenticity of Ms Mokoena's matric certificate by the GPDE, dated 01 November 2023;

- 5.5.1.5. Email correspondence to the Municipal Executive Director: Corporate Services, Ms Mokgobu, requesting additional information pertaining to Ms Mokoena's academic qualifications, dated 05 March 2025;
- 5.5.1.6. A response letter from Mr Mathe, the Municipal Manager to the Public Protector comprising the additional information pertaining to Ms Mokoena's academic qualifications, dated 07 March 2025;
- 5.5.1.7. A Notice in terms of section 7(4)(a) of the Public Protector Act 1994, issued to Mr Japie Nel (Mr Nel), the Senior Manager: Registration and Recognition of *South African Qualifications Authority (SAQA)* seeking verification whether Ms Mokoena's academic qualifications were equivalent to a *"Three-year degree or National Diploma,"* dated 07 March 2025;
- 5.5.1.8. A response to the Notice in terms of section 7(4)(a) from Chief Executive Officer (CEO) of SAQA, Ms Nadia Starr to the Public Protector, dated 07 April 2025;
- 5.5.1.9. Email correspondence from the Investigation Team sent to Ms Mokgobu, requesting further information on confirmation of employment of the interview and shortlisting panel members for the Assistant Licensing Manager position by the Municipality, with a view to obtain their statements, dated 11 April 2025; and
- 5.5.1.10. A response to the request letter for further information from Ms Mokgobu

to the Public Protector, dated 24 April 2025.

**5.5.2. Documents received**

- 5.5.2.1. An undated copy of the advertisement for the position of Assistant Licensing Manager;
- 5.5.2.2. Application for employment form of Ms Mokoena, dated 03 August 2021;
- 5.5.2.3. Copy of an undated CV of Ms Mokoena;
- 5.5.2.4. Internal memorandum from the Acting Director: Mr E van Zyl (Mr Van Zyl) addressed to the Acting Executive Director: Mr B Ngobese (Mr Ngobese), dated 25 August 2021;
- 5.5.2.5. Interview report from the Acting Executive Director: Cluster Transport, Infrastructure and Environment, Mr Ngobese addressed to the Acting Municipal Manager: Mr Netshivhale, dated 05 November 2021;
- 5.5.2.6. Copy of the appointment letter addressed to Ms Mokoena from Mr Netshivhale, dated 21 December 2021;
- 5.5.2.7. Appointment letter issued to Ms Mokoena by Mr Netshivhale, dated 21 December 2021;
- 5.5.2.8. Personal Credential Verification Certification Reports, dated 09 August 2011 and 01 November 2023;

### **5.5.3. Sworn Statements received**

- 5.5.3.1. Copy of a statement by Ms Mapuleng Sedie, dated 22 May 2025;
- 5.5.3.2. Copy of a statement by Ms Nomasonto Julia Phakula, dated 22 May 2025;
- 5.5.3.3. Copy of the statement by Mr Ntungufhadzeni Michael Nemangaya, dated 22 May 2025;
- 5.5.3.4. Copy of a statement by Ms Hlengiwe Charity Majola, dated 22 May 2025;
- 5.5.3.5. Copy of a statement by Ms Madikgomo Julia Ramonana, dated 22 May 2025; and
- 5.5.3.6. Copy of a statement by Ms D Louw, dated 22 May 2025.

### **5.5.4. Notice issued in terms of section 7(9)(a) of the Public Protector Act**

- 5.5.4.1. Section 7(9)(a) of the Public Protector Act provides that persons implicated in an investigation by the Public Protector are to be afforded an opportunity to make representations regarding the same.
- 5.5.4.2. On 08 August 2025, Notices were issued *via* email to the following implicated and/or affected parties to provide them with an opportunity to respond to the likely findings and remedial action:
  - (a) Cllr Makola: Executive Mayor;
  - (b) Mr Mathe: Municipal Manager;
  - (c) Ms Nkoli: Director: Human Resources;
  - (d) Ms Mokgobu: Executive Director: Corporate Services;

- (e) Ms Mokoena;
- (f) Ms Ramonana;
- (g) Mr Majola;
- (h) Ms Mofokeng;
- (i) Ms Louw;
- (j) Mr Nemangaya;
- (k) Mr Ngobese;
- (l) Ms Phakula;
- (m) Ms Sedie;
- (n) Mr Buda; and
- (o) Mr Mokalapa, the Complainant.

5.5.4.3. The following parties submitted written responses to the Notice:

- (a) Mr Ngobese on 19 August 2025 and 22 September 2025;
- (b) Mr Buda on 14 August 2025;
- (c) Ms Sedie on 19 August 2025 and 19 September 2025;
- (d) Ms Louw on 22 August 2025;
- (e) Ms Mokoena on 22 August 2025; and
- (f) Mr Nemangaya on 18 September 2025.

#### **5.5.5. Meetings held**

5.5.5.1. The investigation Team conducted interviews with the following persons:

- (a) Mr Ngobese on 17 September 2025;
- (b) Ms Sedie on 17 September 2025;

- (c) Ms Louw on 17 September 2025;
- (d) Mr Nemangaya on 17 September 2025;
- (e) Mr Mofokeng on 17 September 2025;
- (f) Ms Ramonana on 17 September 2025; and
- (g) Ms Majola on 17 October 2025.

### **5.5.6. Legal Framework**

- 5.5.6.1. Constitution of the Republic of South Africa, 1996;
- 5.5.6.2. Public Protector At, 1994;
- 5.5.6.3. Local Government Municipal System Act, 2000;
- 5.5.6.4. Municipal Staff Regulations (MSR) issued in terms of Local Government: Municipal Systems Act, 2000;
- 5.5.6.5. Sedibeng Recruitment and Selection Policy, 2010 (Recruitment Policy);
- 5.5.6.6. Public Administration Management Act, 2014; and
- 5.5.6.7. Code of Conduct for Municipal Staff Members, Schedule 2 of the Municipal Systems Act, 2000.

### **5.5.7. Case Law**

- 5.5.7.1. *Economic Freedom Fighters and Others v Speaker of the National Assembly and Another* (CCT76/17) [2017] ZACC 47; 2018 (3) BCLR 259

(CC); 2018 (2) SA 571 (CC) (29 December 2017).

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

**6.1. Whether the functionaries of the Municipality irregularly appointed Ms Maria Mokoena as the Assistant Licensing Manager while she did not meet the requirements of the post, if so, whether such conduct is improper as envisaged in section 182(1)(a) of the Constitution and amounts to maladministration in terms of section 6(4)(a)(i) of the Public Protector Act**

*Common cause*

6.1.1. The post of Assistant Licensing Manager was advertised internally by the Municipality and also published on the Municipality's Intranet on 30 July 2021, with a closing date of 16 August 2021.

6.1.2. Ms Mokoena was appointed as the Assistant Licensing Manager as per the appointment letter dated 21 December 2021, signed by the Acting Municipal Manager, Mr KR Netshivhale (Mr Netshivhale).

*Issue in dispute*

6.1.3. The issue for the Public Protector's determination is whether due processes set out in the regulatory framework were followed by the functionaries of the Municipality in the recruitment and selection of Ms Mokoena.

*Complainant's version*

- 6.1.4. The Complainant contended that Ms Mokoena's appointment is irregular in that the functionaries of the Municipality interfered with interview scores of the candidates and that Ms Mokoena does not have a three-year Degree or Diploma required in the advertisement.

*Municipality's version*

- 6.1.5. On 31 January 2023, the Investigation Team issued a Notice in terms of Rule 23(1) of the *Rules relating to Investigations by the Public Protector and Matters Incidental thereto, 2018 as amended* (Public Protector Rules), to Mr Thomas Nkaza (Mr Nkaza), the then Municipal Manager regarding the allegations raised by the Complainant.
- 6.1.6. In his response letter dated 31 October 2023, the Acting Municipal Manager: Mr G Makhubu (Mr Makhubu) stated *inter alia*, that:
- 6.1.6.1. The post of Assistant Manager Licensing: Cluster Transport, Infrastructure and Environment was internally advertised by the Municipality on 30 July 2021, with a closing date of 16 August 2021;
- 6.1.6.2. Ms Mokoena was appointed fairly and regularly, as she met the minimum requirements;
- 6.1.6.3. There was no interference with the interview scores during the recruitment and selection process of Ms Mokoena;
- 6.1.6.4. Ms Mokoena did not submit any false documents regarding her qualifications to enable her to get the vacant position at the Municipality;

- 6.1.6.5. The Municipality did not have any record of a requisition from SAMWU regarding the vetting of shortlisted candidates before the appointment of a successful candidate to the vacant post;
- 6.1.6.6. An interview report comprising of the details of candidates, including their interview scores, is submitted to the Municipal Manager for approval after each interview process;
- 6.1.6.7. The Municipality denies that the late referral of the matter to the Bargaining Council was because of the deliberate conduct of its functionaries. On 05 December 2022, the referral submitted to the Bargaining Council was dismissed by the Arbitrator: Yussuf Nagdee;
- 6.1.6.8. The Arbitrator decided that the Applicant did not submit plausible reasons for the late referral to the Bargaining Council for adjudication;
- 6.1.6.9. During the arbitration hearing, the Arbitrator noted that Ms Mokoena and other employees scored higher than the other applicants for the vacant post;
- 6.1.6.10. There was no employment relationship between the Complainant and the Municipality during the period under review; and
- 6.1.6.11. The SAMWU did not comply with the municipal grievance procedure in attempting to resolve the labour dispute. Therefore, there was no outcome to address the grievance.

