

# REPORT NO. 36

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INVESTIGATION INTO ALLEGATIONS OF IRREGULAR APPOINTMENT OF MR JOHANNES LOUW TO THE POSITION OF HEAD: CORPORATE COMMUNICATIONS AND SPOKESPERSON AT THE SOUTH AFRICAN NATIONAL PARKS

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## LIST OF ABBREVIATIONS AND ACRONYMS

ACRONYMS / ABBREVIATIONS	DESCRIPTIONS
<b>ANC</b>	African National Congress
<b>CEO</b>	Chief Executive Officer
<b>CFO</b>	Chief Financial Officer
<b>The Code</b>	Code of Good Practice on Integration of Employment Equity into Human Resource Policies and Practice, 2005, issued in terms of the Employment Equity Act, 1998
<b>CV</b>	Curriculum Vitae
<b>GM</b>	General Manager
<b>HCM</b>	Human Capital Management
<b>LAC</b>	Labour Appeal Court
<b>LRA</b>	Labour Relations Act, 1995
<b>ME</b>	Managing Executive
<b>NQF</b>	National Qualifications Framework
<b>NEMPAA</b>	National Environmental Management: Protected Areas Act, 2003
<b>OPSC</b>	Office of the Public Service Commission
<b>PAIA</b>	Promotion of Access to Information Act, 2000
<b>PFMA</b>	Public Finance Management Act, 1999
<b>POPIA</b>	Protection of Personal Information Act, 2013
<b>PSA</b>	Public Service Act, 1994, as amended
<b>PSR</b>	Public Service Regulations, 2016
<b>Public Protector Act</b>	Public Protector Act, 1994 (as amended)
<b>Public Protector Rules</b>	Rules Relating to Investigations by the Public Protector and Matters Incidental thereto, 2018 (as amended)
<b>RPL</b>	Recognition of Prior Learning
<b>SANParks</b>	South African National Parks
<b>SAQA</b>	South African Qualification Authority

<b>ACRONYMS / ABBREVIATIONS</b>	<b>DESCRIPTIONS</b>
<b>SOP</b>	SANParks Standard Operating Procedure for Recruitment and Selection Policy
<b>The Recruitment Policy</b>	SANParks Recruitment and Selection Policy

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## 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 concerns an investigation into allegations of irregular appointment of Mr Johannes Louw (Mr. Louw) to the position of Head: Corporate Communications and Spokesperson, at the South African National Parks (SANParks).
  
- (iii) The investigation originates from a complaint of Mr Mahlubandile Mageda (the Complainant) referred to the Public Protector on 12 March 2025, by Professor M Makhanya, Commissioner at the Office of the Public Service Commission of South Africa (OPSC). The OPSC provided a copy of the complaint against SANParks, dated 20 February 2025, wherein the Complainant alleged, *inter alia*, that:
  - (a) The position of General Manager (GM): Corporate Communications and Spokesperson at SANParks was advertised, and to the best of his recollection, this constituted a re-advertisement of a previously listed vacancy;
  
  - (b) In 2023, he responded to the advertisement and submitted an application for the position. On 28 July 2023, he received an invitation to attend an interview, which was subsequently conducted on 04 August 2023 via Microsoft Teams;

- (c) He later learnt that concerns regarding the appointment of the incumbent were raised in Parliament, following a disclosure made by a whistleblower within SANParks;
  - (d) The incumbent did not meet the advertised requirements in terms of relevant work experience and academic qualifications. It was reported that he has experience limited to the Communications division of the African National Congress (ANC) and holds a B. juris degree, which is not aligned with the professional criteria outlined for the role; and
  - (e) Based on available information, it appears that the appointment was influenced by political considerations, and that the incumbent was selected as a political deployee of the ANC, rather than through a merit-based process.
- (iv) Based on the analysis of the complaint, the following issue was identified to inform and focus on the investigation:
- (a) **Whether the functionaries of the South African National Parks irregularly appointed Mr Johannes Louw to the position of Head: Corporate Communications and Spokesperson, without meeting the minimum qualifications requirements of the post as stipulated in the advertisement, if so, whether such conduct is improper in terms of Section 182(1)(a) of the Constitution and amounts to maladministration in terms of Section 6(5)(a) of the Public Protector Act.**
- (v) The investigation was conducted in terms of Section 182(1) of the Constitution and Sections 6 and 7 of the Public Protector Act. It included correspondence with SANParks, an analysis of the relevant documents and information obtained.

- (vi) On 21 October 2025, notices in terms of Section 7(9) of the Public Protector Act (the Notice) were issued to Ms. Beryl Ferguson, Interim Chairperson of the Board of SANParks; Ms Hapiloe Sello (Ms Sello) Chief Executive Officer at SANParks, and other functionaries of SANParks to provide them an opportunity to respond on the likely adverse findings and remedial action. Section 7(9)(a) of the Public Protector Act provides that those persons implicated in an investigation by the Public Protector, are to be allowed the opportunity to make representations regarding same.
- (vii) The Public Protector received submissions from the respondents, which were duly considered.
- (viii) Having regard to the evidence and regulatory framework determining the standard that the South African National Parks should have complied with, the following findings are made:
- (a) Whether the functionaries of the South African National Parks irregularly appointed Mr Johannes Louw to the position of Head: Corporate Communications and Spokesperson, without meeting the minimum qualification requirements of the post as stipulated in the advertisement, if so, whether such conduct is improper in terms of Section 182(1)(a) of the Constitution and amounts to maladministration in terms of Section 6(5)(a) of the Public Protector Act.
- (aa) The allegations that the functionaries of the SANParks irregularly appointed Mr Louw to the position of Head: Communications and Spokesperson, without meeting the minimum qualification requirements of the post, as stipulated in the job advertisement, **is substantiated**.
- (bb) Mr. Louw did not meet the minimum qualification requirements as stipulated in the job advertisement and SANParks' competency-based job description. The requirement was an Honours degree in Journalism, Communications, or Public Relations (or an equivalent). SAQA confirmed

that Mr Louw's B. Juris degree is not equivalent to an Honours degree in the specified fields.

- (cc) Ms Umlaw, with the concurrence of Mr de Kock, shortlisted Mr Louw and two others despite not meeting the essential qualification criteria. This conduct constitutes a procedural irregularity and is contrary to the principles of fairness and objectivity articulated in Section 195(1)(i) of the Constitution and Clause 2.2 (c) and (d) of the Recruitment Policy.
- (dd) The endorsement and interview of candidates who did not have the minimum qualifications prescribed in the job advertisement by the members of the Interview Panel, which led to the appointment of Mr Louw, was in contravention of Clause 5.3.2(c) of the Recruitment Policy which requires candidates to be evaluated and identified in accordance with the competencies specified in the job profile.
- (ee) The justification for Mr Louw's shortlisting based on the EEA and its Code was misplaced. The position was not designated as an equity-targeted post, and the application of the "*suitably qualified*" principle was inconsistent and selectively applied, undermining fairness and objectivity.
- (ff) Ms Sello approved the appointment of Mr Louw despite clear evidence of non-compliance with Section 195(1)(i) of the Constitution, Section 73 of NEMPAA, read with Clause 5.3.2 of the Recruitment Policy.
- (gg) Accordingly, the conduct of the functionaries of the SANParks constituted improper conduct as envisaged in Section 182(1)(a) of the Constitution and maladministration as envisaged in Section 6(5)(a) of the Public Protector Act.
- (ix) The appropriate remedial action being taken in terms of Section 182(1)(c) of the Constitution, is the following:

## The SANParks Board

- (a) **Within a period of ninety (90)** calendar days from the date of receipt of this report, in line with Section 57(3) of NEMPAA, initiate a process of judicial review of Mr Louw's appointment in terms of Section 158(1)(h) of the LRA, given the procedural irregularities and non-compliance with the advertised minimum requirements.
- (b) **Within ninety (90)** calendar days from the date of receipt of this report, take disciplinary action against Ms Hapiloe Sello, Ms Makgomo Umlaw and Mr Reuben Ngwenya for their respective roles in the shortlisting and selection process for non-qualifying candidates in accordance with Clause 7.1 of the Disciplinary Policy.
- (c) **Within hundred and twenty (120)** calendar days from the date of receipt of this report, initiate a review of the Selection and Recruitment Policy to incorporate detailed guidelines for shortlisting and adopting best practices aimed at eliminating non-compliance and promoting efficient and transparent recruitment and selection processes within SANParks in accordance with Section 73(1) of NEMPAA read with Section 195(1)(h) of the Constitution.

## **1. INTRODUCTION**

- 1.1. This is a Report of the Public Protector issued in terms of Section 182(1)(b) of the Constitution of the Republic of South Africa, 1996 (the Constitution) and Section 8(1) of the Public Protector Act, 1994 (the Public Protector Act).
- 1.2. The Report relates to an investigation into allegations of irregular appointment of Mr Johannes Louw (Mr Louw) to the position of Head: Corporate Communications and Spokesperson, at the South African National Parks (SANParks).
- 1.3. The Report is submitted in terms of Section 8(1) read with Section 8(3) of the Public Protector Act read with Rule 40(b) of the *Rules Relating to Investigations by the Public Protector and Matters Incidental Thereto*, 2018, as amended (Public Protector Rules), which empowers the Public Protector to make known the findings of an investigation, to the following affected parties, for such persons to note the outcome of the investigation:
  - 1.3.1. Ms Beryl Ferguson, Interim Chairperson of the Board of SANParks;
  - 1.3.2. Ms Hapiloe Sello, Chief Executive Officer of SANParks;
  - 1.3.3. Ms Makgomo Umlaw, Head: Human Capital Management, SANParks;
  - 1.3.4. Mr Reuben Ngwenya, Regional Manager: Northern Region, SANParks;
  - 1.3.5. Mr Johannes Louw, Head: Communications and Spokesperson, SANParks; and
  - 1.3.6. Mr Mahlubandile Mageda, the Complainant.

