



UNISA

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INVESTIGATION INTO ALLEGATIONS OF IRREGULAR APPOINTMENT OF MR JOHANNES PEU MATLALA TO THE POSITION OF MANAGER: PHYSICAL SECURITY SERVICES ON A FIXED TERM CONTRACT BY THE FUNCTIONARIES OF UNIVERSITY OF SOUTH AFRICA

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LIST OF ACRONYMS AND ABBREVIATIONS

ACRONYM / ABBREVIATION	DESCRIPTION
Constitution	The Constitution of the Republic of South Africa, 1996
CV	Curriculum Vitae
FF Plus	Freedom Front Plus
HR	Human Resources Department
Investigation Team	The Public Protector Investigation Team
MANCO	Management Committee
Public Protector	Public Protector of the Republic of South Africa
Public Protector Rules	Rules Relating to Investigations by the Public Protector and Matters Incidental Thereto, 2018, as amended
Public Protector Act	Public Protector Act, 1994
UNISA	The University of South Africa
VC	Vice Chancellor
VP	Vice Principal



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 (the 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 (the Public Protector Act), which provides that the Public Protector may make known the findings, point of view or recommendation of any matter investigated by her.
- (ii) The report relates to an investigation into allegations of an irregular appointment of Mr Johannes Peu Matlala (Mr Matlala) to the position of Manager: Physical Security Services on a fixed-term contract by the functionaries of the University of South Africa (UNISA).
- (iii) The investigation originates from a complaint lodged on 23 May 2024 from Adv Anton Alberts, a member of the Freedom Front Plus, (FF Plus), on behalf of a whistleblower (the Complainant) who approached the FF Plus to assist him with lodging the complaint and to ensure adequate protection and advice during the investigation process.
- (iv) In essence, the Complainant alleged, *inter alia*, that:
 - (a) In early January 2024, UNISA appointed Mr JP Matlala on a fixed-term contract for one (01) year after he had reached the age of sixty-five (65);
 - (b) The appointment was made in breach of several of UNISA's policies and its Conditions of Employment. UNISA's Conditions of Employment, section H.2 states: "... *which contracts will not be extended beyond the age 65*";
 - (c) Mr Matlala reached retirement age in March 2023 (or thereabouts) and thus no longer eligible to be employed on a fixed-term contract;



- (d) The Complainant sent several emails internally to different officials of UNISA regarding the appointment of Mr Matlala, but no substantial response was received;
- (e) On 08 February 2024 and 14 February 2024, he also sent an email to Dr M Socikwa, who is employed in the office of the Minister of Higher Education and Training, but no response was received;
- (f) This appointment was not an isolated incident. A report was issued by the Minister of Higher Education and Training dated 12 May 2023, and, on page 217 of the report, it was found that *"...many instances that would confirm the observations of the MTI Report, that "HR policies are frequently ignored by the HR department. HR appears to be empowered to take policy and staff promotion decisions, including promotions of academics, but not obligated to comply with their own policies. Recruitment policies are not consistently applied by HR, with certain positions not being advertised as per the policy, with internal applications ignored in certain instances and appointments made, based on apparent vested interests. This happens even at very senior levels in the institution"* (sic). This is one of the findings made in the report regarding recruitment of staff and appointments on fixed-term contracts;
- (g) During February 2024, he requested Dr WJ Boshoff, from the FF Plus to assist in the matter. The FF Plus requested the Minister of Higher Education and Training to respond to questions regarding the appointment of Mr Matlala and received the following response: *"Council must determine the conditions of service..."*;
- (h) A follow-up set of questions was submitted to the Minister and a reply was received wherein the Minister states, *inter alia*, that *"the retirement age policy of UNISA is 65 years; and UNISA has a discretion to grant a fixed term contract to any employee who possesses a specific skill which is important for the continuation of the work of the university"*;



- (i) There are other members in the same Department as Mr Matlala who have almost 30 years' experience and hold postgraduate qualifications. Mr Matlala may in fact be the least qualified in the Department to be appointed in the position earning a salary of approximately of one million and four hundred thousand rands (R1 400 000.00) per annum. In the Department Protection Services there are at least five individuals who are more qualified than Mr Matlala. The prerequisite for the P6 position that Mr Matlala is in, is at least an Honours degree, and Mr Matlala only holds a Grade A security certificate, which can be completed in approximately four (04) weeks;
- (j) Mr Matlala also does not have experience of VIP protection as UNISA claims, as there are no positions in UNISA for protection personnel and they appear nowhere on any structure. A proposal was submitted in 2023, on the request of Mr Matlala, for the establishment of such a unit as Mr Matlala could not motivate it himself. Mr Matlala was appointed as a Security Manager in charge of the Sunnyside Campus, Town Buildings, and the Graduate School of Business Leadership;
- (k) Clause 5.7 of the Process for the Appointment of Contract Employees, Fixed-Term Contractors, Temporary Employment Service Workers and Independent Contractors and Related Matters, states that *"In the case of a fixed-term contract appointment, the applicant requesting the appointment must confirm that no permanent employee is available to perform the duties / functions."* Section 6 of the same document provides details on how to appoint a person on a fixed-term contract and none of these steps were followed prior to the appointment of Mr Matlala; and
- (l) Mr Matlala's appointment was never motivated by the Executive Director, the Acting Deputy Director, or anyone in the Department of Protection Services. He saw a WhatsApp message from Mr Matlala to the Vice



Chancellor (VC) requesting the VC to appoint him so that he can help her get rid of corruption in the Department.