*Documentary evidence received from the Municipality*

- 6.1.7. Mr Makhubu submitted the following documents in support of his response

to the Public Protector, dated 31 October 2023:

*Advertisement for the position of Assistant Licensing Manager*

6.1.7.1. The job advertisement comprised of the following minimum requirements for the post:

**“Requirements**

(a) *Grade 12 plus three-year degree or National Diploma (Licencing).*

**Experience**

(b) *3-5 years’ experience in a Supervisory or managerial position.*

(c) *Any experience in a registering authority will be an added advantage.” (sic)*

*Ms Mokoena’s Application for Employment Form, dated 03 August 2021*

6.1.7.2. Ms Mokoena’s “Application for employment” form, indicates her academic qualifications and experience as shown on the table below:

Qualifications		
Name of School	Highest Qualification	Year obtained
Jabulile Secondary School	National Senior Certificate	1994
Tertiary Qualification		
Damelin	Diploma: Office Administration	1997

Damelin	Certificate: Introduction to PC's for Windows	1999
Lyceum College	Certificate in Licensing	2000
Boekenhoutkloof Traffic College	Diploma: Examiners for Driving Licensers	2004
<b>Work Experience</b>		
<b>Employer</b>	<b>Position held</b>	<b>Period</b>
Sedibeng Municipality	Cashier	1996-2000
Sedibeng Municipality	Supervisor	2000 to date
Sedibeng Municipality	Acting Chief Licensing Officer (CLO)	2002-2007
Sedibeng Municipality	Acting Manager	08/03/2021 to 30/03/2021

#### *Curriculum Vitae of Ms Mokoena*

- 6.1.7.3. The Curriculum Vitae (CV) reveals that Ms Mokoena went to Jabulani Secondary School and passed her matric in 1994, as supported by a copy of a Senior Certificate. The CV also indicates that Ms Mokoena previously worked as a typist and cashier for the Municipality from 1996 to date, as also read in the employment form.

#### *Internal Memorandum, dated 25 August 2021*

- 6.1.7.4. In this internal memorandum from the Acting Director: Mr E van Zyl (Mr Van Zyl) addressed to the Acting Executive Director: Mr B Ngobese (Mr Ngobese), the Municipality states *inter alia* that nine (09) applications were received from prospective candidates, who were all shortlisted, including Ms Mokoena.
- 6.1.7.5. In terms of the internal memorandum, the shortlisting panel consisted of

the following members:

- (a) Acting Executive Director-Transport, Infrastructure and Environment:  
B Ngobese;
- (b) Manager-Air Quality: M Nemangaya;
- (c) Manager- Municipal Health Service (MHS): M Buda;
- (d) Human Resource Representative: M Sedie;
- (e) Independent Municipal and Allied Trade Union (IMATU);  
Representative: J Ramonana; and
- (f) SAMWU Representative: J Phakula.

*Interview report, dated 05 November 2021*

6.1.7.6. The interview report from the Acting Executive Director: Cluster Transport Infrastructure and Environment, Mr Ngobese addressed to the Acting Municipal Manager: Mr Netshivhale indicates the following interview panel members:

- (a) Manager Air Quality: M Nemangaya;
- (b) Manager - Office of the Chief Financial Officer: D Louw;
- (c) Manager - Development Planning: C Majola;
- (d) Manager for Transport, Infrastructure and Environment Cluster: N Mofokeng;
- (e) SAMWU Representative (observer): J Phakula;

(f) IMATU Representative (observer): M Ramonana; and

(g) Human Resources Representative: M Sedie.

6.1.7.7. The interview report further reveals that on 30 August 2021, the Municipality held interviews for the vacant post of Assistant Manager Licensing and the interviewed candidates obtained the following scores:

No	Candidates	Panel Member 1	Panel Member 2	Panel Member 3	Panel Member 4	Total Score
1.	<b>M Mokoena</b>	<b>70</b>	<b>62</b>	<b>46</b>	<b>67</b>	<b>245</b>
2.	Candidate B	33	34	31	30	128
3.	Candidate C	22	26	17	28	93
4.	Candidate D	55	55	56	47	213
5.	<b>Candidate E</b>	<b>65</b>	<b>65</b>	<b>53</b>	<b>66</b>	<b>249</b>
6.	Candidate F	63	44	34	49	190
7.	Candidate G	49	41	36	41	167
8.	Candidate H	48	44	39	42	173
9.	Candidate I	57	59	40	46	202

*Email correspondence from Mr Dan Moepadira, dated 01 November 2023*

6.1.7.8. In an email correspondence dated 01 November 2023 from Mr Dan Moepadira (Mr Moepadira), Gauteng Provincial Department of Education (GPDE) to Ms Sedie from the Municipality's Human Resources Department, attached a screenshot verifying the authenticity of Ms

Mokoena's matric certificate by the GPDE.

*Appointment and acceptance letter*, dated 21 December 2021

- 6.1.7.9. The appointment letter dated 21 December 2021, addressed to Ms Mokoena from Mr Netshivhale, indicates that she was selected as the successful candidate to the position of Assistant Manager: Licensing, in the Cluster Transport Infrastructure and Environment.
- 6.1.7.10. According to the appointment letter signed by Mr Netshivhale, Ms Mokoena was to commence her duties as the Assistant Licencing Manager with effect from 01 January 2022. In return, Ms Mokoena submitted a signed acceptance letter, dated 03 January 2022 to the Municipality.

*Response from the Municipality*, dated 07 March 2025

- 6.1.8. On 05 March 2025, the Investigation Team sent an email to the Municipal Executive Director: Corporate Services, Ms Mokgobu, requesting additional information pertaining to Ms Mokoena's academic qualifications.
- 6.1.8.1. Mr Mathe, Municipal Manager: submitted a response letter, dated 07 March 2025, stating *inter alia*, that:
- (a) The appointment of Ms Mokoena was finalised in December 2021, by Mr Netshivhale, and it was based on the recommendations of the interview panel;
  - (b) Ms Mokoena's appointment was flawed, as her appointment was based on her diploma from the Gauteng Traffic College. Therefore, it does not meet the requirements of a National Diploma or Degree as

specified in the job advertisement;

- (c) The Municipality has implemented the following corrective measures to rectify the irregular appointment:
- (d) The new staff regulations promulgated in July 2022, expressly stipulate guidelines concerning position requirements and recruitment processes. The regulations ensure that all the panel members are provided with an extract from the regulations, including the newly introduced National Qualifications Framework (NQF);
- (e) The government established a unified national qualifications framework<sup>1</sup> applicable to all higher education institutions in South Africa. The Municipality sought to equip panel members with comprehensive information regarding the applicable framework to facilitate informed decision-making concerning candidate appointments;
- (f) All the panel members responsible for the erroneous appointments made prior to the promulgation of the municipal staff regulations would undergo performance counselling. Additionally, the Municipality no longer accepts such appointments as the staff regulations have been formally enacted; and
- (g) The extrapolated corrective measures were directed at advancing the integrity of the Municipality's recruitment processes. Henceforth, its

---

<sup>1</sup> This framework is guided by the Revised Higher Education Qualifications Sub-Framework (HEQSF), published in the government gazette on 02 August 2023.

was imperative for all future appointments for the Municipality to adhere with the prescribed qualifications and procedural requirements.