## **2. THE COMPLAINT**

- 2.1. The investigation originates from a complaint of Mr Mahlubandile Mageda (the Complainant), referred to the Public Protector on 12 March 2025, by

Professor M Makhanya, a Commissioner, at the Public Service Commission (OPSC). The OPSC provided a copy of the complaint against SANParks, dated 20 February 2025, wherein the Complainant alleged, *inter alia*, that:

- 2.1.1. The position of General Manager (GM): Corporate Communications and Spokesperson at SANParks, which later became known as Head Corporate Communications and Spokesperson was advertised, and to the best of his recollection, this constituted a re-advertisement of a previously listed vacancy;
- 2.1.2. In 2023, he responded to the advertisement and submitted an application for the position. On 28 July 2023, he received an invitation to attend an interview, which was subsequently conducted on 04 August 2023 via Microsoft Teams;
- 2.1.3. He later learnt that concerns regarding the appointment of the incumbent were raised in Parliament, following a disclosure made by a whistleblower within SANParks;
- 2.1.4. The incumbent did not meet the advertised requirements in terms of relevant work experience and academic qualifications. It was reported that he has experience limited to the Communications division of the African National Congress (ANC) and holds a B. Juris degree, which is not aligned with the professional criteria outlined for the role; and
- 2.1.5. Based on available information, it appears that the appointment was influenced by political considerations, and that the incumbent was selected as a political deployee of the ANC, rather than through a merit-based process.

### **3. THE POWERS AND JURISDICTION OF THE PUBLIC PROTECTOR**

- 3.1. The Public Protector is an independent constitutional institution established in terms of 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) of the Constitution 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 state affairs.

3.4 SANParks is an organ of the state as contemplated in Section 239 of the Constitution and the actions of its functionaries amounts to conduct in state affairs. Accordingly, 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(5) of the Public Protector Act.

#### **4. ISSUE IDENTIFIED FOR INVESTIGATION**

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

- 4.1.1. Whether the functionaries of the South African National Parks irregularly appointed Mr Johannes Louw to the position of Head: Corporate Communications and Spokesperson, without meeting the minimum qualification requirements of the post as stipulated in the advertisement, if so, whether such conduct is improper in terms of Section 182(1)(a) of the Constitution and amounts to maladministration in terms of Section 6(5)(a) of the Public Protector Act.

## **5. THE INVESTIGATION**

### **5.1. Methodology**

- 5.1.1. The investigation was conducted in terms of Section 182 of the Constitution and Sections 6 and 7 of the Public Protector Act.

- 5.1.2. Section 7(1)(b) of 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.

### **5.2. Approach to the investigation**

- 5.2.1. The approach to the investigation included an exchange of documentation between the Public Protector, SANParks and the South African Qualifications Authority (SAQA).

- 5.2.2. Interviews were held with affected parties or persons reasonably believed to have information relevant to the investigation, such as the members of the Shortlisting and Selection panel.

- 5.2.3. All relevant documents and correspondence were obtained and analysed, and relevant laws, policies and related prescripts were considered and applied throughout the investigation.

5.2.4. 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, improper conduct, or result in prejudice?

(d) In the event of improper conduct or maladministration, what would it take to remedy the wrong?

5.2.5. 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 particular case, the factual enquiry principally focused on the process followed by the functionaries of SANParks during the recruitment and selection of Mr. Louw into the position of Head: Communications and Spokesperson of SANParks.

5.2.6. The enquiry regarding what should have happened, focuses on the law or rules that regulate the standard that should have been met by the functionaries of the SANParks in the execution of their duties relating to the recruitment and selection process for the post of Head of Communications and Spokesperson.

### 5.3. **Key sources of information**

#### 5.3.1. **Correspondence exchange**

5.3.1.1. Original complaint from the Complainant, dated 20 February 2025;

- 5.3.1.2. Notice issued in terms of Rule 23(1) of the Public Protector Rules to Ms Hapiloe Sello, Chief Executive Officer of the SANParks, dated 09 April 2025;
- 5.3.1.3. Response letter from Ms Sello to Public Protector, dated 21 May 2025;
- 5.3.1.4. Letter from Public Protector to Ms Nadia Starr, Chief Executive Officer, SAQA, dated 01 July 2025;
- 5.3.1.5. Follow up letter from the Public Protector to Ms Sello, dated 23 June 2025;
- 5.3.1.6. Supplementary response from Ms Sello to Public Protector, dated 15 July 2025;
- 5.3.1.7. Response from Ms. Starr to the Public Protector, dated 18 July 2025;
- 5.3.1.8. Letter from the Public Protector to Ms Sello requesting an interview, dated 14 August 2025;
- 5.3.1.9. Letter dated 14 August 2025, from the Public Protector requesting an interview with Ms Makgomo Umlaw;
- 5.3.1.10. Letter from the Public Protector requesting an interview with Mr Reuben Ngwenya, dated 14 August 2025;
- 5.3.1.11. Letter from the Public Protector requesting an interview with Ms Reginah Visser, dated 15 August 2025;
- 5.3.1.12. Letter from the Public Protector requesting an interview with Mr Gary de Kock, dated 14 August 2025;
- 5.3.1.13. Response letter from Ms Umlaw to the Public Protector, dated 21 August 2025;

- 5.3.1.14. Response letter from Ms Visser to the Public Protector, dated 25 August 2025;
- 5.3.1.15. Response letter from Mr De Kock to the Public Protector, dated 24 August 2025;
- 5.3.1.16. Response letter from Ms Sello to the Public Protector, dated 29 August 2025;
- 5.3.1.17. Response letter from Mr Ngwenya to the Public Protector, dated 02 September 2025;
- 5.3.1.18. Letter from the Public Protector following discussions on the Notice issued in terms of Section 7(9)(a) of the Public Protector Act, 1994 held with Ms. Ferguson, dated 12 November 2025;
- 5.3.1.19. Mr Louw's response letter to the Section 7(9)(a) Notice, dated 31 October 2025;
- 5.3.1.20. Ms Sello's response letter to the Section 7(9)(a) Notice, dated 05 November 2025;
- 5.3.1.21. Ms Makgomo Umlaw's response to the Section 7(9)(a) Notice, dated 07 November 2025;
- 5.3.1.22. Mr Gary De Kock's response to the Section 7(9)(a) Notice, dated 17 November 2025;
- 5.3.1.23. Ms Beryl Ferguson's response to the Section 7(9)(a) Notice, dated 20 November 2025; and
- 5.3.1.24. Mr Ngwenya's response to the Section 7(9)(a) Notice, dated 01 December 2025.

### 5.3.2. Documents received

- 5.3.2.1. Memorandum to fill the position for the Head: Corporate Communications and Spokesperson position, approved on 10 May 2022;
- 5.3.2.2. SANParks competency-based job description;
- 5.3.2.3. Advertisement for the post of Head: Corporate Communications & Spokesperson, with a closing date of 17 April 2023;
- 5.3.2.4. Motivation requesting approval for the proposed interview panel and shortlisted candidates, dated 20 July 2023;
- 5.3.2.5. Copies of the curriculum vitae (CV) of the 06 shortlisted candidates;
- 5.3.2.6. Minutes of the Interviews for the Position of Head: Corporate Communications and Spokesperson, dated 25 July 2023 and 04 August 2023;
- 5.3.2.7. Request for approval to appoint Mr. Louw as the Head Corporate Communication and Spokesperson, dated 09 October 2023; and
- 5.3.2.8. Offer of employment, dated 26 October 2023.

### 5.3.3. Legislation and other prescripts

- 5.4.4.1. Constitution of the Republic of South Africa, 1996;
- 5.4.4.2. National Environmental Management: Protected Areas Act, 2003;
- 5.4.4.3. Labour Relations Act, 1995
- 5.4.4.4. National Qualifications Framework Act, 2008

5.4.4.5. SANParks Disciplinary Policy, 2023; and

5.4.4.6. SANParks Recruitment and Selection Policy, 2022.

#### 5.3.4. **Case Law**

5.3.4.1. *Khumalo and Another v Member of the Executive Council for Education KwaZulu-Natal*; 2014 (5) SA 579 (CC) (18 December 2013); and

5.3.4.2. *KwaZulu Department of Transport v Hoosen and Others*; 12 BLLR 1173 (LAC) (8 June 2018);

5.3.4.3. *Public Servants Association obo Thorne v Department of Community Safety (Western Cape) and Others*; (12 BLLR 1173 (LAC) (8 June 2018); and

5.3.4.4. *Economic Freedom Fighters v Speaker of the National Assembly and Others: Democratic Alliance v Speaker of the National Assembly and Others*; 2016 (3) SA 580 (CC) (31 March 2016).

#### 5.3.5. **Section 7(9) Notice issued in terms of the Public Protector Act, 1994**

5.3.5.1. A notice in terms of Section 7(9) of the Public Protector Act, 1994 (Notice) was issued on 21 October 2025 to Ms. Beryl Ferguson (Ms Ferguson), Interim Chairperson of the Board of SANParks, Ms Sello, Ms Umlaw, Mr Ngwenya, Mr de Kock and Mr Louw.

5.3.5.2. Section 7(9)(a) and (b) of the Public Protector Act provide that persons/parties implicated and/or affected by an investigation by the Public Protector, are to be allowed the opportunity to make representations in response thereto.

5.3.5.3. Responses to the Notice were received from the following parties namely, Ms Sello, Ms Umlaw, Ms Ferguson, Mr de Kock and Mr Louw.

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

**6.1 Whether the functionaries of the South African National Parks irregularly appointed Mr Johannes Louw to the position of Head: Corporate Communications and Spokesperson, without meeting the minimum qualification requirements of the post as stipulated in the advertisement, if so, whether such conduct is improper in terms of Section 182(1)(a) of the Constitution and amounts to maladministration in terms of Section 6(5)(a) of the Public Protector Act**

### *Common cause*

6.1.1 The post of Head: Communications and Spokesperson was initially advertised on 16 May 2022, with a closing date of 30 May 2022, but did not culminate in a successful appointment.

6.1.2 On 03 April 2023, SANParks internally and externally re-advertised this post, with a closing date of 17 April 2023. The position was later renamed Head: Corporate Communications and Spokesperson.

6.1.3 The Complainant applied for the advertised position. Interviews were conducted on 25 July and 04 August 2023 respectively via the Microsoft Teams platform.

6.1.4 Mr Louw was subsequently offered the position of Head: Corporate Communications and Spokesperson on 26 October 2023, which he accepted on 02 November 2023. He assumed the position on 06 November 2023.

*Issue in dispute*

- 6.1.5 The issue for the Public Protector's determination is whether the functionaries of the SANParks appointed Mr Louw despite not meeting the eligibility requirements for the position of Head: Communications and Spokesperson.

*The Complainant's version*

- 6.1.5.1 The Complainant contended that the position of Head: Corporate Communications and Spokesperson at SANParks was re-advertised in accordance with the organisation's recruitment procedures;
- 6.1.5.2 He duly applied for the re-advertised post, and on 28 July 2023, he was invited for an interview, which was conducted on 04 August 2023 via Microsoft Teams; and
- 6.1.5.3 The candidate ultimately appointed to the position did not possess the requisite qualifications and experience as prescribed in the job advertisement. The incumbent is reported to have served exclusively within the Communications division of ANC and holds a B. iuris degree, which does not align with the stipulated minimum criteria for the role.