- (v) A Notice in terms of section 7(9)(a) of the Public Protector Act, 1994 (section 7(9)(a) notice), dated 27 February 2026, was issued to Professor LenkaBula, the Vice Chancellor of UNISA; Mr MS Motebelele; Mr JP Matlala and Adv Anton de Waal Albers, to provide them with an opportunity to respond to the intended findings and remedial action.
- (vi) Written responses to the Notice were received from Adv Albers and Prof LenkaBula.
- (vii) The responses and information/evidence submitted were duly considered by the Public Protector.
- (viii) Having regard to the evidence and regulatory framework determining the standards that should have been complied with by the functionaries of UNISA, the Public Protector makes the following findings:

(a) Whether the functionaries of UNISA irregularly appointed Mr Matlala to the position of Manager: Physical Security Services on a fixed-term contract; if so, whether such conduct is improper as envisaged in section 182(1)(a) of the Constitution and amounts to maladministration in terms of section 6(5)(a) of the Public Protector Act

- (aa) The allegation that Mr Matlala was irregularly appointed on a fixed-term contract to the position of Manager: Physical Security Gauteng, Protection Services, is substantiated.



- (bb) Mr Matlala was appointed to the position of Manager: Physical Security Services at post level 6 on a fixed-term contract basis in terms of the provisions of Clause 10.8 of the UNISA Delegations of Authority. However, Mr Motebele failed to fully comply with the Procedure for the Appointment of Contract Employees, Fixed-Term Contractors, Temporary Employment Service Workers and Independent Contractors and Related Matters.

- (cc) Mr Motebele initiated as well as approved his own memorandum, which raises questions of impartiality and conflict of interest. This dual role by Mr Motebele, namely initiator and sole approver, bypasses checks and balances, contravening s195(1)(a) and(b) of the Constitutional principles of professional ethics and impartial public administration and Clause 10.8 of the UNISA Delegations of Authority.

- (dd) Mr Motebele failed to promote and maintain a high standard of professional ethics, accountability and transparency as required by section 195(1)(a)(f) and (g) of the Constitution during the fixed-term appointment of Mr Matlala to the position of Manager: Physical Security Gauteng.

- (ee) Accordingly, the conduct of Mr Motebele in this regard constitutes improper conduct as envisaged in section 182(1)(a) of the Constitution and maladministration, as well as improper conduct, as envisaged in section 6(5)(b) of the Public Protector Act.



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

The Vice Chancellor of UNISA

- (aa) Within **sixty (60) calendar days** from the date of receipt of this report, and in line with section 30 of the Higher Education Act, put measures in place to ensure compliance with the applicable institutional prescripts.
- (bb) Within **sixty (60) calendar days** from the date of receipt of this report, and in line with Clause 2.3 of the UNISA Code of Ethics and Conduct read with the UNISA Disciplinary Code, take appropriate corrective action against Mr Motebele for non-compliance with Clause 10.8 of the UNISA Delegations of Authority.



1. INTRODUCTION

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

1.2. The report is submitted in terms of section 8(1) read with section 8(3) of the Public Protector Act, which empower the Public Protector to make known the findings of an investigation, to the following affected parties (including the Complainant) for such persons to note the outcome of the investigation and to implement the remedial action:

1.2.1. Professor P LenkaBula; the Vice Chancellor and Principal of University of South Africa (UNISA);

1.2.2. Mr MS Motebele; Vice-Principal Operations and Facilities;

1.2.3. Mr Johannes Peu Matlala; and

1.2.4. Adv Anton de Waal Alberts, on behalf of a whistleblower (the Complainant).

1.3. The report relates to an investigation into allegations of an irregular appointment of Mr JP Matlala (Mr Matlala) to the position of Manager: Physical Security Services on a fixed-term contract by the functionaries of the UNISA.