*Response from the South African Qualifications Authority (SAQA), dated 07 April 2025*

- 6.1.8.2. On 07 March 2025, the Investigation Team sent an email correspondence to the Senior Manager: Registration and Recognition, Mr Japie Nel (Mr Nel) at SAQA seeking verification whether Ms Mokoena's academic qualifications were equivalent to a *“Three-year Degree or National Diploma.”*
- 6.1.8.3. On 07 April 2025, a response letter was received from the Chief Executive Officer (CEO) of SAQA, Ms Nadia Starr wherein she clarified, the following:
- (a) The National Qualifications Framework (NQF) was established in March 1998 with the aim of unifying qualifications in education and training based on the agreed standards;
  - (b) The National Standards Body Regulations provided for the qualification types, the duration (credits) for the qualification types, and the levels at which these qualification types are registered. All providers were requested to register qualifications on the NQF by June 2003;
  - (c) However, in 2009 the NQF was reviewed, wherein the three (3) co-ordinates sub-frameworks with a quality council were deemed responsible for the management of its sub-framework;
  - (d) Each quality council developed a policy for each sub-framework that

identifies the qualification types, credits and levels to be registered on the NQF. The registration of qualifications was classified as follows:

- (i) Diplomas are registered on NQF level six (6) with 360 credits equals three (3) years of study;
- (ii) Bachelor’s degrees are registered at NQF level seven (7) with 360 credits;
- (iii) Certificates are registered at NQF level five (5) with 120 credits (equal to one year of study); and
- (iv) Short courses are not registered on the NQF.

6.1.8.4. SAQA conducted a verification process on Ms Mokoena’s qualifications to ascertain whether they were equivalent to a “*Three-year degree or National Diploma*”. The outcome of the verification process revealed that the status of her qualifications is as follows:

No	Qualification	Comments
1.	Office Administration Diploma – Damelin Management School – 09 October 1997	The Diploma in Office Administration was <b>not registered on the NQF.</b>
2.	Certificate for Attendance: Introduction to PCs for Windows – 20 February 1999	This was a short course and <b>could not be considered a qualification.</b> Therefore, a certificate of attendance was issued.
3.	Certificate in Licensing – Lyceum College – 31 May 2000	The certificate was <b>not registered on the NQF.</b>

4.	Workshop Certificate: Leadership, Emotional Intelligence and Dynamic Customer Service Workshop Turner, Harper and Associates SA – 22 May 2002	This was a workshop and <b>could not be considered a qualification.</b>
5.	Certificate: Initiating and Chairing Disciplinary Enquiries – Bruniquel and Associates (Pty) Ltd – 30 April 2003	This was a short course offered over three (3) days.
6.	Diploma for Examiners for Driving Licences-Traffic College Boekenhoutkloof -03 December 2004	<b>Examiners for Driving License registered on the NQF.</b> However, there was a unit standard registered on the NQF with six (6) credits (training for sixty (60) hours).
7.	Certificate: Writing for Business Results – Maccauvlei Training and Conference Centre – 11-13 April 2005	This was a short course and <b>could not be considered a qualification.</b>
8.	Certificate of Attendance: Participation in Customer Service Course – Tsheto Educational Services - 18-20 July 2006	This was a short course and <b>could not be considered a qualification.</b>

6.1.8.5. On 01 June 2006, the then Minister of Education: Ms Grace Naledi Pandor, issued a Government Notice No 518 regarding the transitional arrangements for the registration of private further education and training institutions such as Damelin and Lyceum.

6.1.8.6. The Government Notice made provision for all further education and training institutions qualifications awarded to students by private institutions during the transitional arrangement period until 31 December 2007. These types of qualifications would be recognised as valid qualifications for purposes of

vertical and horizontal articulation,<sup>2</sup> as well as employment.

- 6.1.8.7. However, there was no standard duration and structure of pre-NQF qualifications. Damelin and Lyceum confirmed that programmes offered before 1995 were viewed as short skills programmes between three (3) and six (6) months. Therefore, the programmes did not have SAQA identification, levels, and credits.
- 6.1.8.8. Ms Mokoena obtained her qualifications prior to 1995, and therefore her qualifications should be recognised as authentic for the articulation<sup>3</sup> regarding registration on the NQF as well as for employment; and
- 6.1.8.9. None of her qualifications could be classified as a “*three-year degree or National Diploma*” as per the requirements for the Assistant Licensing Manager position.

*Response from the Municipality, dated 24 April 2025*

- 6.1.8.10. On 11 April 2025, the Investigation Team sent an email to Ms Mokgobu, requesting further information on whether the interviewing and shortlisting panel members for the Assistant Licensing Manager position were still in the employ of the Municipality, with a view to obtain their statements.
- 6.1.8.11. The request for information also sought clarity regarding the verification of Ms Mokoena’s academic qualifications.
- 6.1.8.12. Ms Mokgobu submitted a response letter dated 24 April 2025, to the Public

---

<sup>2</sup> In education, articulation refers to the process of connecting two or more educational institutions or programmes so that students can move between them more seamlessly. The goal of articulation is to ensure that students can transfer their credits, skills, and knowledge from one institution or programme to another without unnecessary repetition or loss of credit. Available at <https://www.icb.org.za>. Accessed on 17 November 2025.

<sup>3</sup> Ibid para. 6.1.7.17.

Protector as reflected on the table below:

### Shortlisting Panel

No	Panel Member	Current Position
1.	Mr Ngobese	Director: Transport, Infrastructure and Environment
2.	Mr Nemangaya	Manager: Air Quality
3.	Ms Sedie	Human Resource Officer
4.	Ms Phakhula	SAMWU observer
5.	Mr Buda	Resigned, no longer in the employ of the Municipality

### Interview Panel

No	Panel member	Current position
1.	Mr Nemangaya	Manager: Air Quality
2.	Ms Louw	Manager: office of the Chief Financial Officer
3.	Ms Majola	Manager: office of the Chief Financial Officer
4.	Ms Mofokeng	Manager: Transport and Environment
5.	Ms Sedie	Human Resource Officer
6.	Ms Phakhula	SAMWU observer
7.	Ms Ramonana	IMATU observer

*Personal Credential Verification Certification Reports, dated 09 August 2011 and 01 November 2023 respectively*

6.1.8.13. The report by *Managed Integrity Evaluation (Pty) Ltd* and by *Umalusi* confirmed that the following qualifications were awarded to Ms Mokoena by Umalusi and Boekenhoutkloof Traffic Training College, respectively:

- (a) National Senior Certificate; and
- (b) Diploma: Examiner for Driving Licences.

*Copies of statements from panel members submitted by the Municipality,  
dated 22 May 2025*

6.1.8.14. On 23 May 2025, Ms Mokgobu provided the Investigation Team with copies of sworn statements from the panel members as follows:

*Statement by Ms Sedie*

6.1.8.15. According to Ms Sedie, the qualifications of Ms Mokoena were verified and Ms Mokoena was qualified for the position of Assistant Licensing Manager as she met the minimum requirements for the job advertisement.

*Statement by Ms Phakula*

6.1.8.16. In her statement, Ms Phakula corroborated the version of Ms Sedie.

*Statement by Mr Nemangaya*

6.1.8.17. Mr Nemangaya indicated amongst other things that Mr Ngobese instructed him to participate in the interviews for the position of Assistant Licensing Manager by interviewing and allocating scores to the applicants invited for interviews.

6.1.8.18. He confirmed that after completion of the interview process, the interview scores were allocated to applicants, and recommendations made by the interview panel were submitted for approval to Mr Ngobese.

6.1.8.19. However, Mr Nemangaya did not confirm whether the qualifications of Ms Mokoena were verified by the Municipality, nor affirm that Ms Mokoena was qualified for the position of Assistant Licensing Manager, as per the

job advertisement.

*Statement by Ms Charity Majola*

- 6.1.8.20. Ms Majola indicated that the educational credentials of Ms Mokoena were verified before and after the appointment. She further stated that the Municipality also conducted background and /or reference checks on Ms Mokoena.

*Statement by Ms Ramonana*

- 6.1.8.21. Ms Ramonana stated that the Human Resource Department was responsible for the verification of candidates, qualifications and the Municipality is in possession of records as they were provided during the interviews.

- 6.1.8.22. According to her, the background and / or refence checks on Ms Mokoena were conducted in accordance with the Municipality's Recruitment policy.

*Statement by Ms Louw*

- 6.1.8.23. Ms Louw stated that she was only requested to be an interview panel member. She indicated that the verification of Ms Mokoena's credentials were conducted by the Human Resource Department before her appointment. She further confirmed that the performance of background reference checks resides with the Human Resource Department.

- 6.1.8.24. The reference check records of Ms Mokoena are archived by the Human Resource department.

## **Responses to the Notice issued in terms of section 7(9)(a) of the Public Protector Act**

### *Response to the section 7(9) Notice from Mr Buda*

6.1.8.25. On 08 August 2025, a Notice in terms of section 7(9)(a) of the Public Protector Act was issued to Mr Budaand. On 14 August 2025, he submitted a letter confirming receipt of the Notice and stated *inter alia* that:

- (a) During the period in question, he was the Municipal Health Services Manager at the Municipality and was part of the shortlisting committee for the two (02) vacant positions of Assistant Licensing Manager.
- (b) The committee decided to shortlist all applicants since all candidates were internal, with the objective of promoting fairness in accordance with the Municipality's recruitment policy.
- (c) The Human Resources representative participated in the recruitment and selection process and was further tasked with the responsibility of verifying all the information and qualifications submitted by the candidates prior to shortlisting.
- (d) However, he did not make any recommendations regarding the appointments for the vacant positions as he was not an interview panel member. Therefore, he was not in a position to provide any further information regarding that interview process.