*Response from Ms Hapiloe Sello, Chief Executive Officer, SANParks, dated, 21 May 2025*

- 6.1.6 On 09 April 2025, the Public Protector Investigation Team (Investigation Team) issued a notice in terms of Rule 23(1) of the Public Protector Rules to Ms Sello, requesting her written response to the complaint and supporting documentation. On 21 May 2025, she responded, stating, *inter alia*, the following:

6.1.6.1 The position of Head: Corporate Communications and Spokesperson became vacant following the resignation of the incumbent, Ms Janine Raftopoulos, on 26 June 2019. In accordance with the SANParks Recruitment and Selection Policy signed into effect on 25 May 2022 (Recruitment Policy), the vacancy was subsequently advertised both internally and externally;

6.1.6.2 A total of seven (07) candidates were shortlisted and invited to attend the interviews. The names of the candidates, along with their demographic details, are presented below:

Name	Race	Gender	Internal / External
Mr Johannes Louw	Coloured	Male	External
Candidate A	Coloured	Male	External
Candidate B	African	Male	External
Candidate C	African	Female	External
Mr Mahlubandile Mageda	African	Male	External
Candidate D	African	Male	External
Candidate E	African	Male	External

6.1.6.3 The interviews were conducted by a duly appointed panel comprising diverse members, as follows:

Name	Position	Grade	Race	Gender
Ms Hapiloe Sello	Chief Executive Officer	F-upper	African	Female
Mr Gary de Kock	Acting Managing Executive: Tourism	E-lower	Coloured	Male
Ms Makgomo Umlaw	Head: Human Capital Management	E-upper	African	Female
Mr Reuben Ngwenya	General Manager: Northern Region	E-lower	African	Male
Ms. Reginah Visser	Human Capital Management Representative	D1	African	Female

- 6.1.6.4 Each candidate was individually assessed by the panel members, and the total scores were compiled and consolidated as follows:

<b>Applicant</b>	<b>Ms Sello</b>	<b>Mr de Kock</b>	<b>Ms Umlaw</b>	<b>Mr Ngwenya</b>	<b>Total Score</b>
Mr Johannes Louw	36	39	43	42	160
Candidate B	32.5	36	41	38	147.5
Candidate D	35	32	40	39	146
Candidate A	23.5	28	25	38	114.5
Candidate C	21.5	23	30	39	113.5
Mr Mahlubandile Mageda	21	23	24	36	104

- 6.1.6.5 Following the interview process conducted on 25 July 2023 and 04 August 2023, Mr Louw emerged as the highest-scoring candidate. Although Candidate B ranked second, the panel concluded that he did not demonstrate sufficient strategic thinking and might encounter difficulties in navigating the complexities of both the sector and the organisation. Consequently, he was not recommended for competency-based assessments;
- 6.1.6.6 Despite scoring only one point lower than Candidate B, Candidate D exhibited stronger potential in strategic and operational competencies and was therefore included in the assessment process. As a result, only Mr Louw and Candidate D were advanced to the competency-based assessment stage;
- 6.1.6.7 Mr Louw achieved a fit-for-role score of 6.3, reinforcing the panel's confidence in his suitability for the position. He holds a B. Juris degree and possesses extensive experience in corporate communications, including leadership roles that align closely with the strategic and operational demands of the position; and

6.1.6.8 SANParks unequivocally refutes any allegations of irregularity, political interference, or favouritism in the recruitment process. The appointment of Mr Louw was based solely on merit, and the process was conducted in full compliance with the organisation's established recruitment and selection procedures.

*Supplementary response from Ms Hapiloe Sello, dated 15 July 2025*

6.1.7 In a letter dated 23 June 2025, the Public Protector requested Ms Sello to provide a detailed explanation regarding the basis upon which Mr Louw's qualifications were assessed and deemed equivalent to the minimum requirements stipulated in the job advertisement, particularly with reference to the specified fields of study required for the position. The correspondence also sought clarity on the interim arrangements and the events that transpired between the resignation of the previous incumbent of the position and the subsequent appointment of Mr Louw. In her response dated 15 July 2025, Ms Sello stated the following:

6.1.7.1 The divisional structure approved in 2021, included the position of Head: Corporate Communications reporting to the Managing Executive: Tourism Development Division, with a proposal to revise the role to GM: Corporate Communications. However, this proposal was not approved. The most recently approved structure now reflects the GM: Communications position;

6.1.7.2 Additionally, the revised role of Head: Corporate Communications and Spokesperson forms part of the updated macro structure presented to the HCMC. The SANparks' Board (the Board) has since requested that management revise both the proposed structure and operating model, and convene a dedicated workshop for further discussion;

6.1.7.3 Mr. Louw holds a B. Iuris degree but does not possess an honours degree, as stipulated in the job advertisement. However, his extensive experience in communications within the conservation and environmental sector was given significant consideration. This experience was deemed critical for

managing the complexities of SANParks and enhancing its reputation. It notably exceeded that of other applicants. While an honours degree was a formal requirement, his relevant experience was considered a substantial asset and positively influenced the overall assessment of suitability for the role;

- 6.1.7.4 The position was initially advertised on 30 May 2022. However, the recruitment process did not result in a successful appointment. Due to ongoing operational needs, the position was re-advertised on 03 April 2023;
- 6.1.7.5 The second recruitment process was conducted in accordance with standard procedures and timelines. The delay of nearly a year between the initial advertisement and final appointment was primarily due to internal reviews and broader strategic considerations, including the potential outsourcing of certain communications functions, which influenced the timing of re-advertisement and finalisation;
- 6.1.7.6 Between 2019 and 2023, the responsibilities of Head: Corporate Communications and Spokesperson were aligned under the Managing Executive: Tourism Marketing Development Division. The delay in permanently filling the position was attributed to ongoing structural and strategic assessments aimed at redefining the role to better align with the evolving needs of the organisation. As previously noted, the position was ultimately filled following the conclusion of a formal recruitment process in 2023; and
- 6.1.7.7 SANParks confirms that Mr Louw is currently employed in the capacity of Head: Corporate Communications and Spokesperson and serves as the official Spokesperson for the organisation.
- 6.1.8 In support of her response, Ms Sello furnished the Investigation Team with the documentation discussed hereunder:

*Advertisement for the post of Head: Corporate Communications & Spokesperson*

- 6.1.9.1. The post advertisement with a closing date of 17 April 2023, reflects that the position is based at Groenkloof National Park, Pretoria;
- 6.1.9.2. The required qualifications and experience for the position, as outlined in the advertisement, were specified as follows:
- (a) Be in possession of, at a minimum, Honours in Journalism, Communications, or Public Relations, or equivalent;
  - (b) 08 years' experience in corporate communications or public relations environment with 5 years in a senior management position;
  - (c) Must exhibit a demonstrable ability to translate strategy into action;
  - (d) Must exhibit a demonstrable ability to communicate complex issues in a simple way;
  - (e) Legislative understanding (Public Finance Management Act, 1 of 1999, National Environmental Management Act, 107 of 1998, Promotion of Access to Information Act, 2 of 2000 and Protection of Personal Information Act, 4 of 2013);
  - (f) In-depth comprehension of Public Relations principles, and Media Relations Principles;
  - (g) Exposure to the communication environment in the public sector and/or state-owned entity;
  - (h) Internal communications strategy and practices;
  - (i) Government protocols;
  - (j) Strategic planning, financial management skills and interpersonal skills;
  - (k) People management, conflict management and leadership skills;
  - (l) Project Management skills, computer literacy and networking skills;
  - (m) Exceptional communication skills (written and verbal); and
  - (n) Ability to manage and operate in a matrix environment.
- 6.1.9.3. The advertisement further stipulated that:

*“Interested persons who meet the above stated qualifications should forward their applications which should consist of a covering letter, detailed Curriculum Vitae, certified copies of qualification(s) and Identity Document (certified within the past 6 months).”*

*Motivation to request approval for the proposed interview panel and shortlisted candidates, dated 20 July 2023*

- 6.1.9.4. The purpose of this motivation was to request approval for the proposed interview panel and the shortlisted candidates for the position of Head: Corporate Communications and Spokesperson. The motivation was signed by Ms Visser and approved by Ms Sello.

*Minutes of the Interviews for the Position of Head: Corporate Communications and Spokesperson dated, 25 July 2023 and 04 August 2023 (unsigned)*

- 6.1.9.5. The summary of the minutes of the meeting indicates that the position of Head: Corporate Communications and Spokesperson became vacant following the resignation of the previous incumbent on 26 June 2019. The position was initially advertised both internally and externally on 16 May 2022, with a closing date of 30 May 2022. However, due to uncertainty regarding the continued availability of the applicants, the position was re-advertised internally and externally on 03 April 2023, with a closing date of 17 April 2023. The following officials formed part of the Shortlisting and Interviewing Panel:

<b>No.</b>	<b>Name</b>	<b>Positions</b>
1.	Ms Hapiloe Sello	CEO
2.	Mr Gary de Kock	Acting ME: Tourism
3.	Ms Makgomo Umlaw	Head: HCM
4.	Mr Reuben Ngwenya	General Manager: Northern Region
5.	Ms Reginah Visser	HCM: Representative

- 6.1.9 A long list of applicants was submitted to the line manager, who at the time was the Acting Managing Executive: Tourism Development and Marketing;
- 6.1.10 The shortlisting process was conducted jointly by the line manager and the Head: Human Capital Management (HCM). A total of six (06) candidates were shortlisted and invited to participate in the interview process;
- 6.1.11 Interviews were scheduled for 25 July 2023. However, two (02) candidates, Mr Mahlubandile Mageda and Candidate D were unavailable to attend; and
- 6.1.12 Mr Mageda and Candidate D were provided an opportunity to be interviewed on 04 August 2023. The consolidation of all the scores was done on 04 August 2023, after all the candidates were interviewed.