2. THE COMPLAINT

(a) The Public Protector received a complaint on 23 May 2024 from Adv Anton Alberts, a member of the Freedom Front Plus, (FF Plus), on behalf of a whistleblower (the Complainant) who approached the FF Plus to assist him



with lodging the complaint and to ensure adequate protection and advice during the investigation process. The Complainant alleged, *inter alia*, that:

- (ii) In early January 2024, UNISA appointed Mr JP Matlala on a fixed-term contract for one (01) year after he had reached the age of sixty-five (65);
- (iii) The appointment was made in breach of several of UNISA's policies and its Conditions of Employment. UNISA's Conditions of Employment, section H.2 states: "... *which contracts will not be extended beyond the age 65*";
- (iv) Mr Matlala reached retirement age in March 2023 (or thereabouts) and thus no longer eligible to be employed on a fixed-term contract;
- (v) The Complainant sent several emails internally to different officials of UNISA regarding the appointment of Mr Matlala, but no substantial response was received;
- (vi) On 08 February 2024 and 14 February 2024, he also sent an email to Dr M Socikwa, who is employed in the office of the Minister of Higher Education and Training, but no response was received;
- (vii) This appointment was not an isolated incident. A report was issued by the Minister of Higher Education and Training dated 12 May 2023, and, on page 217 of the report, it was found that "*...many instances that would confirm the observations of the MTI Report, that "HR policies are frequently ignored by the HR department. HR appears to be empowered to take policy and staff promotion decisions, including promotions of academics, but not obligated to comply with their own policies. Recruitment policies are not consistently applied by HR, with certain positions not being advertised as per the policy, with internal applications ignored in certain instances and appointments made, based on apparent vested interests. This happens even at very senior levels*



in the institution" (sic). This is one of the findings made in the report regarding recruitment of staff and appointments on fixed-term contracts;

- (viii) During February 2024, he requested Dr WJ Boshoff, from the FF Plus to assist in the matter. The FF Plus requested the Minister of Higher Education and Training to respond to questions regarding the appointment of Mr Matlala and received the following response:

"Council must determine the conditions of service...";

- (ix) A follow-up set of questions was submitted to the Minister and a reply was received wherein the Minister states, *inter alia*, that *"the retirement age policy of UNISA is 65 years; and UNISA has a discretion to grant a fixed term contract to any employee who possesses a specific skill which is important for the continuation of the work of the university"*;

- (x) There are other members in the same Department as Mr Matlala who have almost 30 years' experience and hold postgraduate qualifications. Mr Matlala may in fact be the least qualified in the Department to be appointed in the position earning a salary of approximately of one million and four hundred thousand rands (R 1 400 000.00) per annum. In the Department Protection Services there are at least five individuals who are more qualified than Mr Matlala. The prerequisite for the P6 position that Mr Matlala is in, is at least an Honours degree, and Mr Matlala only holds a Grade A security certificate, which can be completed in approximately four (04) weeks;

- (xi) Mr Matlala also does not have experience of VIP protection as UNISA claims, as there are no positions in UNISA for protection personnel and they appear nowhere on any structure. A proposal was submitted in 2023, on the request of Mr Matlala, for the establishment of such a unit as Mr Matlala could not motivate it himself. Mr Matlala was appointed as a



Security Manager in charge of the Sunnyside Campus, Town Buildings, and the Graduate School of Business Leadership;

- (xii) Clause 5.7 of the Process for the Appointment of Contract Employees, Fixed-Term Contractors, Temporary Employment Service Workers and Independent Contractors and Related Matters, states that *"In the case of a fixed-term contract appointment, the applicant requesting the appointment must confirm that no permanent employee is available to perform the duties / functions."* Section 6 of the same document provides details on how to appoint a person on a fixed-term contract and none of these steps were followed prior to the appointment of Mr Matlala; and
- (xiii) Mr Matlala's appointment was never motivated by the Executive Director, the Acting Deputy Director, or anyone in the Department of Protection Services. He saw a WhatsApp message from Mr Matlala to the Vice Chancellor (VC) requesting the VC to appoint him so that he can help her get rid of corruption in the Department.

3. 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 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. This complaint relates to allegations of the irregular appointment of Mr Matlala on a fixed-term contract and non-compliance with UNISA’s conditions of employment. These conditions of employment derive from a collective agreement negotiated and concluded in 2005 between UNISA and recognised trade unions as parties to the UNISA Bargaining Forum.

3.5. Chapter 3 of the Constitution of the UNISA Bargaining Forum¹ states that the objectives of the Bargaining Forum is, *inter alia*, to negotiate and consult on conditions of employment and to comply with responsibilities and functions in terms of the Labour Relations Act. Chapter 12 of the Constitution of the Bargaining Forum states that disputes relating to the interpretation of the Constitution of the Bargaining Forum² can be referred to a panel of Adjudicators.