*Response to the section 7(9) Notice from Mr Ngobese*

6.1.8.26. On 08 August 2025, a Notice in terms of section 7(9)(a) of the Public Protector Act was issued to Mr Ngobese. He responded in a letter dated 19 August 2025, stating *inter alia* that:

- (a) He was the Acting Executive Director: Transport Infrastructure and Environment Cluster at the Municipality from 2021 to 2024;
- (b) During 2022, the Municipality published an internal job advert inviting individuals having an interest in becoming Assistant Licensing Managers. The two (02) posts were advertised for Heidelberg Licensing Centre and Meyerton Licencing Centre;
- (c) The Municipality received a total of nine (09) applications across all the licensing centres in the Municipality, comprising of the following:
  - (i) Meyerton Licencing;
  - (ii) Heidelberg Licencing;
  - (iii) Vereeniging Licencing; and
  - (iv) Vanderbijlpark Licencing

6.1.8.27. Ms Mokoena and Candidate E were appointed to different licencing centres as the successful candidates. Ms Mokoena came second during the interviews, whereas Candidate E was scored as the highest candidate;

6.1.8.28. Ms Mokena and Candidate E were deemed to have met the minimum requirements for the post of Assistant Licencing Manager, as the Department needed a candidate that possessed a Diploma in Licensing and experience as a Supervisor;

- 6.1.8.29. The successful candidates had more than five (05) years' experience as Supervisors;
- 6.1.8.30. The Municipality appointed Ms Mokoena to the position of Assistant Licencing Manager a month after the appointment of Candidate E, as a verification process had to be conducted on her matric certificate;
- 6.1.8.31. He denies that he was part of any recruitment and selection panel as he was still the Acting Executive Director during that period. However, the interview panel forwarded him a report comprising of recommendations for the appointment of the successful candidates; and
- 6.1.8.32. Furthermore, he denies that there was any manipulation of the scores as the successful candidates were appointed based on their performance during the interviews.

*Response to the section 7(9) Notice from Ms Sedie*

- 6.1.8.33. On 08 August 2025, a Notice in terms of section 7(9)(a) of the Public Protector Act was issued to Ms Sedie. On 19 August 2025, she submitted a letter confirming receipt of the above-mentioned Notice and stating *inter alia* that:
- (a) She was an observer at the shortlisting and interview processes for the two (02) positions of Assistant Licensing Manager which were held on 25 August 2021;
  - (b) During the interview process, she neither played a role in interviewing and scoring the candidates, nor participated in the deliberations of electing the successful candidates;

- (c) Ms Mokoena scored 245 and Candidate E 249 during the interviews and as a result, they were appointed as Assistant Licensing Managers for the Meyerton and Heidelberg licensing centres; and
- (d) The Municipality thereafter issued appointment letters to the successful candidates and the candidates in return submitted letters of acceptance of their appointments.

*Response to the section 7(9) from Ms Mokoena*

6.1.8.34. On 08 August 2025, a Notice in terms of section 7(9)(a) of the Public Protector Act was issued to Ms Mokoena. On 22 August 2025, she submitted a letter, stating *inter alia* that:

- (a) On 30 July 2021, a post for Assistant Licensing Manager was advertised internally and published on the municipal intranet by the Municipality with a closing date of 16 August 2021;
- (b) She submitted that the Minister made a provision to recognise qualifications from Damelin and Lyceum prior to 31 December 2007 for purposes of “*vertical and horizontal articulation, as well as employment.*” Therefore, her qualifications are valid as provisioned for purposes of employment;
- (c) She obtained her qualification with Damelin in 1997, and she matriculated in 1994 and obtained a Diploma qualification in 1997 which was post 1995;
- (d) She submitted that she obtained her Diploma in Examiners for Driving Licencers through an internal programme that the Municipality

sanctioned for purposes of development;

- (e) The certificates she obtained were sanctioned by the Municipality with the objective of empowering and equipping employees with the necessary skills, including the Diploma in Licensing for Driving Licences which equates to a National Diploma (Licencing); and
- (f) Consequently, the lack of motivation from the interview panel for appointing a runner-up candidate when scores were so close cannot be equated to an irregularity, particularly where the recommendation was unanimous and the union's observer also agreed with the version of the panel.

*Response to the section 7(9) from Ms Louw*

- 6.1.8.35. On 08 August 2025, a Notice in terms of section 7(9)(a) of the Public Protector Act was issued to Ms Louw who responded in a letter dated 22 August 2025, stating *inter alia* that:
- 6.1.8.36. There were two (02) vacant positions for Assistant Licensing Manager advertised by the Municipality and two (02) candidates were appointed as successful candidates, namely Ms Mokoena and Candidate E; and
- 6.1.8.37. Ms Mokoena and Candidate E were deployed in the Meyerton Licence Department and Heidelberg Licence Department respectively.

*Response to the section 7(9) from Mr Mathe*

- 6.1.8.38. On 08 August 2025, a Notice in terms of section 7(9)(a) of the Public Protector Act was issued to Mr Mathe. He responded in a letter dated 16

September 2025, stating *inter alia* that:

- (a) The Municipality advertised the position of Assistant Licensing Manager in August 2021, and nine (09) candidates were shortlisted;
- (b) The then Acting Manager, Mr Netshivhale approved the establishment of a shortlisting and an interviewing panel to process the applications;
- (c) Mr Netshivhale signed the appointment letter on 21 December 2021, after considering the recommendations from the panel to appoint Ms Mokoena as a suitable candidate for the position;
- (d) Ms Mokoena assumed the position of Assistant Licensing Manager on 01 February 2022; and
- (e) The Municipality intended to implement a remedial action plan to advance an enquiry process in an open, fair and democratic manner entailing the following:

No	Deliverable	Timeline	Status
1.	A report would be tabled before council	26 August 2025	Achieved
2.	<ul style="list-style-type: none"> <li>• A six (06) member Enquiry Committee chaired by the Executive Director: Corporate Service and co-chaired by the Executive Director: Transport, Infrastructure, Environment and Licensing.</li> </ul>	Week 2 & 3 September 2025	In progress

	<ul style="list-style-type: none"> <li>• Other members of the committee will include Director of Human Resources, Legal Manager, Manager of Labour Relations, and Director: Office of the Municipal Manager.</li> </ul>		
3.	<ul style="list-style-type: none"> <li>• Sessions with all the relevant staff and HR personnel by early October to ensure deeper understanding of legislative and policy requirements regarding the recruitment process steps to safeguard that every step is conducted and develop Standard Operating Procedures for the wide circulation in the organisation.</li> </ul>	Week 3 & 4 September 2025	In Progress
4.	<ul style="list-style-type: none"> <li>• Members identified; appointment letters prepared, awaiting final signature and delivery to selected members.</li> <li>• First meeting of the committee to convene</li> <li>• Schedule of appearance and other logistics to be finalised by the committee</li> </ul>	Week 3 & 4 September 2025	In Progress
5.	<ul style="list-style-type: none"> <li>• Tabling and approval of</li> </ul>	Week 4	Not yet

	the Municipal Remedial Action Plan before the Management Committee, Mayoral Committee and Council.	September and Week 01 October 20225	achieved
6.	<ul style="list-style-type: none"> <li>• Appearance of panel members and the appointed incumbent before the committee, as per agreed schedule; and</li> <li>• Finalisation of the report with clear recommendations for action</li> </ul>	Week 1, 2 and 3 October 2025	Not yet achieved
7.	<ul style="list-style-type: none"> <li>• Final Report tabled before management committee on 20 October and Mayoral committee on 21 October and council on 29 October 2025</li> </ul>	Week 3 and 4 October 2025	Not yet achieved
8.	<ul style="list-style-type: none"> <li>• All panel members, and the appointed incumbent informed of the outcomes of the Enquiry and final report as approved by the council on 31 October 2025</li> </ul>	Week 4 October 2025	Not yet achieved
9.	<ul style="list-style-type: none"> <li>• The committee receives objections and appeals, if any, process them and forward to the municipal manager for decision and final handling.</li> </ul>	Week 1 November 2025	Not yet achieved
10.	<ul style="list-style-type: none"> <li>• The municipal manager to implement resolutions of the council; and</li> </ul>	Week 2 November 2025	Not yet achieved

	<ul style="list-style-type: none"> <li>• Prepare a closeout report and submit it to the Public Protector</li> </ul>		
--	---	--	--

6.1.8.39. The following persons did not respond to the Notice, despite having been afforded adequate time within which to do so:

- (a) Mr Mokalapa;
- (b) Ms Ramonana;
- (c) Mr Majola;
- (d) Mr Nemangaya; and
- (e) Ms Phakula

*Consultations with members of the Interview Panel*

6.1.8.40. On 17 September 2025, the Investigation Team held consultations with the members of the interview panel at the Municipality’s offices regarding the alleged irregular appointment of Ms Mokoena as the Assistant Licensing Manager.