*SANParks competency-based job description*

- 6.1.13 The SANParks competency-based job description relevant to the position can be summarised as follows:

<b>Position Detail</b>			
Job Title	GM Corporate Communications	Current Job Grade	EU
New Job Title	Head Corporate Communications and Spokesperson		EU
Division	CEO		
Date Developed/Reviewed	May 2022		
<b>Qualification Matrix</b>			
	Essential / Minimum Requirements (What the job requires, not what the incumbent may)	Desirable	

	possess)	
Education	<ul style="list-style-type: none"> <li>• NQF level 8 in Communications / Public Relations /Journalism, or related field.</li> </ul>	<ul style="list-style-type: none"> <li>• NQF level 9 – post graduate qualifications in the relevant will be an added advantage.</li> </ul>
Experience	<ul style="list-style-type: none"> <li>• Minimum of 8-10 years' experience at Senior Management responsible for communication, media relations or public relations, preferably in the public sector or large organisation.</li> <li>• 5 years' experience at senior management level.</li> <li>• Strong media relations and public speaking abilities.</li> <li>• Proficiency in digital media tools and analytics.</li> <li>• Ability to work under pressure and meet tight deadlines.</li> <li>• High level of political awareness and sensitivity.</li> </ul>	Experience

*Approval to fill the position for the Head: Corporate Communications and Spokesperson position, approved on 10 May 2022*

- 6.1.14 On 09 May 2022, as the then Managing Executive: Tourism Development and Marketing, Ms Sello, initiated a request for approval to fill the vacant position of Head: Corporate Communications & Spokesperson.
- 6.1.15 Paragraph 3 of this submission stipulated that the filling of the position is critical to address the concerns raised in the Tourism Committee and that it was crucial that the CEO grant the authorisation to headhunt for this position.

- 6.1.16 The submission was recommended on 09 May 2022 by Ms Umlaw, and Ms Khethiwe Silubane (Ms Silubane), the then Acting CFO. Final approval was granted by, Mr Dumisani Dlamini, the then Acting CEO, on 10 May 2022.

*Copies of the CV of the 6 shortlisted candidates*

- 6.1.17 Ms Sello provided the Investigation Team with copies of the CVs of the 06 candidates shortlisted for interviews. The table below presents a summary of the qualifications extracted from each of the CVs of the 6 shortlisted candidates.

<b>Name and Surname</b>	<b>Highest Qualifications</b>
Mr Johannes Louw	Matric; law degree (B. Iuris) and other certificates
Candidate A	Matric; Master of Business Administration; Postgraduate in Marketing and other certificates.
Candidate B	Matric; N: Diploma Journalism; B-Tech Journalism; BA Honours in Journalism and Media Studies; and other certificates.
Candidate C	Matric; B.A. Communications; B.A. Honours Communication; B.A. Honours in Strategic Brand Management and other certificates.
Candidate D	Matric; Post Graduate Certificate in Marketing Management; Post Graduate Diploma in Media Management; BA Communication, Majoring in English, and Journalism; PR Diploma and other certificates.
Mr Mahlubandile Mageda	Matric; B.A Communications and Business Management; BA: (Hons) Business Management & Communications and other certificates.

*Request for approval to appoint Mr Louw as the Head Corporate Communication and Spokesperson, dated 09 October 2023*

- 6.1.18 In a memorandum dated 09 October 2023, Ms Kaula Nyilenda (Ms. Nyilenda), the then Acting Managing Executive: Tourism Development and

Marketing, submitted a request for approval to appoint Mr Louw to the position of Head: Corporate Communications and Spokesperson. It outlined the rationale for the appointment, including the candidate's qualifications, experience, and suitability for the role, as well as confirmation of the recruitment and selection process followed in accordance with SANParks' policies and procedures.

6.1.19 The purpose of the submission was to obtain the CEO's approval to appoint Mr Louw as the Head: Corporate Communications and Spokesperson. It stipulated that Mr Louw is self-employed and proposed an annual remuneration package of one million eight hundred sixty-five thousand seven hundred twenty-one rand and nine cents (R1 865 721.09), aligned with the E-upper Paterson grade.

6.1.20 It was duly recommended by Ms Umlaw and, Ms Pretty Makukule (Ms Makukule), the CFO, and subsequently approved by Ms Sello as the CEO on 13 October 2023.

*Offer of employment to Mr Johannes Louw, dated 26 October 2023*

6.1.21 The offer of employment to Mr Louw for the position of Head: Corporate Communications and Spokesperson, effective from 06 November 2023, was formally issued and signed by Ms Sello on 26 October 2023

*Acceptance of the offer of appointment*

6.1.22 A document confirming the acceptance of appointment was signed by Mr Louw on 02 November 2023, thereby formalising his agreement to assume the role of Head: Corporate Communications & Spokesperson.

*Response from Ms Nadia Starr, CEO of SAQA, dated 18 July 2025*

6.1.23 In a letter dated 01 July 2025, the Investigation Team requested Ms Nadia Starr (Ms Starr), CEO of SAQA, to advise whether, in terms of SAQA

qualification frameworks and standards, a B. Iuris degree is an equivalent qualification for an Honours degree in Journalism, Communications, or Public Relations.

6.1.24 In her response dated 18 July 2025, she indicated that:

6.1.24.1 The B. Iuris is registered at NQF level 6 on the 8 level NQF, which equates to NQF level 7 on the 10-level NQF. All Bachelor's Honours qualifications were registered at NQF level 7 of the 8-level NQF, and on NQF level 8 of the 10-level NQF; and

6.1.25 B. Iuris degree is not equivalent to an honours degree in Journalism, Communications, or Public Relations. Accordingly, the B. Iuris degree does not satisfy the minimum qualification requirement as outlined in the job advertisement.

*Interviews with members of the Interview Panel*

6.1.26 On 15 August 2025, the Investigation Team issued letters to functionaries who were involved in the shortlisting process and all members of the Interview Panel. The interviews were conducted on 21 August 2025, soliciting clarity regarding, amongst other things, the following:

6.1.26.1 The rationale behind the decision to consider Mr Louw's application despite him not meeting the minimum qualification requirements as outlined in the job advertisement and SANParks' competency-based job description; and

6.1.26.2 The legislative and regulatory framework, including applicable policies and procedures, that were relied upon during the recruitment, selection, and appointment process.

*Interview with Ms Makgomo Umlaw*

6.1.27 During the interview, Ms Umlaw submitted that:

6.1.27.1 The shortlisting process was conducted on 26 June 2023, initiated by the Head of HCM due to the absence of the Managing Executive: Tourism Development. Upon review, Mr de Kock, the Acting ME Tourism Development, assessed the initial shortlist and added one additional candidate to the list;

6.1.27.2 Mr Louw was shortlisted based on an assessment of his qualifications, extensive experience, and demonstrated competencies that meet the key requirements of the position;

6.1.27.3 The job profile specifies an NQF Level 8 qualification in Communications, Public Relations, Journalism, or a related field as an essential educational requirement. The candidate holds a B. Iuris degree, which is registered at NQF Level 7 or 8, depending on the awarding institution and date of qualification;

6.1.27.4 Although the degree is not in Communications or Public Relations, it provides a strong foundation in legal analysis, governance, public policy, and regulatory frameworks, skills that are highly transferable and particularly relevant for managing communication and stakeholder relations within a complex public sector environment;

6.1.27.5 The job description lists essential/minimum requirements in terms of both education and experience, these should be evaluated holistically and in conjunction with one another, rather than separately. The overall suitability of a candidate must be determined by considering the combined value of their qualifications, practical experience, and demonstrated competencies relevant to the role;

- 6.1.27.6 SANParks Recruitment Policy (Recruitment Policy) does not specify detailed guidelines on shortlisting criteria, nor does it clearly define how minimum requirements, especially regarding qualifications, should be interpreted;
- 6.1.27.7 In the absence of such internal guidance, reliance was placed on the broader legislative framework, notably the Code of Good Practice on the Integration of Employment Equity into Human Resource Policies and Practices, 2005<sup>1</sup> (the Code), issued under the Employment Equity Act, 1998 (EEA);
- 6.1.27.8 Clause 7.3.12 of the Code provides that, “*The process of short-listing job applicants should be standardised. Where no standards exist, an approach should be decided on before short-listing commence.*” In this case, a fair and consistent approach was adopted, focusing on the entire range of the candidate's capabilities and suitability for the role;
- 6.1.27.9 Clause 7.3.18, requires suitably qualified applicants to meet the essential job requirements;
- 6.1.27.10 The shortlisting of the candidates with a Law degree aligns with fair recruitment practices, complies with the legislative intent of the EEA, and reflects a reasonable and inclusive interpretation of the job requirements;
- 6.1.27.11 In terms of the Employment Equity Act, a “*suitably qualified person*” is defined as someone who meets any one or a combination of the following:
- (a) Formal qualifications,
  - (b) Prior learning,
  - (c) Relevant experience, or
  - (d) The capacity to acquire, within a reasonable time, the ability to do the job.

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<sup>1</sup> Published in Government Gazette dated 04 August 200d under the Notice 1358 of 2005.

6.1.27.12 An "*essential job requirement*" is defined as the skills, knowledge, or experience necessary to perform a job effectively; and

6.1.27.13 Based on this legislative context, the candidate qualifies as a "*suitably qualified person*" and meets the essential requirements of the role when assessed holistically. The decision to shortlist is therefore both legally sound and aligned with the principles of fair, inclusive, and non-discriminatory recruitment as envisaged in the EEA.

*Interview with Mr Gary De Kock*

6.1.28 Mr De Kock submitted that:

6.1.28.1 He served as a panel member during the shortlisting and interview process for the position of Head: Corporate Communications and Spokesperson. At the time, he held the position of Acting Managing Executive: Tourism Development and Marketing from April 2023 until September 2023, to which the position reported;

6.1.28.2 The initial screening of candidates was conducted by Ms Visser, who compiled the results in a spreadsheet. He subsequently received a list of six (06) recommended candidates from Ms Umlaw. After reviewing the CVs, he added Dr Ditaunyane to the shortlist. However, Dr Ditaunyane later withdrew from the interviews;

6.1.28.3 Although Mr Louw's law degree did not meet the formal academic requirements for the position, he considered it a valuable specialisation that could enhance the role; and

6.1.28.4 Given that SANParks operates within a legislatively driven mandate, he believed that a spokesperson familiar with legal processes and terminology would be better equipped to handle media challenges. Combined with the

candidate's experience in the environmental sector, this gave him confidence that Mr. Louw was worth interviewing.