¹ Signed by the parties on 23 November 2005

² Section 24 of the Labour Relations Act, 1995



- 3.6. Chapter 13 of the Constitution of the Bargaining Forum states that disputes of interest between the parties to the Bargaining Forum arising from negotiations or bargaining at the Forum on conditions of employment matters will be referred to the Commission for Conciliation, Mediation and Arbitration (CCMA).
- 3.7. In this particular case the Complainant raised allegations of non-adherence by UNISA to adopted policies and maladministration in relation to the implementation thereof.
- 3.8. Labour policies, including conditions of employment, are adopted via collective agreements in bargaining forums, requiring negotiation and mutual agreement between parties. A policy is accepted once parties reach consensus making it binding on the workplace³. In the *National Union of Metalworkers of SA v Aveng Trident Steel*, the Constitutional Court affirmed that operational policy changes are possible after a structured consultation process was followed⁴.
- 3.9. In *Faleti v the University of South Africa and Others*^[1], the Court dealt with an application wherein the applicant challenged the decision of the first respondent (UNISA) not to confer on him a Doctorate Degree in Public Administration. The first respondent raised a point in limine that the court does not have jurisdiction to hear the matter.
- 3.10. The Court held that UNISA is a Higher Education Institution created in terms of the Higher Education Act, 1997 (HEA), and is also an administrator as contemplated in section 1(b)(ii) of the Promotion of Administrative Justice Act, 2000 (PAJA). The Court further held that UNISA exercises public power or performs a public function in accordance with the provisions of section 1(b) of PAJA.

³ Section 85 and 86 of the Labour Relations Act prescribes mandatory consultation before an employer can implement changes on matters such as work method, production, discipline, skills development etc

⁴*National Union of Metalworkers of SA v Aveng Trident Steel (2020) CCT 110/19 (CC)*

[1] 2021 ZAGPPHC 482 (27 July 2021)



3.11. The Court, therefore, declared that “*the authorities are crystal clear that a university is a public institution of Higher Education and is governed by administrative law as contemplated by PAJA.*”

3.12. In the light of the above jurisprudence, taking into cognisance that UNISA is an organ of state as envisaged in section 239 of the Constitution, the Public Protector is satisfied that the complaint falls within its competency to investigate as envisaged in section 182(1)(a) of the Constitution and section 6(5) of the Public Protector Act, 1994 (Public Protector Act). In addition, regard was had to the fact that it *prima facie* relates to alleged maladministration in connection with state affairs.

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 UNISA irregularly appointed Mr Johannes Peu Matlala to the position of Manager: Physical Security Services on a fixed-term contract; if so, whether such conduct is improper as envisaged in section 182(1)(a) of the Constitution and amounts to maladministration in terms of section 6(5)(a) of the Public Protector Act.

5. THE INVESTIGATION

5.1 Investigation Process

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



5.2 Methodology

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

5.2.2 The Public Protector Act confers on the Public Protector the sole discretion to determine the format and procedure to be followed in conducting any investigation with due regard to the circumstances of each case.

5.3 Approach to the investigation

5.3.1 The 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 and improper conduct.
- (d) In the event of improper conduct or maladministration, what would it take to remedy the wrong and what action should be taken?

5.3.2 The question regarding what happened is resolved through a factual enquiry relying on the evidence provided by the parties and independently sourced during the investigation. Evidence is evaluated and a determination is made on a balance of probabilities. In this case, the factual enquiry principally focused on whether the fixed-term appointment of Mr Matlala to the position of Divisional Head in the Department of Protection Services was done in accordance with the prescripts.

5.3.3 The enquiry regarding what should have happened in relation to the subject matter of the complaint, focuses on the law and/or rules that regulate the



standards that should have been met by the functionaries of UNISA in the execution of their duties.

5.3. Key sources of information

5.3.1 Correspondence exchanged

- 5.3.1.1 Complaint form received from Adv Alberts dated 23 May 2024;
- 5.3.1.2 Rule 23(1) Notice sent to Prof LenkaBula, Vice Chancellor of UNISA, dated 15 October 2024;
- 5.3.1.3 Response letter from Prof LenkaBula dated 15 November 2024;
- 5.3.1.4 Email correspondence to Dr Oupa Mabusela, Director: Legal Services, on 18 November 2024;
- 5.3.1.5 Response letter from Prof LenkaBula dated 04 December 2024;
- 5.3.1.6 Email correspondence to Dr Mabusela dated 20 August 2024;
- 5.3.1.7 Response letter from Dr Mabusela dated 21 August 2024;
- 5.3.1.8 Section 7(4)(b) notice issued to Mr Matlala on 26 August 2024;
- 5.3.1.9 Rule 23(1) Notice to Mr MS Motebele; VP: Operations and Facilities dated 19 September 2025;
- 5.3.1.10 Response letter from Mr Motebele dated 03 October 2025;
- 5.3.1.11 Letter from Mr BB Ndaba: Executive Director: Human Resources dated 18 November 2025;
- 5.3.1.12 Email correspondence to Mr Bertus Albrecht: Deputy Director: Human Resources;
- 5.3.1.13 Email response from Mr Albrecht dated 27 January 2026;
- 5.3.1.14 Notice in terms of section 7(4) of the Public Protector Act, issued to Prof LenkaBula; Adv Alberts; Mr Motebele and Mr Matlala dated 27 February 2026;
- 5.3.1.15 Response email from the Adv Alberts dated 03 March 2026; and
- 5.3.1.16 Response letter from Prof LenkaBula dated 12 March 2026.