6.1.8.41. To ensure maximum compliance with *audi alteram partem rule*, the Investigation Team took a step further and afforded the implicated functionaries of the Municipality an opportunity to furnish oral evidence and written responses to the section 7(9) notice, in line with section 7(9)(a) and (b) of the Public Protector Act, as some functionaries of the Municipality did not respond to the section 7(9) notice.

*Interview conducted with Mr Mofokeng*

6.1.8.42. During the interview, Mr Mofokeng he indicated that he was a member of the interview panel for the post of Assistant Licencing Manager as

requested by Mr Ngobese together with Mr Nemangaya, Ms Majola, Ms Louw and Mr Mofokeng as the other members were only observers

- (a) During the interview, the panel members were provided with the interview questions, a brief regarding the details of the nine (09) shortlisted candidates, together with the application packs of the candidates.
- (b) They were also required to complete a declaration form noting that they did not have any interest in the appointment of an Assistant Licensing Manager.
- (c) He does not recall whether the panel members were afforded an opportunity to peruse the CVs of the candidates.

*Interview conducted with Mr Nemangaya*

6.1.8.43. During the interview with the Investigation Team at the Municipality's offices Mr Nemangaya indicated the following:

- (a) He received instructions from Mr Ngobese to be the Chairperson of the interview panel for the position of Assistant Licensing Manager, but he was not a member of the shortlisting panel.
- (b) He further submitted that the internal memo signed by Mr Ngobese dated 25 August 2021 addressed to the Municipal Manager reflecting that he was a member of the shortlisting panel was inaccurate, as he did not serve as a shortlisting panel member.
- (c) He also indicated that he was not aware of the interview report dated 05 November 2021, that was compiled by Mr Ngobese, as he was

only assisting him to oversee the interviews as per his instruction.

- (d) The reflection of his details on the internal memorandum dated 25 August 2021 and the interview report which were compiled by Mr Ngobese, were not a true reflection of events as he was not elected to be a member of the shortlisting panel.
- (e) The interview panel members did not have an opportunity to review the CVs of the shortlisted candidates. Additionally, he believed the role he played during the interview process was procedurally fair and transparent.
- (f) He indicated that he did not have any information as to which members were part of the shortlisting panel as his participation was limited to overseeing the interview process as the appointed Chairperson.
- (g) The drafting of the advertisement for the Assistant Licensing Manager was not compiled properly as the requirement for a degree and /or diploma was not comprehensive in that it was not specific and that could have resulted in the Municipality not attracting a wider pool of prospective candidates to compete for the position.

*Interview conducted with Mr Ngobese*

6.1.8.44. Mr Ngobese stated, *inter alia*, the following:

- (a) There was a need at the Municipality for the appointment of two (02) Assistant Licensing Managers and as result a job advertisement was published to attract candidates with the relevant skills and experience for the positions at Heidelberg and Meyerton.

- (b) During the recruitment and selection process for the vacant posts, he was not a panel member of either the shortlisting or interviewing panel as he was vested with the responsibility of approving the recommendations of the panellists upon conclusion of the process.
- (c) The Municipality received a total of nine (09) applications within the Licensing centres within the jurisdiction of the Sedibeng District, and all candidates were provided an opportunity to compete in the interviews.
- (d) The internal memo he compiled dated 25 August 2021, reflected that he was selected to be a panel member for the shortlisting and interviewing processes. However, this was an error on his side as he recused himself from being part of the shortlisting and interview process.
- (e) He further confirms that Mr Nemangaya was only requested to be part of the interviewing panel and not the shortlisting panel, even though the internal memo dated 25 August 2021 reflected that the incumbent was a shortlisting panel member.
- (f) He also confirms that the recruitment and selection process resulting in the appointment of Ms Mokoena was adequate.
- (g) All the nine (09) candidates who were shortlisted for the post were in possession of a licensing diploma from the licensing centre. However, he concedes that the licensing diploma was not equivalent to a national diploma or degree.

*Interview conducted with Ms Ramonana*

6.1.8.45. Ms Ramonana indicated the following:

- (a) She was a representative for IMATU during the interview processes for the two (02) vacant positions of Assistant Licensing Manager, and her role was to observe the proceedings only;
- (b) The interviewing panel was in possession of the CVs of the candidates which were delivered by the human resources department. However, the panel did not peruse the contents of the candidates' CVs even though they were in possession of the documents;
- (c) She believed the interviewing panel was satisfied that the candidates met the minimum requirements for the job as the shortlisting panel had verified their application documents and qualifications;
- (d) The interview questions that the interview panel posed were prepared prior to the interview sessions;
- (e) The Municipality required two (02) Assistant Licensing Manager positions to be filled which would be based in Heidelberg and Meyerton;
- (f) There were two (02) candidates appointed by the Municipality as Assistant Licensing Managers.
- (g) She believed that the job advertisement was not clear to attract the relevant pool of candidates to be appointed for the possession, as the

required national diploma or degree was not adequately articulated in the advertisement.

- (h) Furthermore, she noticed that the recommendation report for making an appointment did not have the signature of the then Acting Municipal Manager, Mr Netshivhale, even though he had appended his signature on the appointment letters of the successful candidates.

*Interview conducted with Ms Sedie*

6.1.8.46. During the interview Ms Sedie stated, *inter alia*, the following:

- (a) She was tasked with the consolidation of the long list of applicants, and she was an observer during the interview and shortlisting proceedings;
- (b) She was not tasked with the scoring of the shortlisted candidates during the interviews;
- (c) The Municipality received a total of nine (09) applications for the two (02) advertised vacant positions of Assistant Licensing Manager;
- (d) The prospective candidates were required to complete application documents in addition to submitting their CVs and qualifications;
- (e) The job advertisement expressly highlighted that the applicants should be in possession of a “Grade 12 certificate, three (03) year National Diploma or Degree in Licensing;
- (f) During the shortlisting period she submitted that Mr Ngobese did not

participate in the shortlisting process even though the records of the Municipality reflected that he was one (01) of the shortlisting panel members;

- (g) The selection of the shortlisting panel was vested with the user department and not human resources;
- (h) All the candidates who applied for the vacant position were shortlisted to be interviewed;
- (i) The Municipality conducted vetting of the qualifications of the candidates after the interviews. However, the initial vetting relied upon was dated 2011 as the candidates were internal candidates;
- (j) The MIE report reflected that only the national senior certificates and the licensing diploma of the candidates were vetted; and
- (k) The successful candidates were in possession of licensing traffic diploma; however, she concedes that the qualifications could not be equated to a *“three (03) year diploma or degree”*.

*Interview conducted with Ms Louw*

6.1.8.47. Ms Louw indicated the following:

- (a) She was an interview panel member during the recruitment and selection process of the two (02) vacant positions of Assistant Licensing Manager which was advertised by the Municipality;
- (b) The Licensing Department forwarded her an email correspondence

- requesting her to be one (01) of the panel members for the interviews;
- (c) All the interview members were provided with the relevant interview questions and were tasked to allocate interview scores based on the oral presentation of the shortlisted candidates;
  - (d) She confirmed that Ms Sedie and Ms Ramonana were only observers during the interview process, therefore they did not allocate any interview scores to the candidates;
  - (e) The shortlisting was conducted by the Licensing Department, as it was the end user department for the two (02) vacant positions of Assistant Licensing Manager. The Licensing Department had all the relevant expertise concerning the vacant positions;
  - (f) The interview panel members were provided with the CVs of the candidates to enable them to verify that the panellists were interviewing the correct candidates;
  - (g) The shortlisting panel had a responsibility to ascertain that all the shortlisted candidates met the inherent requirements of the job, and the interview panel did not have a duty to verify whether the candidates met the requirements for the job;
  - (h) Ms Mokoena was one (01) of the shortlisted candidates out of the nine (09) candidates who were interviewed and recommended as the successful candidate to be appointed as one (01) of the Assistant Licensing Managers;
  - (i) All the panel members executed their function during the interviews

for the vacant positions of Assistant Licensing Managers in that questions were posed to the candidates; scores were allocated and consolidated upon the conclusion of the interview process;

- (j) Furthermore, she asserted that the recruitment and selection process in the appointment of Ms Mokoena was conducted in a fair manner as all the processes were complied with; and
- (k) She further confirmed that Mr Ngobese was not part of the interview panel.