*Interview with Ms. Reginah Visser*

6.1.29 Ms Visser submitted that:

6.1.29.1 She served as the HCM Representative, responsible for coordinating the recruitment process from initiation to completion. Her duties included drafting and publishing the job advertisement, ensuring alignment with the job profile;

6.1.29.2 The job profile was used to compile the advertisement, and the inherent requirements of the position were derived directly from it. A total of fifty-three (53) applications were received and screened to create a long list based on the minimum requirements. Of these, three (03) candidates, namely Candidate D, Candidate C and Mr Mageda, met all the requirements. Eighteen (18) candidates, including Mr Louw, partially met the minimum requirements, while (32) thirty-two did not meet the minimum requirements;

6.1.29.3 An initial shortlisting panel was established, comprising the following members below. However, the panel could not convene due to a request to postpone the meeting:

- (a) Mr de Kock – Acting Managing Executive: Tourism Development and Marketing
- (b) Mr Property Mokoena – Managing Executive: Parks
- (c) Mr Oscar Mthimkhulu – Managing Executive: Kruger National Park
- (d) Dr Howard Hendricks – Managing Executive: Conservation Services
- (e) Ms Elizabeth Mhlongo – Acting Head: Socio-Economic Transformation
- (f) Ms Jill Bunding – Senior General Manager: Strategy and Business Planning; and

(g) Ms Makgomo Umlaw – Head: HCM

6.1.29.4 Her understanding of an equivalent qualification is that it refers to a diploma or degree recognised as being at the same academic level, value, or function as another qualification, even if the learning path or specific content differs. A qualification in a related discipline may be accepted as equivalent. In this context, Mr Louw’s qualification did not meet the criteria for equivalence.

*Interviews with Ms Hapiloe Sello*

6.1.30 Ms Sello indicated that:

6.1.13.1. The drafting of the job advertisement was guided by the organisation’s Recruitment Policy, the Job Description for Head: Corporate Communications and the provisions of the EEA, including the associated Code. The shortlisting process adhered to these policy documents and was conducted in alignment with the Code, particularly regarding the consideration of suitably qualified candidates as defined in the Act;

6.1.13.2. Mr Louw was shortlisted based on the principle of considering relevant experience, skills, and the potential to perform the role. This approach was consistent with the Code, which allows for broader criteria beyond formal qualifications;

6.1.13.3. While the overall recruitment process was guided by existing policies, it is noted that the current Recruitment Policy lacks specific and detailed guidelines for the shortlisting process; this includes the absence of clear criteria for evaluating the equivalency of qualifications and structured documentation of panel deliberations and rationale;

6.1.13.4. It is recommended that the Recruitment Policy be revised to:

- (a) Include clear and detailed shortlisting guidelines;
- (b) Align more explicitly with the Code;
- (c) Provide a structured framework for evaluating qualifications and equivalency; and
- (d) Ensure comprehensive documentation of panel deliberations and decision-making processes.

6.1.13.5. Such revisions would enhance governance, transparency and accountability in future recruitment processes;

6.1.13.6. From a governance and policy interpretation standpoint, the term "*equivalent qualification*" should be understood to refer to a qualification at the same National Qualifications Framework (NQF) level as the specified degrees, with relevant content and applicability to the role;

6.1.13.7. In Mr Louw's case, his academic credentials were reviewed in this context. Based on the assessment and the discretion allowed under the Employment Equity framework, his qualifications were deemed to meet the threshold of equivalency for shortlisting purposes; and

6.1.13.8. The rationale for shortlisting Mr Louw was informed by the EEA, which recognises candidates as "*suitably qualified*" not only based on formal qualifications, but also on prior learning, relevant experience, and the capacity to acquire, within a reasonable time, the ability to perform the job.

6.1.13.9. The decision to shortlist Mr Louw was consistent with this interpretation and aligned with the principles of fair opportunity and representativity.

*Statement from Mr Reuben Ngwenya*

6.1.31 Mr Ngwenya stated that:

6.1.31.1 He served as a panel member for both the shortlisting and interview stages of the recruitment process, representing the ME of the Parks Division;

6.1.31.2 His understanding is that "*equivalent*" means a qualification that is similar or equal to the one put as a requirement. However, this term is open to different interpretations. In this context, it was put to include all relevant qualifications;

6.1.31.3 If one looks at B. Juris qualification in isolation, it does not meet the requirements as it is not an honours degree. But if one looks at the totality of qualifications and experience required, Mr Louw qualifies to be given an opportunity. That is where the term "*equivalent*" comes in;

6.1.31.4 The term "*equivalent*" must be used carefully as it creates serious challenges. However, in this context, Mr Louw's qualifications do fit in especially if one considers all the other training he has gone through. What weighed in his favour, though, was his experience, especially his role in the Department of Sports, Arts and Culture.

**Responses to the Notice issued in terms of Section 7(9)(a) of the Public Protector Act, 1994**

6.1.32 A Notice in terms of Section 7(9)(a) of the Public Protector Act, 1994 dated 21 October 2025, was issued to all affected parties and their responses are discussed below.

*Ms Hapiloe Sello's response to the Notice*

6.1.33 The CEO of SANParks, Ms Sello responded to the Notice through a letter dated, 05 November 2025 and stated, *inter alia*, the following:

- 6.1.33.1 The provisional report narrows down the issue under investigation to the propriety of appointing Mr Louw in circumstances where qualifications are below the minimum threshold set out in the advertisement;
- 6.1.33.2 The legal standard which informs the conclusion drawn in the provisional report is referenced and drawn from the passage in *Khumalo and Another v Member of the Executive Council for Education KwaZulu Natal*<sup>2</sup> (Khumalo)[at Paragraph 62];
- 6.1.33.3 The provisional report proceeds from an incorrect understanding of *Khumalo*. As such, the reliance on Khumalo in the manner set out in the provisional report, vitiates the conclusion(s) drawn in the provisional report, and accordingly contend that the provisional report should not be adopted as a final report.
- 6.1.33.4 The *Khumalo* judgment, more particularly Paragraphs 1, 8, 11, 15, 18, 62, 63, and 74, forms the basis of her argument;
- 6.1.33.5 Paragraph 62 of the *Khumalo* case does not reflect the *dicta* of the Court. The contents of the paragraph cannot harmoniously co-exist with the order ultimately granted by the Constitutional Court;
- 6.1.33.6 She further submitted that Paragraph 63 of *Khumalo* better reflects the basis of the order of the Constitutional Court. There, the Court said:
- “[63] But is the public sector permitted no flexibility in its appointment process? If the ideal applicant happens not to meet one of the formal criteria, is a state employer barred from considering that applicant? The reading of the corollary into section 11 of the PSA, in the context of section 195 of the Constitution, implies that it would generally not be fair or in terms of an objective process for public sector employers to consider applicants who fall outside of the formal criteria. However, the fairness of the*

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<sup>2</sup> 2014 (5) SA 579 (CC) (18 December 2013)

***decision will typically be weighted heavily on the process and justification of the decision-makers. This would be in line with the interpretation offered by the MEC of section 11(3) to require justifications to be given for departing from the requirements.” (Her emphasis)***

6.1.33.7 The correct legal standard arises from Paragraph 63 and not Paragraph 62. The Constitutional Court has held that the public sector is permitted some flexibility in its appointment process, where an ideal candidate appears to meet some aspects of the formal criteria. The fairness of the decision must be assessed in light of the process followed and the justification provided, which hinges on the following aspects:”

- (a) The B. juris degree is an NQF Level 7 qualification on the grading provided by the South African National Qualifications Framework. The advertisement did call for qualifications at NQF Level;
- (b) However, the situation that currently obtains is remarkably different from an instance where NQF Level 3 or 4 is appointed, where NQF Level 8 is required. The difference between NQF Level 7 (360 credits) and NQF Level 8 (480 credits) is approximately 120 credits in hours of learning. The hours of learning gap ought to also be considered against the number of Certificates of learning which the candidate obtained since the completion of the NQF Level 7 degree;
- (c) A suitably qualified person in terms of Section 20(3) read with Section 20(4) of the EEA, marks four (04) inquiries to with (i) formal qualifications; (ii) prior learning; (iii) relevant experience; and (iv) capacity to acquire, within a reasonable time, the ability to do the job;
- (d) Accepting that Mr Louw falls short, as explained above, he has nonetheless demonstrated (i) formal qualifications at NQF Level 7; (ii) prior learning; (iii) relevant experience; and (iv) capacity to acquire, within a reasonable time, the ability to do the job. From (04

considerations, Mr Louw has attained three (3), and the ratio of success equates to 75% or (3/4);

- (e) The advertisement alluded to fourteen (14) requirements in respect of qualifications and experience. Falling short, in relation to one (01) of the requirements translates to a ratio of approximately 93% or (13/14);
- (f) There exists no evidence of transgression or falling foul of the Recruitment Policy as it stood at the time of the appointment. This much is a significant factor;
- (g) The provisional report does not properly give due regard that the appointment of Mr Louw cannot be said to be contrary to the Recruitment Policy. Instead, the provisional report draws a conclusion that the Recruitment Policy lacks proper guidance and detail and then faults decision making, which is consistent with the Recruitment Policy.

*Mr Louw's response to the Notice*

6.1.34 Mr Louw, the current Head: Corporate Communications and Spokesperson at SANParks, responded to the Notice through a letter dated 31 October 2025, stating, *inter alia*, the following:

6.1.34.1 He acknowledged the email dated 24 October 2025, which required him to base his response on the Notice and disregard the letter sent to him on 20 October 2025, requesting his input regarding the ongoing investigation;

6.1.34.2 He acted in good faith throughout the recruitment process. However, he is concerned by the provisional findings and the proposed remedial action of judicial review, particularly given the procedural concerns arising from the sequence of correspondence and the severe personal and professional repercussions at the age of fifty-five (55);

- 6.1.34.3 As the affected party, he was only involved during the later stages of the Public Protector's investigative process, despite being affected from the outset. The fact that he was only engaged through the Notice suggests that the *audi alteram partem* principle was undermined;
- 6.1.34.4 Although Section 7(1)(a) allows for preliminary investigations, neither the letter dated 20 October 2025 nor the Notice clearly indicated that this was a preliminary investigation. Paragraph 8.3 of the Notice even outlines likely remedial actions, implying it could be a preliminary report. However, the Notice was signed by the Public Protector, indicating that a comprehensive investigation had already been completed and remedial actions considered. This makes the request for a response appear to be a mere formality and irregular;
- 6.1.34.5 This sequence raises serious concerns regarding procedural fairness under Section 33 of the Constitution and the Promotion of Administrative Justice Act, 2000 (PAJA). As the Constitutional Court emphasised in *Economic Freedom Fighters v Speaker of the National Assembly and Others* (2016 ZACC 11), *Public Protector v South African Reserve Bank* [2019] ZACC 29 and *The Public Protector v The President of the Republic of South Africa and Others* [2021] ZACC 11, the Public Protector's processes must be rational, procedurally fair, and provide affected persons a full opportunity to respond before adverse findings are made;
- 6.1.34.6 The B. Iuris degree, coupled with over thirty (30) years of professional communications experience (including 15 years at senior and executive levels), meets the intended purpose of the post as defined in SANParks' own recruitment policies;
- 6.1.34.7 The Recruitment Policy defines a suitable qualified person for appointment as anyone who satisfies any combination of formal qualifications, relevant prior learning or experience, and the capacity to acquire the skills needed to perform the job within a reasonable time. This definition should be

amongst the factors that define the meaning of equivalence in regard to his successful appointment;

6.1.34.8 The SAQA Recognition of Prior Learning (RPL) Policy (2019) explicitly provides that:

*“RPL enables the assessment and recognition of knowledge, skills and competencies gained through informal, non-formal and experiential learning, for access, credit, or qualification within the NQF.”*

6.1.34.9 South Africa adopted this policy direction to advance redress, equity, and lifelong learning, ensuring that experience-based expertise is formally recognised. To ignore this is tantamount to overlooking the transformative journey the country has embarked on since 1994;

6.1.34.10 In *Public Servants Association obo Thorne v Department of Community Safety (Western Cape) and Others*<sup>3</sup> the court held that rigid qualification requirements are unjustified where an individual demonstrably possesses the requisite competence and experience.