5.3.2 Documents received

- 5.3.2.1 Copy of Mr Matlala's Identity Document;
- 5.3.2.2 Copy of Mr Matlala's curriculum vitae;
- 5.3.2.3 Copy of the 2007 Conditions of Employment Agreement dated 17 July 2007;
- 5.3.2.4 Copy of the UNISA Management Committee Report on the Extension of Retirement Age to 65 years, dated 06 November 2012;
- 5.3.2.5 Copy of UNISA Retirement Fund Rules dated 02 December 2015;
- 5.3.2.6 Copy of the Delegation by Council of Decision-Making Authority, dated 23 November 2017;
- 5.3.2.7 Copy of the Procedure for the Appointment of Contract Employees, Fixed-term Contractors, Temporary Employees, Service Workers and Independent Contractors and Related Matters, dated 12 December 2017;
- 5.3.2.8 Copy of Mr Matlala's Application for a fixed-term contract dated 19 December 2023;
- 5.3.2.9 Copy of a Memorandum for Mr Matlala's fixed-term contract appointment dated 19 December 2023; and
- 5.3.2.10 Extract from UNISA Oracle Human Resources Information System dated 19 December 2023, indicating the salary scale of Mr Matlala.

5.3.3 Notice in terms of section 7(9)(a) and (b) of the Public Protector Act, 1994

- 5.3.3.1 A Notice in terms of section 7(9)(a) and (b) of the Public Protector Act (section 7(9) Notice), dated 27 February 2026, was issued to Prof LenkaBula, Mr Matlala, Mr Motebele and Mr Alberts.
- 5.3.3.2 Sections 7(9)(a) and (b) of the Public Protector Act provide 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.
- 5.3.3.3 Responses to the section 7(9) Notice was received from the following persons:



- (a) Mr Anton Alberts on 03 March 2026; and
- (b) Prof LenkaBula on 13 March 2026.

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

6.1. Whether the functionaries of UNISA irregularly appointed Mr Matlala to the position of Manager: Physical Security Services on a fixed-term contract; if so, whether such conduct is improper as envisaged in section 182(1)(a) of the Constitution and amounts to maladministration in terms of section 6(5)(a) of the Public Protector Act

Common cause

- 6.1.1. UNISA appointed Mr Matlala on a fixed-term contract from 01 January 2024 until 31 December 2024. He was appointed in the Department of Protection Services.

Issue in dispute

- 6.1.2 The issue for the Public Protector’s determination is whether the functionaries of UNISA have, contrary to the applicable recruitment and selection prescripts, appointed Mr Matlala notwithstanding his age exceeding the prescribed retirement threshold of 65 years. Furthermore, whether the functionaries of UNISA followed the correct application process in appointing Mr Matlala on a fixed-term contract basis.

The Complainant’s version



6.1.3 The Complainant contended that Mr Matlala reached the retirement age of 65 years in March 2023. Despite that, the functionaries of UNISA appointed him on a twelve (12) months fixed-term contract with effect from 01 January 2024 until 31 December 2024, after he had already reached retirement age; and

6.1.4 The appointment was in breach of UNISA policies and conditions of employment.

Version of UNISA

6.1.5 On 15 October 2024, the Public Protector Investigation Team (Investigation Team) issued a Notice in terms of Rule 23(1) of the Public Protector Rules, to Professor Puleng LenkaBula (Prof LenkaBula), the Principal and Vice Chancellor of UNISA, raising the allegations and solicited a comprehensive response with supporting evidence.

6.1.6 On 15 November 2024, a written response was received from Prof LenkaBula, stating, *inter alia*, as follows:

6.1.6.1 The appointment of Mr Matlala is a fixed-term contract regulated by Clause 10.8 of the Delegation by Council of Decision-Making Authority (UNISA Delegations of Authority) which stipulates the process of appointment on fixed-term contracts;

6.1.6.2 No shortlisted candidates were approved as the appointment is a fixed-term contract as indicated in Clause 10.8 of the UNISA Delegations of Authority;

6.1.6.3 No invitation for interviews was held as this is a fixed-term contract, initiated by the line manager on operational reasons;

6.1.6.4 No score sheets and panel members are available as this is a fixed-term contract appointment;



6.1.6.5 A copy of the memorandum from the portfolio manager requesting Mr Matlala to be appointed on a fixed-term contract to manage and drastically minimise security breaches is attached; and

6.1.6.6 There is no approved memorandum for any recommended candidates as this was a fixed-term contract.

Documents received from Prof LenkaBula

6.1.7 In support of her response dated 15 November 2024, Prof LenkaBula provided the Investigation Team with the following documentation:

Copy of Mr Matlala's application for a fixed term contract (Form HR-CA 101(a))

6.1.7.1 The application form titled *Copy of Mr Matlala's application for a fixed term contract (Form HR-CA 101(a))* is not signed by the applicant, Mr Matlala, and contains the following information:

- (a) College/ Administrative and Support Department: Protection Services Main Campus;
- (b) The contact person for enquiries relating to the appointment: Mr MS Motebele (Mr Motebele);
- (c) Particulars of candidate: Mr JP Matlala, Identity number: 580329xxx;
- (d) Position: Manager: Physical Security Services, Gauteng Sites;
- (e) Remuneration per annum (all inclusive): R986 226,00;
- (f) Period of appointment: 01 January 2024 to 31 December 2024;
- (g) Post grade level: P6;
- (h) Motivation for the appointment is that *"the position of Manager: Physical Security Gauteng Sites will be vacant from 1 January 2024.*

6.1.7.2 Particulars of the position or post (which should be completed if the



- appointment is made in a vacancy on the structure) was not completed or signed by the applicant;
- 6.1.7.3 The heading “*Qualifications and Experience*” was not completed in the application form;
- 6.1.7.4 Under the heading: Provide a Labour Relations Act, compliant or UNISA approved justification for fixing the term of appointment: None is provided, even though the Application form states that “*conclusion of a fixed-term contract will be justified on provision of such justification*”;
- 6.1.7.5 Ms MSM Lengane (Ms Lengane), the Director: Employment Equity, recommended and signed the application form on 19 December 2023. However, the section on the application form relating to Race, Gender and Disability was not completed;
- 6.1.7.6 Ms NM van Vuren, HR Practitioner, signed as checked for quality assurance as HR practitioner;
- 6.1.7.6.1 Mr Motebele, Vice-Principal: Operations and Facilities approved the appointment as the “*Relevant Mancom Line Function Manager*” on 19 December 2023;
- 6.1.7.6.2 No signatures appear against the Line Manager; the Remuneration Specialist; the Director: Remuneration; the Executive Director: Human Resources; the Vice Principal: Institutional Development; or the Executive Dean;
- 6.1.7.6.3 Contact name (for enquiries relating to this appointment): Mr Motebele;
- 6.1.7.6.4 The application is signed and approved by Mr Motebele as the relevant line function manager on 19 December 2023; and
- 6.1.7.6.5 The application form states that “*all attachments should be included, and*



approvals be signed off. The application will only be processed after 100% compliance to the above. All applications for appointment should be submitted and finalised before assumption of duty by the candidate. No retrospective requests will be processed.”

Copy of Memorandum for Mr Matlala’s fixed term contract appointment

6.1.7.7 The memorandum dated 19 December 2023, titled: “*Fixed-Term Contract Appointment: Mr JP Matlala*” submitted and approved by Mr Motebele, addressed to Human Resources, states *inter alia* the following:

Purpose

- (a) The purpose of the submission is to seek approval from Human Resources for the appointment of Mr Matlala on a fixed-term contract.

Background

- (b) The background states that Mr Matlala retired from UNISA during the month of December 2023 after reaching the age of 65. However, due to capacity challenges in the Protection Services, the portfolio needs to strengthen its security measures whilst awaiting finalisation of the Organisational Analysis currently being conducted by UNISA.

Discussion

- (c) The discussion indicates that the Human Resource Department was notified about the urgent need for the fixed-term contract of Mr Matlala to be properly managed and drastically minimise any security breaches that might be encountered by UNISA.



- (d) Further, that the portfolio takes note of the Human Resources curtailment of costs including appointment of fixed- term contracts which is a major risk for the institution. However, exception should be made to appoint Mr Matlala in capacitating the security environment.

Financial Implications

- (e) The payment of salary for the duration of one (01) year to the value of nine hundred and fifty thousand (R950 000) or above at the level of P6.

Risk

- (f) There is minimum risk of legitimate expectation of contract renewal as Mr Matlala is above retirement age.

Recommendation

- (g) It is recommended that Mr Matlala be appointed for a period of one year starting from 01 January to 31 December 2024.

6.1.7.8 The Memorandum is submitted by and approved by Mr Motebele: VP Operations and Facilities on 19 December 2023. There are no other signatories who recommended, signed or approved the memo.

Copy of Mr Matlala's Identity Document

6.1.7.9 A copy of Mr Matlala's identity document contains the details of Mr Matlala's South African smart identity card, name and surname.

Curriculum Vitae (CV) of Mr Matlala

6.1.7.10 The CV of Mr Matlala shows his personal details such as his identity number, contact details, personal interests, language proficiency, educational



background, work experience, and references.