*A second statement submitted by Mr Nemangaya*

6.1.8.48. On 18 September 2025, Mr Nemangaya submitted a statement to the Investigation Team, in which he confirmed, among other things, that:

- (a) The Municipality advertised a vacant post for two (02) Assistant Licensing Managers, but he was not involved in the drafting of the job advertisement;
- (b) During the recruitment and selection process for the Assistant Licensing Manager, he did not participate in the shortlisting process for the prospective incumbents as he was not a shortlisting panel member;
- (c) Mr Ngobese informed him that the Municipality received nine (09) applications for the vacant position, and all the nine (09) candidates were shortlisted for an oral assessment;
- (d) He noted that there was a copy of an attendance register which was

circulated during the shortlisting session that was signed by all the panel members. The attendance register reflected his signature, however, he denies that he participated in the shortlisting process;

- (e) Mr Ngobese instructed him to be the Chairperson of the interview sessions for the Assistant Licensing Manager position. Mr Ngobese advised him that he would compile a correspondence letter entailing the recommendation for the appointment of the successful candidates;
- (f) The Municipality conducted the interview in a fair and transparent manner, in that the human resources department had a list reflecting the details of all the candidates, their qualifications, work-experience, score sheets as well as attendance register;
- (g) The interview panel members consolidated the interview scores and the interview score report reflected that there was consistency in all the score sheets of the panel members;
- (h) The individual score sheets as well as the consolidated score sheets were submitted by the interview panel members to Mr Ngobese allowing him to compile a recommendation and request the then Municipal Manager to approve the appointment of the successful candidates; and
- (i) He highlighted numerous mitigating factors that could assist the Municipality from making irregular appointments in the future, namely:
  - (aa) Any department that advertises a position must be transparent

and consistent in terms of the officials participating in the recruitment and selection process;

- (bb) There must be a clear understanding of the recruitment processes, an understanding of the published job advertisement as well as a succinct understanding of the requirements that should be met by the shortlisted candidates;
- (cc) The shortlisting and interviewing panel members must comprise of the same panel members, and the interview questions should be prepared by the panel members on the day of the interviews; and
- (dd) The interview panel members should also disclose whether they have any interest in the interviews, to avoid biasness, unfairness, prejudice and unlawful appointments of candidates by the Municipality.

*A second statement submitted by Mr Ngobese*

6.1.8.49. On 22 September 2025, Mr Ngobese submitted a statement to the Investigation Team, wherein he confirmed, amongst others:

- (a) He did not participate in the shortlisting and interview processes for the two (02) vacant positions of Assistant Licensing Manager even though the internal memorandum dated 25 August 2021 that was addressed to the then Acting Municipal Manager reflected that he was one (01) of the panellists;
- (b) In discussion with the then acting Municipal Manager, he was of the view that it would not be adequate for him to be involved in the

recruitment and selection process for the following reasons:

- (aa) He was the Acting Head of the Department, and he would have to approve the memorandum comprising of the recommendations of the interviewing panel members; and
- (bb) Where a grievance was lodged against the user department (Licensing), he would be required to intervene and resolve the matter;
- (c) He withdrew from the shortlisting process as a panel member, and the signed attendance register by shortlisting panel members corroborates his submission even though the memorandum was not amended;
- (d) Regarding the National Diploma, he was of the view that the diploma qualifications possessed by all the nine (09) candidates from the various Colleges of Licensing were sufficient qualifications for the vacant posts;
- (e) All the nine (09) candidates were measured based on the qualifications and experience they possessed in relation to the field of licensing for motor vehicle administration. However, the distinction between a diploma for licensing as perceived by the municipal personnel was incorrect, because it was not a national diploma; and
- (f) He further indicated that it is imperative that the Municipality improves the selection criterion for any vacant positions to avoid ambiguity, training of municipal personnel was essential to enable employees to be fully equipped in the recruitment and selection processes.

*Documentary evidence submitted by Ms Sedie*

6.1.8.50. On 19 September 2025, Ms Sedie provided the Investigation Team with further documentation to corroborate her submissions which she made during the interview session, namely:

*Email correspondence addressed from Ms Berdina Korb*

6.1.8.51. On 24 August 2021, the Logistic Officer of Licensing: Ms Berdina Korb (Ms Korb) forwarded an email correspondence to Ms Nkoli, Ms Caroline Serame and Ms Sedie requesting for the scheduling of shortlisting and interviews of the position of Assistant Licensing Manager on 25 August 2021, as per the instruction of Mr Ngobese.

6.1.8.52. Ms Korb sent the shortlisting and interview members a signed notice from Mr Ngobese, the Chairperson of the shortlisting and interview panel regarding the advertised two (02) positions of Assistance Licencing Manager in the Department of Licensing, at the Municipality.

*Shortlisting attendance register*

6.1.8.53. On 25 August 2021, the shortlisting panel members convened to conduct shortlisting for the two (02) Assistant Licensing Manager at the Municipality, and an attendance register was signed by the following individuals:

- (a) Mr Nemangaya;
- (b) Mr Bhuda;
- (c) Ms Phakula;
- (d) Ms Ramonana; and

(e) Ms Sedie

*Interview attendance register*

6.1.8.54. On 26 August 2021, an invitation was sent to the elected interview panel members through an email correspondence to confirm their availability for interview session on 30 August 2021.

6.1.8.55. On 30 August 2021, the interview panel members convened to conduct interviews for the two (02) Assistant Licensing Manager at the Municipality, and an attendance register was signed by the following individuals:

- (a) Ms Louw;
- (b) Ms Sedie;
- (c) Ms Ramonana;
- (d) Ms Phakula;
- (e) Ms Majola;
- (f) Mr Mofokeng; and
- (g) Mr Nemangaya

*Interview conducted by Ms Majola*

6.1.8.56. On 17 October 2025, the Investigation Team conducted an interview with Ms Majola at the Municipality regarding the alleged irregular appointment of Ms Mokoena as the Assistant Licensing Manager, and she indicated that:

- (a) She was an interview panel member for the two (02) vacant positions of the Assistant Licensing Manager;
- (b) The interview panel members were provided with CVs and

application documents of the candidates before the interviews. However, she could not recall whether the panellists perused the documents before the interviews;

- (c) She could not recall the sequence of events resulting in the appointment of Ms Mokoena as the interview dated back to 2021; and
- (d) The Municipality should provide comprehensive training on the Recruitment Policy with the objective of ensuring the individuals partaking in any recruitment and selection processes are equipped to make adequate appointments in the future.

*Interview request to Ms Phakula and Mr Buda to the section 7(9) notice*

- 6.1.8.57. On 21 October 2025, the Investigation Team forwarded a correspondence to Mr Buda requesting him to attend a virtual interview meeting on 24 October 2025.
- 6.1.8.58. Mr Buda neither acknowledged receipt of the interview invitation concerning the investigation, nor informed the Investigation Team about his unavailability to participate in the scheduled meeting.
- 6.1.8.59. On 22 October 2025, the Investigation Team forwarded a letter to Ms Nkoli to ensure further compliance with the principle of the *audi alteram partem rule* as envisaged by section 7(9) of the Public Protector Act, requesting her to inform Ms Phakula to attend a virtual interview meeting on 24 October 2025.
- 6.1.8.60. Ms Phakula did not submit any oral presentations on 24 October 2025 although she was made aware of the said meeting as confirmed by Ms

Nkoli. It ought to be noted that Ms Phakula is not implicated in the irregular appointment of Ms Mokoena as she was an observer during the recruitment process. Therefore, the Investigation Team relied on the sworn statement dated 23 May 2025 by Ms Phakula.

*Applicable law*

**Constitution of the Republic of South Africa, 1996**

- 6.1.8.61. Section 1 of the Constitution encapsulates values such as accountability, openness, responsiveness, supremacy of the Constitution and rule of law, which all find direct application on this matter.
- 6.1.8.62. Section 2 lays the foundation for the control of public power. It provides that it is the supreme law of the Republic; law or conduct inconsistent with it is invalid, and the obligations imposed by it must be fulfilled.
- 6.1.8.63. Section 33 provides for a just administrative action and states that everyone has the right to administrative action that is lawful, reasonable and procedurally fair.
- 6.1.8.64. Section 195(1) provides *amongst other* things that public administration must be governed by the democratic values and principles enshrined in the Constitution, including ensuring a high standard of professional ethics and good human-resource management.

**Public Administration Management Act, 2014**

- 6.1.8.65. Section 10(1) provides amongst other that the head of an institution must through the education and training of its employees, develop its human

resource capacity to a level that enables it to perform its functions in an efficient, quality, collaborative and accountable manner.

### **Local Government: Municipal Systems Act, 2000**

- 6.1.8.66. In relation to Municipal Managers, section 55(1) provides amongst others that as head of administration the Municipal Manager of a municipality is, subject to the policy directions of the municipal council.