6.1.34.11 His communications career began during his university years in 1989, when he produced and presented a radio show at the campus radio of the University of the Western Cape. Thereafter, he served on the executive of the South African Student Press Union (SASPU), initially as National Secretary General and later as National President. He is also a founding member of Bush Radio and facilitated the establishment and licensing of several community radio stations, including Radio Nqubela, Alex FM, and Soweto Community Radio (now known as Jozi FM). For over 30 years, he has been instrumental in pioneering platforms within South Africa’s community media sector;

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<sup>3</sup> CA07/2017) [2018] ZALAC 24 (8 June 2018).

- 6.1.34.12 His CV highlights a range of activities performed as a communication strategist, notably as Head of Communication at the Department of Environmental Affairs and Tourism, an entity to which SANParks previously reported, providing direct insight into SANParks' communication environment;
- 6.1.34.13 His brief eight-month involvement with the ANC in 2023 was a voluntary professional engagement as a strategic communications specialist, not a political deployment. This limited interaction cannot lawfully or factually define his broader 30-year professional trajectory;
- 6.1.34.14 His appointment did not unduly prejudice other applicants or prospective candidates who may contend that they were deterred from applying. The recruitment process was conducted in accordance with the Recruitment Policy and related SOPs, which permit reasonable discretion in recognising equivalent qualifications and experience.
- 6.1.34.15 Without conceding that the appointment was in any way irregular or involved any allegations set out in Sections 6(4) and 6(5) of the Public Protector Act, the following alternatives are proposed:
- (a) Corrective Qualification Alignment: Facilitate a SAQA RPL assessment or an accredited bridging course to formally align my qualification without nullifying my appointment.
  - (b) Internal Review: Direct SANParks to conduct a policy compliance audit and apply corrective steps without prejudicing his current status.
  - (c) Policy Reform: Recommend amendments to SANParks' Recruitment Policy to enhance clarity on equivalence, thereby strengthening future governance.

*Ms Makgomo Umlaw's response to the Notice*

- 6.1.35 In her letter dated 07 November 2025, Ms Umlaw stated that she concurs with the submission made by Ms Sello on 05 November 2025, and that her response should be regarded as forming part of and constituting submissions in reply to the Notice.

*Mr Gary De Kock's response to the Notice*

- 6.1.36 In an email dated 17 November 2025, Mr De Kock indicated that he retired in August 2025 and has no corrections or additions to the report.

*Ms Beryl Ferguson's response to the Notice*

- 6.1.37 In a letter dated 21 November 2025, Ms Ferguson indicated that following the meeting with the Public Protector on 12 November 2025, she would not make representations on the Notice and expressed appreciation for the opportunity to do so.

*Mr Reuben Ngwenya's response to the Notice*

- 6.1.38 In an email dated 01 December 2025, Mr Ngwenya indicated that he concurs with the submission made by Ms Sello on 05 November 2025.

*Applicable law*

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

- 6.1.39 195(1) of the Constitution provides that public administration in every sphere of government must be underpinned by, amongst others, the following democratic values and principles-

*(a) A high standard of professional ethics must be promoted and maintained.*

- (b) ...
- (c) ...
- (d) ...
- (e) ...
- (f) *Public administration must be accountable.*
- (g) *Transparency must be fostered by providing the public with timely, accessible and accurate information.*
- (h) *Good human-resource management and career-development practices, to maximise human potential, must be cultivated.*
- (i) *Public administration must be broadly representative of the South African people, with employment and personnel management practices based on ability, objectivity, fairness, and the need to redress the imbalances of the past to achieve broad representation.*

6.1.40 Section 195(2) provides that the above principles apply to —

- “(a) administration in every sphere of government;*
- (b) organs of state<sup>4</sup> and*
- (c)...”*

### **National Environmental Management: Protected Areas Act, 2003**

6.1.41 Section 56 directs that for the purposes of performing its functions, SANParks may appoint its own staff subject to Section 73.

6.1.42 Section 57(3) states that the Board takes all decisions in the performance of the functions of SANParks except –

- “(a) those decisions taken in consequence of a delegation in terms of section 71; or*

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4 The definition of organ of state in Section 239 of the Constitution includes any institution exercising a public power or performing a public function in terms of any legislation.

*(b) where the Public Finance Management Act provides otherwise.”*

- 6.1.43 Section 73(1) states that the Board, acting with the concurrence of the Minister, must determine an employment policy for SANParks.
- 6.1.44 Section 73(2)(b) stipulates that the CEO may appoint persons in posts on the staff establishment.
- 6.1.45 Section 73(3) provides that *“An employee of South African National Parks is employed subject to the terms and conditions of employment determined by the Chief Executive Officer in accordance with the employment policy and within the financial limits set by the Board.”*

#### **Labour Relations Act, 1995**

- 6.1.46 Section 158(1)(h) of the LRA states that the Labour Court may review any decision taken or any act performed by the state in its capacity as employer, on such grounds as are permissible in law.

#### **Employment Equity Act, 1998**

- 6.1.47 This Act provides for employment equity and for matters incidental thereto.
- 6.1.48 Section 2 states that the purpose of the Act is to eliminate unfair discrimination in employment and promote equal opportunity through affirmative action, ensuring equitable representation of historically disadvantaged groups in the workplace.
- 6.1.49 Section 20(3) stipulates that for purposes of this Act, a person may be suitably qualified for a job as a result of any one of, or any combination of, that person’s formal qualification, prior learning, relevant experience, or the capacity to acquire within a reasonable time the ability to do the job.

## **SANParks Recruitment and Selection Policy, (the Recruitment Policy)**

- 6.1.50 Clause 2.2(c) stipulates that the objective of the policy is to maintain a standard and consistent approach to the recruitment and selection of employees.
- 6.1.51 Clause 2.2(d) provides that the objective of the policy is to ensure that candidates seeking employment at SANParks, receive fair and equitable treatment without discrimination.
- 6.1.52 Clause 5.2.2. provides that:
- “(a) All advertisements must be in the approved standardised format and indicate that the filling of positions will be in line with the Employment Equity Policy of the organisation. The advertisement should indicate the relevant information of the position.*
- (f) The paper screening process begins upon receipt of applications in order to provide line management with a list of applicants meeting the requirements. A shortlist is compiled by the human capital representative in consultation with the line manager.”*
- 6.1.53 Clause 5.3.2. provides that:
- “(c) Applicants shall be evaluated and the most suitable candidate is identified in terms of job, human and divisional requirements and a job profile reflecting the required job competencies.”*
- 6.1.54 Clause 5.4.2. provides that:
- “(a) In addition to the interview, other assessment tools such as psychometric assessment and competency-based assessments may be used to find the candidate with the best fit for the position. The two highest scoring candidates may be subjected to psychometric or*

*competency-based assessment. The assessments will be applicable for Paterson grade D-upper to F-upper positions.”*

6.1.55 Clause 8 provides for the roles and responsibilities as follows:

6.1.55.1 Human Capital Management, includes the following:

- (a) Assists line managers with job profiling;
- (b) Advertises positions;
- (c) Handles response to advertisements;
- (d) Compiles short-list in conjunction with the line manager;
- (e) Invites candidates to the interviews; and
- (f) Conducts verifications and reference checks; and
- (g) Compiles the recommendation report, which must be signed off by all the panel members and approved by the relevant Managing Executive.

6.1.55.2 The Line Managers:

- (a) Verify availability of funding for positions;
- (b) Submit motivation to fill positions and complete requests for the filling of vacant forms;
- (c) Compile a short-list in conjunction with the human capital representative; and
- (d) Recommend the panel members, together with the human capital representative.

6.1.55.3 The Managing Executives:

- (a) Approve motivations and forms to fill vacant positions; and
- (b) Approve the selection annexures for the appointment of new employees.

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**SANParks Disciplinary Policy, dated 15 June 2023 (Disciplinary Policy)**

- 6.1.56 Section 1 provides that the Disciplinary Policy is essential for ensuring fairness and order in the treatment of individual employees and for the promotion of good labour relations in SANParks. Managers have an important role in rectifying problems or minor lapses in behaviour through discussion with employees, with the emphasis on improving conduct without having recourse to formal procedures.
- 6.1.57 Section 7 provides that the Board appoints an external Chairperson to preside over the disciplinary hearings conducted against the CEO.
- 6.1.58 It further provides that the Board delegates a Board member or appoints an external chairperson to preside over disciplinary hearings against employees reporting to the CEO.

**National Qualifications Framework Act, 2008**

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

**The Code of Good Practice on Integration of Employment Equity into Human Resource Policies and Practice, 2005**

- 6.1.60 Clause 7.3.11 defines shortlisting as a process in which an employer considers all applications, including CVs and other relevant documents. The clause further provides that the employer should compile a shortlist comprising applicants who meet the prescribed criteria.

- 6.1.61 Clause 7.3.12 states that the shortlisting process should be standardized, and where no standards exist, an appropriate approach must be determined prior to commencement.
- 6.1.62 Clause 7.3.18 provides that suitably qualified applicants must meet the essential requirements of the job.