6.1.7.11 The following qualifications/certificates obtained by Mr Matlala from UNISA were included in his CV:

- (a) Senior Certificate issued in December 2003 by the South African Certification Council;
- (b) Certificate course in Practical Labour Law dated 9 March 1999, obtained from UNISA;
- (c) Security course certificate, Grade E dated 23 July 2004, obtained from UNISA;
- (d) Security course certificate, Grade D dated 06 August 2004, obtained from UNISA ;
- (e) Security course certificate, Grade C dated 14 August 2004, obtained from UNISA;
- (f) Security course certificate, Grade B dated 27 August 2004, obtained from UNISA ;
- (g) Security course certificate in Armed Response dated 10 September 2004, obtained from UNISA;
- (h) Security course certificate, Grade A dated 17 September 2004, obtained from UNISA;
- (i) Security course certificate in Cash in Transit dated 01 October 2004 obtained from UNISA;
- (j) Security Risk Management dated January 2006, obtained from UNISA;



- (k) Programme in Security Management dated December 2008, obtained from UNISA;
- (l) Short course in Customer Service Management dated March 2017, obtained from UNISA;
- (m) Certificate dated 18 December 2020, obtained from the South African Handgun and Rifle Academy;
- (n) Registration Certificate from Private Security Industry Regulatory Authority (PSIRA) issued to Mr Matlala, on 14 February 2005, indicating that he was registered as a Security Service Provider from 02 September 1998.

Second response from Prof LenkaBula

- 6.1.8 On 18 November 2024, the Public Protector's Investigation Team (Investigation Team) sent an email to Dr Oupa Mabusela (Dr Mabusela), Director: Legal at UNISA, requesting the submission of outstanding documentation in relation to the matter being investigated, namely the Delegations of Authority.
- 6.1.9 A response was received from Prof LenkaBula dated 04 December 2024, stating, *inter alia*, that:
 - 6.1.9.1. On 15 November 2024, a response was forwarded to the Public Protector in relation to questions asked in the Public Protector's letter. On 18 November 2024, the Public Protector requested a detailed response, which is submitted as follows:
 - 6.1.9.2. There were no irregularities or improper conduct in the appointment of Mr Matlala as envisaged in section 182(1)(a) of the Constitution read with sections



6(4) and (5) of the Public Protector Act, 1994;

- 6.1.9.3. Reference has been made to the appointment in the post of Divisional Head in the Department of Protection Services, however UNISA does not have a position referred to as “*Divisional Head*” of Protection Services in the organisational structure;
- 6.1.9.4. UNISA has a policy titled UNISA Delegations of Authority which regulates the appointment of fixed-term contracts. The process of appointment is clearly stipulated in Clause 10.8 of the UNISA Delegations of Authority, with specific reference to salary level 5 to 6;
- 6.1.9.5. There were no shortlisted candidates;
- 6.1.9.6. There was no advertisement of the position as this was done in accordance with Clause 10.8 of the UNISA Delegations of Authority. There was a need to extend the services of Mr Matlala as he had the necessary experience and that there was a need to safeguard the multiple construction activities at the Sunnyside Campus of UNISA since there were threats or possible threats of Construction Mafias intruding in order to safeguard the construction of the Centre for Excellence for People with Disabilities; the safeguarding of the Assets in the Parameter fence construction and the safeguarding of the Multiple Computer Labs;
- 6.1.9.7. Further to that is that he is an experienced official on P6, and no official in the security department is on that level. He is more conversant with Sunnyside Campus security;
- 6.1.9.8. There is a document marked Application for a fixed-term contract appointment for Colleges/Administrative and Support Departments. This is a form in the Human Resources (HR) department which must be filled in by the department requesting the services;



- 6.1.9.9. There is no copy of the memorandum approving the names of panel members involved in the recruitment as this was not an ordinary appointment;
- 6.1.9.10. There is no copy of the screening list with all candidates that applied as there were no other candidates involved;
- 6.1.9.11. There is no copy of a memorandum approving the shortlisted candidates as the appointment is a fixed-term contract as indicated in clause 10.8 of the UNISA Delegations of Authority;
- 6.1.9.12. No invitation for interviews was held as this is a fixed-term contract, initiated by the line manager on operational reasons;
- 6.1.9.13. There were no scoresheets and panel members available for reasons stated above;
- 6.1.9.14. A copy of the memorandum from the Portfolio Manager requesting that Mr Matlala be appointed on a fixed-term contract to manage and drastically minimise the security breaches, copies of the application form together with the ID and the CV was already submitted by UNISA; and
- 6.1.9.15. There are no copies of shortlisting and the interview panel disclosure forms as this was not applicable to this kind of appointment.

Response from DR TL Mabusela

- 6.1.10 On 20 August 2025, the Investigation Team sent an email request to Dr Mabusela requesting him to confirm whether the 2007 Conditions of Employment Collective Agreement as signed between UNISA and the labour union, National Health and Allied Workers Union (NEHAWU) is still in effect at UNISA.



- 6.1.11 Dr Mabusela responded on 21 August 2025, confirming that the 2007 Conditions of Employment as signed between UNISA and the labour unions on 17 July 2007 has no expiry date.