### **Code of Conduct for Municipal Staff Members, Schedule 2 of the Municipal Systems Act (Code of Conduct)**

- 6.1.8.67. Item 2 of the Code of Conduct provides *inter alia* that a staff member of the Municipality must at all times loyally execute the lawful policies of the municipal council and perform the functions of office in good faith, diligently, honestly and in a transparent manner. It further stipulates that a staff member must act in the best interests of the municipality and in such a way that the credibility and integrity of the municipality are not compromised; equally without favour and prejudice.
- 6.1.8.68. According to item 14 of the Code of Conduct, breaches of the code must be dealt with in terms of the disciplinary procedures of the municipality.

### **Sedibeng Recruitment and Selection Policy, 2010**

- 6.1.8.69. The Recruitment Policy sets out in details the procedures and processes which must be followed by the Municipality during the recruitment and selection process.
- 6.1.8.70. Paragraph 9 regulates the key responsibilities of the selection committee

and requires the following standard to be adhered:

- (a) Selection criteria shall be objective and related to the inherent requirements of the job and realistic future needs of the organisation, with bias towards the applicants residing within the borders of Gauteng in general and Sedibeng District Municipality (SDM) area in particular.
- (b) The central guiding principle for selection shall be competence in relation to the inherent requirements of the job provided that selection favours, as determined by the targets, suitably qualified applicants as defined in section 20(3) of the Employment Equity Act.

6.1.8.71. Subparagraph 10.4 requires amongst others that the individual candidates score obtained during the interview should guide panel members on the suitability of that particular candidate for the position.

*The selection decision*

6.1.8.72. Subparagraph 12.1 stipulates that the selection decision is based on the assessment of the candidate's ability to meet the requirements in conjunction with section 20(3) of the Employment Equity Act in the context of organisational requirements and any pre-employment tests.

*Reference checking*

6.1.8.73. Subparagraph 15.4 provides that no reference checking will be conducted on an applicant before an interview is conducted, but pre-screening to validate information, CV and/or applicant form may be conducted in relation to the inherent requirements of the job.

6.1.8.74. Subparagraph 15.6 also provides that qualifications must be verified by

Human Resources Directorate before the appointment is effected.

*Approval of appointments*

- 6.1.8.75. Subparagraph 17.5 stipulates amongst others that after the completion of the interview process, the recommendations must be forwarded to the Municipal Manager for approval and should include a motivation for the successful candidates especially if the scores are very close.

**Municipal Staff Regulations issued in terms of Local Government:  
Municipal Systems Act, 2000**

- 6.1.8.76. Clause 21 of the MSR stipulates the requirements for appointment of staff members and provides that no person may be appointed as a staff member on a fixed-term contract, permanent basis, or probation, to any post on the approved staff establishment of a municipality, unless he or she possesses the relevant competencies, qualifications and experience.
- 6.1.8.77. Clause 28 stipulates amongst others that reference checks and personal credential verification for short-listed candidates must be conducted by establishing the validity of candidate qualifications and any other verification required by the position before appointment. It also requires that a written report on the outcome of the reference checks and personal credential verification must be compiled before the appointment is concluded.
- 6.1.8.78. Clause 29 of the MSR stipulates amongst others, that a person may be appointed as a staff member only if the person possesses the relevant competencies as prescribed in Annexure A of the Regulations.

6.1.8.79. Clause 29 further stipulates that the municipal manager or the staff member delegated must consider the recommendations of the selection panel and decide on whom to appoint. Before making a decision to appoint, the municipal manager or his/ her delegate must satisfy himself or herself that the candidate meets the relevant requirements of the post as provided in *Annexure A of the Regulations*. An appointment may only take effect after the municipal manager or his or her delegate has approved the appointment.

*Analysis*

6.1.8.80. Evidence before the Public Protector reveals that on 30 July 2021, the Municipality internally advertised on its website two (02) positions for Assistant Licensing Manager, with a closing date of on 16 August 2021.

6.1.8.81. Further evidence indicates that the advertisement for the post required that the applicants must possess a National Senior Certificate, plus a three-year degree or national diploma (licensing) to meet the minimum requirements for the post. The job advertisement further required three (03) or five (5) years' experience in a supervisory or managerial position.

6.1.8.82. In terms of the interview report in possession of the Public Protector, Ms Mokoena was amongst nine (9) candidates who were shortlisted and interviewed for the two vacant posts of Assistant Licensing Manager.

6.1.8.83. According to the employment application form, CV and copies of academic qualifications, Ms Mokoena provided to the Public Protector, she does not have a three-year Diploma or Degree as stipulated in the job advertisement.

- 6.1.8.84. Independently obtained verification from SAQA, confirmed that none of Ms Mokoena’s academic qualifications could be classified as equivalent to a “*three-year Degree or National Diploma*” as per the requirements for the Assistant Licensing Manager position.
- 6.1.8.85. This is contrary to the provisions of Paragraph 9 of the Recruitment Policy, read with Clause 21 of the MSR which expressly imposes an obligation on the functionaries of the Municipality to ensure that an objective selection criteria, related to the inherent requirements of the job are adhered to and to observe a central guiding principle for selection which shall be competence in relation to the inherent requirements of the job, unless that selection favours, as determined by the targets, suitably qualified applicants as defined in section 20(3) of the Employment Equity Act.
- 6.1.8.86. Further evidence at the disposal of the Public Protector reveals that during the interview process, Ms Mokoena obtained an overall score of 245, and candidate E who scored 249 were appointed as the successful candidates for the position of Assistant Licensing Managers.
- 6.1.8.87. The Municipality conceded that Ms Mokoena’s appointment was flawed, as her appointment was based on her Diploma from the Gauteng Traffic College, which does not meet the requirements of a three-year National Diploma or Degree as specified in the job advertisement.
- 6.1.8.88. In order to remedy the irregularity in the appointment of Ms Mokoena, the Municipality stated that it has implemented corrective measures in line with the new staff regulations promulgated in July 2022, which stipulate guidelines concerning position requirements and recruitment processes.
- 6.1.8.89. The Municipality is further enjoined by section 33 of the Constitution to

ensure a just administrative action, which is lawful, fair and reasonable in its day-to-day administration. This standard is self-evidently equally expected during recruitment processes.

6.1.8.90. Likewise, section 195 of the Constitution imposes a high standard of professional ethics within the public administration, including good human-resource management.

6.1.8.91. It is clear from the evidence before the Public Protector that proper verification of Ms Mokoena's qualifications was not conducted by the Municipality. It follows therefore that the selection panel neither diligently discharged its duty nor did it provide a motivation for appointing Ms Mokoena even though she did not have the relevant academic qualification, specified in the advertisement.

6.1.8.92. The Human Resources personnel as the custodian of the Human Resources practices is expected to ensure accurate application of the recruitment policy as well as to guide the selection panel during the recruitment process. This is to ensure that Human Resources Management practices are cultivated in line with section 195(1)(h) of the Constitution.

6.1.8.93. The Public Protector takes note of the response of the selection panel members, wherein they stated that, their conduct during the recruitment and selection of Ms Mokoena did not amount to conduct that was *ultra-vires* by shortlisting and appointing Ms Mokena to the position of Assistant Licensing Manager as she met all the minimum requirements for the job.

6.1.8.94. The purpose of the recruitment and selection process prescribed under the Recruitment Policy of the Municipality and MSR is to ensure equality and

fairness in the filling of posts in the public service. It is for these reasons that the Recruitment Policy prescribes that the evaluation of candidates should be based on *inter alia* training, skills, competence, knowledge and the need to redress the imbalances of the past.

- 6.1.8.95. Clause 21 of the MSR places a duty on the selection committee to make a recommendation on the suitability of a candidate after considering only, *inter alia*, information based on valid methods, criteria or instructions for selection that are free from any bias or discrimination and the training, skills, competence and knowledge necessary to meet the inherent requirements of the post.
- 6.1.8.96. However, Clause 28 of the MSR places a stringent responsibility on the Panel to ensure amongst others that reference checks and personal credential verification for short-listed candidates is conducted through establishing the validity of candidate qualifications and any other verification required by the position before appointment. This provision further requires that a written report on the outcome of the reference checks and personal credential verification must be compiled before the appointment is concluded.
- 6.1.8.97. The Public Protector is of the view that the submission by SAQA is correct, and instructive. The interpretation of Ms Mokoena regarding the recognition of her certificate for articulation purposes, as well as that of the selection panel cannot be accepted as a true interpretation of the Government Notice No 518 in that short skills programmes between three (3) and six (6) months are not equivalent to the SAQA identification, levels, and credits.
- 6.1.8.98. According to the interview score allocated by the selection panel, Ms Mokoena appeared to be one of the preferred candidates for the position

of Assistant Licensing Manager during the interviews, however, the process was nevertheless not proper, fair or equitable as she was shortlisted, interviewed, and appointed despite not having the minimum requirements for the position.