*Case law*

**Khumalo and Another v Member of the Executive Council for Education KwaZulu-Natal<sup>5</sup>**

- 6.1.63 The facts of this case were that in March 2004, the KwaZulu-Natal Department of Education advertised a Chief Personnel Officer post requiring a Senior Certificate, relevant HR experience, and at least two years of supervisory experience at salary level 6 or 7. Khumalo, then at salary level 5, applied, was shortlisted, and promoted effective April 2004. An internal investigation sanctioned by the MEC determined that Khumalo lacked the required supervisory experience.
- 6.1.64 This case touched on the issue of appointment of candidates without appropriate qualifications, where the Constitutional Court noted, *inter alia*, that:

*(62) Section 11(2) must be read in the context of the state's obligations under Section 195(1)(i) of the Constitution and the right to fair labour practices under Section 23 of the Constitution. Section 195(1)(i) stresses the importance of ensuring that appointment processes in the public sector are based on ability, objectivity and fairness. Fairness in employment practices and labour relations requires the state to be even-handed and transparent not only to those whom it employs, but so too to those who may wish to apply for employment at a state institution. It would not be fair if the state were to employ*

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<sup>5</sup> 2013] ZACC 49 (18 December 2013)

*persons who do not meet the very requirements that the state itself sets. It is neither fair nor in compliance with the dictates of transparency and accountability for the state to mislead applicants and the public about the criteria it intends to use to fill a post. The formulation and application of requirements for a particular post is a minimum prerequisite for ensuring the objectivity of the appointment process. Persons who do not meet the requirements for a post in the public sector ought not to be appointed.”*

- 6.1.65 In paragraph 63, the Court also highlighted that the public sector is generally required to adhere strictly to formal qualification criteria when making appointments, as fairness and objectivity demand compliance with advertised requirements. Nevertheless, limited flexibility may be permissible where decision-makers provide clear and well-documented justifications for any deviation from these criteria. This approach aligns with Section 11(3) of the Public Service Act and the constitutional principles governing public administration.

***KwaZulu Department of Transport v Hoosen and Others***<sup>6</sup>

- 6.1.66 In this case the court held that the promotion of a candidate who did not meet the requirements of the advertised post amounted to an unfair labour practice. The court pointed out that the employee’s “*promotion was irregular by want of his meeting the minimum criterion for the position.*”

***Public Servants Association obo Thorne v Department of Community Safety (Western Cape) and Others***<sup>7</sup>

- 6.1.67 In this case, the Department required an NQF Level 6 qualification with 360 credits for a Deputy Director post. The applicant had an NQF Level 6 qualification but only 120 credits and argued that the Department had unfairly amended the advertised criteria. The appeal was dismissed, and

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<sup>6</sup> 37 ILJ 156 (LC) (17 September 2015)

<sup>7</sup> 12 BLLR 1173 (LAC) (8 June 2018)

the Labour Court's judgment upholding the arbitrator's decision was confirmed.

- 6.1.68 The Labour Appeal Court (LAC) remarked that the employer was entitled to set reasonable educational standards for a post, and doing so does not constitute an unfair labour practice, provided the criteria are rational and aligned with the requirements of the position.

### *Analysis*

- 6.1.69 The evidence before the Public Protector reveals that on 03 April 2023, SANParks internally and externally advertised the position of Head: Corporate Communications and Spokesperson, with a closing date of 17 April 2023.
- 6.1.70 The evidence indicates that the position was advertised, in line with Clause 5.2.2(a) of the Recruitment Policy, requiring candidates to be in possession at a minimum, of an honours degree in Journalism, Communications, or Public Relations or an equivalent qualification, with 08 years of experience in a corporate communications or public relations environment, including 05 years at a senior management level. These requirements were a mirror image of what is contained in the SANParks Competency-Based Job Description.
- 6.1.71 A total of 53 applications were received in response to the advertisement. Of these, only 03 applicants were identified by Ms Visser, in accordance with clause 5.2.2(f), as having met all the stipulated requirements. The spreadsheet was transmitted to Ms Umlaw, who proceeded to shortlist a total of 06 candidates, including Mr Louw. This shortlisting was undertaken without any documented rationale or justification for the inclusion of candidates who failed to meet the minimum educational qualifications explicitly set out in the advertisement.

- 6.1.72 The evidence in the form of CVs and copies of academic qualifications provided to the Public Protector indicates that Mr Louw's highest qualification is a B. Juris degree and he did not possess an honours degree in Journalism, Communications, or Public Relations or equivalent as stipulated in the job advertisement.
- 6.1.73 Mr de Kock conceded that Mr Louw's law degree did not meet the formal academic requirements for the position but contended that he considered it a valuable specialisation that could enhance the role. Ms Umlaw, on the other hand, justified Mr Louw's inclusion in the shortlisted candidates by citing his experience in communications within the conservation sector, which she claimed was critical for managing the operational complexities of SANParks and for enhancing its public reputation.
- 6.1.74 Ms Umlaw's submission fails to take into account that the SANParks Competency-Based Job Description includes a qualification matrix which defines the essential or minimum requirements for the position, reflecting the inherent requirements of the job rather than the qualifications or experience of any particular incumbent. Of particular concern is that, in her capacity as Head of Human Capital Management, she did not consider that these essential or minimum requirements were incorporated without amendment into the advertisement for the position. This incorporation effectively established the criteria in respect of qualifications and experience against which candidates were to be assessed. Consequently, the shortlisting panel failed to apply the prescribed minimum qualification requirements as set out in both the job description and the advertisement for the aforementioned position.
- 6.1.75 Independently obtained verification from SAQA also established that a B. Juris, which Mr Louw possesses, does not meet NQF Level 8 and is not equivalent to an Honours' degree in Journalism, Communications, or Public Relations.

- 6.1.76 To this end, the shortlisting of Mr Louw, who did not meet the minimum requirements as outlined in the job advertisement and job description, was in direct conflict with principles enshrined in Section 195(1)(i) of the Constitution, which requires employment practices to be fair and objective.
- 6.1.77 The departure from the set criteria also did not align with the objectives of the Recruitment Policy as reflected in Clause 2.2(d), which requires prospective employees to be treated fairly and equitably.
- 6.1.78 SANParks' submissions ignore the reality that there are potential employees who might not have applied for the position based on the stipulated minimum requirements contained in the job advertisement and thus would feel unfairly discriminated against, upon learning that the persons who did not meet the prescribed educational qualifications criteria were also shortlisted and considered for the position. This deviation potentially gives credence to the Complainant's assertions that Mr Louw was preferred because of his political affiliation, especially considering that SANParks could have proceeded with the 03 candidates who met the minimum set criteria.
- 6.1.79 Despite not having been involved in the shortlisting process, Ms Sello insisted that the process was conducted in alignment with the Code, particularly the consideration of suitably qualified candidates as defined in the EEA. The EEA and its Code were cited to justify the shortlisting of Mr Louw. This argument must fail on the basis that this position was not advertised as an employment equity position designed to target applicants from designated groups as envisaged in the EEA. Whereas the EEA and its Code promote inclusive recruitment practices, they do not override the requirement to adhere to the essential job criteria unless the position is specifically designated for employment equity purposes, which was not the case here.

- 6.1.80 Furthermore, Clause 7.3.11 of the Code, enjoins employers to compile a shortlist comprising applicants who meet the prescribed criteria. The evidence shows that this requirement was not complied with.
- 6.1.81 In attempting to explain the departure from aligning the shortlisting process based on the clear criteria set out in the post advertisement, SANParks sought refuge in the concept of “*suitably qualified*”. However, there is no evidence that this was an EEA position. It is only during the Investigation that the panel members argued that the position was filled in line with the EEA requirements.
- 6.1.82 The selective application of the “*suitably qualified*” principle, *ex post facto*, raises concerns about consistency and fairness, particularly given that other candidates who partially met the requirements would have already been excluded based on how the advertisement was couched. Allowing such a deviation would undermine the principle of fairness in employment practices as enshrined in Section 195(1)(a)(i) of the Constitution and Clause 2.2(d) of the Recruitment Policy.
- 6.1.83 Ms Sello conceded that the Recruitment Policy suffers deficiencies in that it lacks detailed guidelines for shortlisting and clear criteria for evaluating the equivalency of qualifications. However, these deficiencies resulted in the flawed process embarked upon by the functionaries of SANParks in the appointment of Mr Louw. She recommended the review of the Policy, which is prudent under the circumstances.
- 6.1.84 The evidence indicates that the interviews for the position were conducted on 25 July 2023 and 04 August 2023, respectively. According to the evidence of Ms Visser, CVs of the shortlisted candidates were made available to the panel members. However, the Interview Panel members conceded that they did not interrogate whether the shortlisted candidates met the minimum criteria set out in the job advertisement. This resulted in the panel interviewing Candidate D, Candidate A and Louw, who did not possess the required educational qualifications. This was at odds with

Clause 5.3.2(c) of the Recruitment Policy, which enjoins the panel to evaluate and identify the most suitable candidate in accordance with the job profile. As already alluded to above, the job profile specified an Honours degree in Journalism, Communications, or Public Relations or an equivalent qualification as a minimum qualification for the holder of the position.

- 6.1.85 The Human Resources personnel, as the custodian of the HR practices, is expected to ensure accurate application of policy as well as guide the panel during the recruitment process. This is to ensure that good human resources Management practices are cultivated in line with Section 195(1)(h) of the Constitution. However, in this instance, notwithstanding the fact that only 03 candidates met the minimum requirements, there is no evidence that HR attempted to stop the shortlisting and the interviews of candidates who did not meet the minimum requirements of the job. This failure compromised one of the objectives in Clause 2.2(c) of the Recruitment Policy, which is to ensure that HR maintains a standard and consistent approach to the recruitment and selection of employees.
- 6.1.86 In its obiter dicta, the Constitutional Court in the *Khumalo* case also reinforced the principle that it would be unfair or unjust if an institution were to appoint persons who do not meet the very requirements that it has established. Such actions undermine the principles of fairness, transparency, and accountability. Misrepresenting or failing to adhere to the stated requirements for a position misleads both applicants and the public, compromising the integrity of the recruitment process. The clear formulation and consistent application of post-specific requirements are fundamental to ensuring objectivity in appointments.
- 6.1.87 Following the interview process, Mr Louw was ranked as the highest-scoring candidate, with Candidate B placed second. Despite Candidate performance, the panel excluded him from the competency-based assessment phase, citing concerns about his strategic aptitude and ability

to navigate sector-specific complexities. Only Messrs. Louw and Candidate D were advanced to the next stage.