6.1.8.99. The evidence before the Public Protector indicates that the then Acting Municipal Manager, Mr Netshivhale approved the appointment of Ms Mokoena on 21 December 2021, based on the recommendations supported by Mr Ngobese.

6.1.8.100. Mr Ngobese endorsed the internal memo dated 25 August 2021 regarding the interview request for the two (02) Assistant Licensing Manager posts, even though the contents of the requisition erroneously cited him and Mr Nemangaya as panellist for the shortlisting and interview processes.

6.1.8.101. Evidence shows that Mr Ngobese ought to have noted the error in the internal memo and accordingly should have advised the then Acting Municipal Manager of the error and/or the discrepancy. Consequently, Mr Ngobese remains liable for this administrative oversight on his part, which resulted in the appointment of Ms Mokoena.

6.1.8.102. The functionaries of the Municipality were required when selecting and appointing the employees, to ensure that they do so in a fair, consistent, transparent and efficient manner in line with section 195 read with section 33 of the Constitution.

6.1.8.103. In this regard, the Public Protector is of the view that the functionaries of the Municipality did not execute their function in accordance with standard envisaged in sections 195 and 33 of the Constitution in the appointment of Ms Mokoena.

### *Conclusion*

- 6.1.8.104. Based on the totality of the factual evidence placed before the Investigation Team, and juxtaposed against the applicable regulatory framework, the Public Protector concludes that the appointment of Ms Mokoena to the position of Assistant Manager Licensing within the Municipality was irregular in that she did not possess a three-year diploma or degree stipulated as a minimum requirement in the job advertisement.
- 6.1.8.105. Mr Ngobese's final memo recommendations to the then Acting Municipal Manager, Mr Netshivhale had material administrative errors as set out in evidence and it also did not alert Mr Netshivhale to the discrepancy regarding Ms Mokoena's' academic suitability for the job as stated in the advertisement.
- 6.1.8.106. Taking all of the above into account, the ineluctable conclusion to arrive at in the present circumstances is that the conduct of the functionaries of the Municipality in appointing Ms Mokoena to a position of Assistant Manager Licensing, was inconsistent with the dictates of the Constitution and in breach of the Recruitment Policy and MSR.

## **7. FINDINGS**

Having regard to the evidence, the regulatory framework determining the standard that the functionaries of the Municipality should have complied with and the impact thereof on good administration, the Public Protector makes the following adverse findings against the Municipality:

- 7.1. **Whether the functionaries of the Municipality irregularly appointed Ms Mokoena as the Assistant Licensing Manager while she did not meet**

**the requirements of the post, if so, whether such conduct is improper as envisaged in section 182(1)(a) of the Constitution and amounts to maladministration in terms of section 6(4)(a)(i) of the Public Protector Act, 1994**

- 7.1.1 The allegation that the functionaries of the Municipality irregularly appointed Ms Mokoena as the Assistant Licensing Manager while she did not meet the requirements of the advertised post, is **substantiated**.
- 7.1.2 Evidence placed at the Public Protector’s disposal indicates that on 21 December 2022, the Municipality appointed Ms Mokoena to the position of Assistant Licensing Manager without her meeting the minimum threshold requirements for the post as stated in the job advertisement.
- 7.1.3 Evidence gathered during the investigation revealed that Ms Mokoena does not possess a three (03) year Degree or Diploma as stipulated in the job advertisement published on the municipal website on 30 July 2021 with a closing date of 16 August 2021.
- 7.1.4 SAQA also confirmed after conducting a verification process that none of Ms Mokoena’s academic qualifications could be classified as a “three-year degree or National Diploma” as per the requirements for the Assistant Licensing Manager position.
- 7.1.5 The Public Protector ascertained that there was no documentary evidence that the Human Resource Directorate verified the qualifications of the shortlisted candidates prior to the appointment of the successful candidates as required by subparagraph 15.6 of the Recruitment Policy.

- 7.1.6 The shortlisting conducted on 25 August 2021 revealed that the functionaries of the Municipality omitted to scrutinise the application documents as well as the Curriculum Vita (CVs) of shortlisted candidates, as they did not meet the inherent requirements for the job.
- 7.1.7 The interview session held by the Investigation Team on 17 September 2025, revealed that the interview panel, namely Mr Nemangaya, Ms Louw, Ms Majola and Mr Mofokeng did not peruse the application documents of the candidates nor acquaint themselves with the contents of the job advertisement to ascertain whether the candidates met the inherent minimum requirements for the job.
- 7.1.8 Mr Ngobese conceded that the selection panel neither possessed the requisite skills nor knowledge required for executing a proper recruitment and selection process aligned with the Recruitment Policy.
- 7.1.9 Mr Ngobese's final recommendations to the then Acting Municipal Manager, Mr Netshivhale, had material administrative errors as set out in evidence and it also did not alert Mr Netshivhale to the discrepancy regarding Ms Mokoena's' academic suitability for the job as stated in the advertisement.
- 7.1.10 The selection panel did not have any comprehensive knowledge concerning the distinction between a short skills course or programme and a formal qualification equivalent to the SAQA identification, levels, and credits.
- 7.1.11 In view of the above highlighted irregularities in the appointment process for Ms Mokoena, the Public Protector finds that the conduct of the functionaries of the Municipality was inconsistent with section 33 and 195 of the Constitution and in breach of Paragraph 9, 10.4, 17.5 of the Recruitment Policy and Clause 21 of the MSR.

7.1.12 In the circumstances, the conduct of the functionaries of the Municipality amounts to improper conduct in terms of section 182(1)(a) of the Constitution and maladministration in terms of section 6(4)(a)(i) of the Public Protector Act.

## 8. REMEDIAL ACTION

8.1. The Public Protector is empowered in terms of section 182(1)(c) of the Constitution to take appropriate remedial action with a view of redressing the conduct referred to in this report upon conclusion of an investigation where adverse findings are made.

8.2. In the matter of 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.

8.3. The Public Protector has taken cognisance that Mr Buda, who was a shortlisting panel member for the appointment of Ms Mokoena as the Assistant Licensing Manager, is no longer employed by the Municipality.

8.4. Further cognisance is taken of the fact that Ms Phakula, Ms Ramonana, and Ms Sedie were observers during the recruitment process and did not allocate interview scores to the candidates, therefore the Public Protector will not take any remedial action against them.

- 8.5. The appropriate remedial action taken in terms of section 182(1)(c) of the Constitution, are the following:

**The Executive Mayor**

- 8.6. **Within ninety (90) calendar days** from the date of receipt of this report, in terms of section 56(1) LGMSA, 1998, table the report before the Municipal Council for deliberation and obtain approval for the appropriate and effective course of action to address the irregular appointment of Ms Mokoena to the position of Assistant Manager Licensing.

**The Municipal Manager**

- 8.7. **Within ninety (90) calendar days** from the date of receipt of this report, as obligated by section 15(6)(a) of the PAMA, take effective and appropriate corrective action against the following functionaries of the Municipality (who are still in the employ of the Municipality) responsible for the selection and recruitment of Ms Mokoena, whilst she did not meet the minimum requirements of the job advertisement:

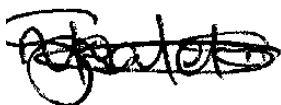
- (a) Mr Ngobese
- (b) Mr Nemangaya
- (c) Ms Louw
- (d) Ms Majola
- (e) Ms Mofokeng

- 8.8. **Within sixty (60) calendar days** from the date of receipt of this report, in line with section 195(1)(h) of the Constitution read with section 10(1)(a) of the PAMA and section 55(1)(b) of the MSA, ensure that all functionaries appointed to participate in recruitment processes are trained to comply

recruitment prescripts to ensure adherence with the prescribed qualifications and procedural requirements.

## 9. MONITORING

- 9.1. The Municipal Manager, must within **sixty (60) calendar days**, from the date of this report, submit an action plan to the Public Protector on the implementation of the remedial action referred to in paragraph 8 above.
- 9.2. The submission of the implementation plan and the implementation of the remedial action shall, in the absence of a court order, be complied with within the period prescribed in this report to avoid being in contempt of the Public Protector.
- 9.3. In line with the Constitutional Court Judgement in the matter of *Economic Freedom Fighters*, and in order to ensure the effectiveness of the Office of the Public Protector, the remedial actions prescribed in this Report are legally binding on the Department unless there is an Interim Interdict or Court Order directing otherwise.



---

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

*Assisted by: Ms Mantu Ramakgwakwa*  
*Investigator: Gauteng Provincial Office*