- 6.1.88 The exclusion of Candidate B, absent any documented rationale or formal assessment criteria, undermines the transparency and procedural fairness of the recruitment process. Given his ranking, the decision to exclude him from further consideration appears arbitrary and unfair and therefore at variance with the principle of fairness and objectivity espoused in Section 195(1)(i) of the Constitution. The absence of a written justification for Candidate B's exclusion raises legitimate concerns regarding whether the decision met the objective of fairness and equitable treatment set out in Clause 2.2(d) of the Recruitment Policy.
- 6.1.89 The evidence indicates that the approval memorandum for the appointment of Mr Louw as Head: Corporate Communication and Spokesperson was duly recommended by, Ms Umlaw and Ms Makukule. The appointment was subsequently approved by Ms Sello, on 13 October 2023.
- 6.1.90 This appointment offended the provisions of Section 73 of NEMPAA, which empowers the CEO to appoint a person subject to the terms and conditions of employment determined by her in accordance with the employment policy. As already alluded, Clause 4.2 of the Recruitment Policy places a duty on the CEO to ensure a consistent and fair approach in the application of employment practices. This includes fostering an environment of transparency and open communication throughout the recruitment process.
- 6.1.91 Ms. Sello responded to the Notice through a submission dated 05 November 2025, representing the views of Ms Umlaw and Mr Ngwenya. On the other hand, Mr de Kock indicated that he had no submission to make to the Notice.
- 6.1.92 In her submission, Ms Sello contended that the Notice incorrectly applied the legal standard established in the *Khumalo* judgment. She argued that paragraph 63, rather than paragraph 62, accurately reflects the position on

flexibility in public sector appointments. However, paragraph 63 forms part of the *obiter dicta* and merely explores potential exceptions after affirming the general principle of adherence to prescribed criteria. As previously noted, the circumstances contemplated in *Khumalo* for such exceptions did not obtain in this case.

- 6.1.93 This is because, in seeking to rely on the *Khumalo* judgment, Ms Sello contended that the Constitutional Court supports the principle that the fairness of a decision to deviate from set requirements depends on the process followed and the justification provided. However, SANParks did not furnish the Public Protector with any document or evidence demonstrating the process undertaken, at the time, to justify the consideration of applicants who did not meet the minimum qualification criteria. Furthermore, there was also no documented discussion amongst the panel members for the need to deviate and consider candidates who did not meet the stipulated criteria.
- 6.1.94 Furthermore, Ms Sello incorrectly understood the preliminary findings in the Notice to have been anchored on *obiter dictum* cited in *Khumalo*. The findings are based on non-compliance with the principles enunciated in Section 195 of the Constitution and Clause 4.2 of the Recruitment Policy.
- 6.1.95 In her response to the Notice, Ms Sello maintained that Mr Louw was “*suitably qualified*”, or that any shortfall in his formal educational qualifications was compensated by certificates obtained following completion of his NQF Level 7 degree, a degree which, by her own admission, was deficient by approximately 120 credits. Equally, Mr Louw contended that his 30 years of experience adequately offset this academic shortfall. He also argued, without producing the relevant RPL certificate, that his NQF Level 7 qualification, combined with extensive professional experience and prior learning, satisfies the policy’s equivalence provisions. This is evidence that Mr Louw’s qualification was not even at NQF level 8 as required and further that there was no formal RPL certificate acquired.

- 6.1.96 In addition, Mr Louw incorrectly relied on the *Thorne* judgment, arguing that rigid qualification requirements are unjustified where an individual demonstrably possesses the requisite competence and experience. On the contrary, the LAC affirmed the principle of strict compliance with advertised educational requirements. In the *Thorne* case, despite the candidate's 07 years of acting experience in the position and initial selection as the preferred candidate, she was disqualified after a due diligence process revealed that her qualifications lacked the required 360 credits. The LAC did not consider it unfair that the employer did not offset the shortfall in the NQF level 6 credits with her experience. Consequently, SANParks' argument that Mr Louw's experience should offset the fact that he was only in possession of B. Juris at NQF level 7 cannot succeed.
- 6.1.97 Mr Louw further argues that his appointment was consistent with the Recruitment Policy, which permits reasonable discretion in recognizing equivalent qualifications and experience. He asserted that the NQF Level 7 qualification, combined with extensive professional experience and prior learning, satisfies the policy's equivalence provisions. These arguments were advanced without making reference to any specific clauses or providing proof that his B. Juris was formally regarded as an equivalent of an Honours degree in Journalism, Communications, or Public Relations. Accordingly, these arguments should fail.
- 6.1.98 In addition, Mr Louw proposed corrective measures aimed at addressing any perceived gaps, including a SAQA RPL assessment, an internal policy compliance audit, and policy reform to clarify equivalence standards. These proposals have been noted and may assist SANParks in strengthening governance and transparency in future recruitment processes.
- 6.1.99 In his submission, Mr Louw raised concerns about procedural fairness, arguing that he was not engaged during the preliminary stage of the investigation. This contention is based on a misunderstanding. The Public Protector did not conduct a preliminary investigation in terms of Section 7(1)(a) to determine the merits of the complaint or the appropriate

investigative approach. There was no need to do so, as the issues for investigation were clear from the outset.

6.1.100 Mr Louw further argued that he was denied an opportunity to be heard because he was only engaged at a later stage when the matter was allegedly concluded. However, the investigation focused on the conduct of SANParks functionaries, not his own conduct. Nevertheless, he was afforded an opportunity to respond to the Notice issued to the implicated parties in terms of Section 7(9)(a). This provision clearly forms part of the investigative process and does not constitute the final outcome. Consequently, his submission in response to the Notice was considered as part of the evidence before reaching the final determination. As demonstrated above, his input was fully taken into account.

6.1.101 Having considered the respondents' additional submissions, no information or evidence was presented that warranted the Public Protector to depart from the conclusions and findings made in the notice issued in terms of section 7(9)(a) of the Public Protector Act.

### *Conclusion*

6.1.102 Based on the cumulative facts, juxtaposed against the regulatory framework as well as the totality of the available evidence, the Public Protector concludes that the appointment of Mr Louw was irregular in that he did not meet the minimum educational requirements stated in the advertisement of the post.

6.1.103 The functionaries of the SANParks acted improperly when they shortlisted, interviewed and appointed Mr Louw, who did not possess an Honours degree in Journalism, Communications or Public Relations or an equivalent, as stipulated in the job advertisement and SANParks competency-based job description.

- 6.1.104 Based on the evidence and information obtained during the investigation, the Public Protector concludes that a B. Juris is not equivalent to an Honours' degree in Journalism, Communications, or Public Relations.
- 6.1.105 Taking all of the above into account, it is inevitable to conclude that the conduct of the functionaries of SANParks in appointing Mr. Louw to a position of Head: Communications and Spokesperson, was inconsistent with the dictates of the Constitution, NEMPAA and the Recruitment Policy.

## 7. FINDINGS

Having regard to the evidence, the regulatory framework determining the standard the SANParks should have complied with and the impact on good administration, the Public Protector makes the following findings:

### 7.1. **Whether the functionaries of the South African National Parks irregularly appointed Mr Johannes Louw to the position of Head: Communications and Spokesperson, without meeting the minimum requirements of the post, as stipulated in the advertisement, if so, whether such conduct is improper in terms of Section 182(1)(a) of the Constitution and amounts to maladministration in terms of Section 6(5)(a) of the Public Protector Act**

7.1.1. The allegations that the functionaries of the SANParks irregularly appointed Mr Louw to the position of Head: Communications and Spokesperson, without meeting the minimum qualification requirements of the post, as stipulated in the job advertisement, **is substantiated**.

7.1.2. Mr Louw did not meet the minimum qualification requirements as stipulated in the job advertisement and SANParks' competency-based job description. The requirement was an Honours degree in Journalism, Communications, or Public Relations (or an equivalent). SAQA confirmed that Mr Louw's B. Juris degree is not equivalent to an Honours degree in the specified fields.

- 7.1.3. Ms Umlaw, with the concurrence of Mr de Kock shortlisted Mr Louw and two others despite not meeting the essential qualification criteria. This conduct constitutes a procedural irregularity and is contrary to the principles of fairness and objectivity articulated in Section 195(1)(i) of the Constitution and Clause 2.2 (c) and (d) of the Recruitment Policy.
- 7.1.4. The endorsement and interview of candidates who did not have the minimum qualifications prescribed in the job advertisement by the members of the Interview Panel which led to the appointment of Mr Louw was in contravention of Clause 5.3.2(c) of the Recruitment Policy which requires candidates to be evaluated and identified in accordance with the competencies specified in the job profile.
- 7.1.5. The justification for Mr Louw's shortlisting based on the EEA and its Code was misplaced. The position was not designated as an equity-targeted post, and the application of the "*suitably qualified*" principle was inconsistent and selectively applied, undermining fairness and objectivity.
- 7.1.6. Ms Sello approved the appointment of Mr Louw despite clear evidence of non-compliance with Section 195(1)(i) of the Constitution, Section 73 of NEMPAA read with Clause 5.3.2 of the Recruitment Policy.
- 7.1.7. Accordingly, the conduct of the functionaries of the SANParks constitutes improper conduct as envisaged in Section 182(1)(a) of the Constitution and maladministration as envisaged in Section 6(5)(a) 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 to redressing the conduct referred to in this report.

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 Having regard to the evidence, the regulatory framework determining the standard that SANParks should have complied with, the Public Protector takes the following remedial action in terms of Section 182(1)(c) of the Constitution:

#### **SANParks Board**

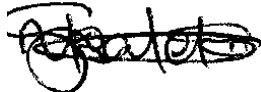
8.3.1 **Within a period of ninety (90) calendar days** from the date of receipt of this report, in line with Section 57(3) of NEMPAA, initiate a process of judicial review of Mr Louw's appointment in terms of Section 158(1)(h) of the LRA, given the procedural irregularities and non-compliance with the advertised minimum requirements.

8.3.2 **Within ninety (90) calendar days** from the date of receipt of this report, take disciplinary action against Ms Hapiloe Sello, Ms Makgomo Umlaw and Mr Reuben Ngwenya for their respective roles in the shortlisting and selection process for non-qualifying candidates in accordance with Clause 7.1 of the Disciplinary Policy.

8.3.3 **Within hundred and twenty (120) calendar days** from the date of receipt of this report, initiate a review of the Selection and Recruitment Policy to incorporate detailed guidelines for shortlisting and adopting best practices aimed at eliminating non-compliance and promoting efficient and transparent recruitment and selection processes within SANParks in accordance with Section 73(1) of NEMPAA read with Section 195(1)(h) of the Constitution.

**9. MONITORING**

- 9.1 The Interim Chairperson of the SANParks Board is to submit an action plan to the Public Protector within **thirty (30) calendar days** from the date of receipt of this report on the implementation of the remedial action referred to in paragraph 8 above.



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

*Assisted by: Mr. Jacob Matsi*

*Investigator: Investigations Branch*