Documents received from Dr Mabusela

- 6.1.12 Dr Mabusela provided the Investigation with the following documents in support of his response:

2007 Conditions of Employment Agreement, dated 17 July 2007 entered into between UNISA and the National Health and Allied Workers Union at the UNISA Bargaining Forum (2007 Conditions of Employment)

- 6.1.12.1 A document titled *2007 Conditions of Employment Agreement, dated 17 July 2007 entered into between UNISA and the National Health and Allied Workers Union at the UNISA Bargaining Forum*, provides in Clause H.2 of the Conditions of Employment states that the official retirement age will be sixty (60) years for all newly appointed employees (as from 1 January 2006). The retirement ages for current employees (those employed prior to the merger of January 2004) will be retained at either 60 or 65, whichever is applicable to the employees' previous conditions of service.
- 6.1.12.2 Employees wishing to remain in the employ of UNISA beyond their retirement age will be given consideration by the Management of UNISA, but such consideration will be based on operational requirements. Such employees will still be required to retire from the institution, but may be re-employed on a contract basis, which contracts will not extend beyond the age of 65.

Letter addressed to Mr JP Matlala



6.1.13 A notice in terms of section 7(4)(b) of the Public Protector Act was issued to Mr Matlala on 26 August 2025, bringing the allegations in this matter to his attention and requesting him to respond thereto. The letter was, however, undelivered, as Mr Matlala has apparently moved to Limpopo province, and he did not leave a forwarding address. The Investigation Team tried to contact Mr Matlala telephonically but was unsuccessful.

Response from Mr Motebele

6.1.14 On 19 September 2025, the Investigation Team issued a notice in terms of Rule 23(1) of the Public Protector Rules to Mr Motebele, the Vice-Principal: Operations and Facilities of UNISA, requesting clarity in respect of his role in the appointment of Mr Matlala on a fixed-term contract and whether he had the necessary delegation of authority to initiate and approve the fixed-term contract appointment.

6.1.15 Mr Motebele responded by email dated 03 October 2025, stating the following:

“Due to the threat posed by Construction Mafias at the Sunnyside Campus and the fact that there was no P6 Managers at the time in Sunnyside and due to capacity challenges, Mr Matlala was therefore given the contract to ensure that the risk of prevention of damage to property outweighed the procedural considerations. In terms of the Delegations of Authority Policy (See attached DOA). Note that I am a P3 Portfolio Manager and the appointment is line with the attached DOA”. (sic)

Response from Mr BB Ndaba, Executive Director: Human Resources

6.1.16 On 18 November 2025, a letter was received from Mr BB Ndaba (Mr Ndaba) Executive Director: Human Resources wherein he stated the following:

6.1.16.1 The Policy on the Termination of Employment by Employees stipulates that



the retirement age is determined by the employment contract and the rules of the retirement fund. Section 1.5.39 of the UNISARF Rules provides that the normal retirement age is 65;

- 6.1.16.2 Clause 6.7.3 of the Procedure for the Appointment of Contract Employees, Fixed-Term Contractors, Temporary Employment Service Workers and Independent Contractors and Related Matters, dated 12 December 2017 (the Procedure for the Appointment of Contract Employees) allow for appointments beyond the retirement age. Since the retirement age has been extended to 65, this provision permits the appointment of fixed-term contracts for individuals beyond the age of 65 years;
- 6.1.16.3 Mr Matlala was not appointed in terms of Clause H2 of the 2007 Conditions of Service. He was appointed in accordance with Clause 6.7.3 of the Procedure for the Appointment of Contract Employees, which allows for the appointment of individuals beyond the age of 65;
- 6.1.16.4 The 2007 Conditions of Employment has since been replaced by various policies and procedures. In this case, the University Council resolved to extend the retirement age to 65, and there is a substantive agreement supporting this decision. The procedure referred to above is applicable to appointments made after reaching the retirement age. Accordingly, the 2007 Conditions of Service is not applicable;
- 6.1.16.5 The University has approximately one thousand two hundred (1200) fixed-term contract employees across all age groups. Each appointment is supported by an application form and a motivation; and
- 6.1.16.6 The University employs a total of fifteen (15) fixed-term employees beyond the age of 65.



Documents received from Mr Ndaba

- 6.1.17 In support of his response dated 18 November 2025, Mr Ndaba submitted the following documents to the Investigation Team:

The University of South Africa Retirement Fund Rules

- 6.1.17.1 A document titled *The University of South Africa Retirement Fund Rules* states in Rule 1.5.39 that “normal retirement age” means the end of the calendar year in which the member attains the age of 65 years.

Procedure for the Appointment of Contract Employees, Fixed-Term Contractors, Temporary Employment Service Workers and Independent Contractors and Related Matters, dated 12 December 2017

- 6.1.17.2 A document titled *Procedure for the Appointment of Contract Employees, Fixed-Term Contractors, Temporary Employment Service Workers and Independent Contractors and Related Matters, dated 12 December 2017* stipulates in Clause 6.1 that only a vacant funded position on the approved organisational structure of administrative departments and support services may be filled by means of a fixed-term contract. The fixed-term contract appointment must comply with the minimum requirements pertaining to educational qualifications, work experience, relevant competencies and skills for the intended position, which position title, P-level and job description must be confirmed by the HR, prior to the appointment as well as the operational need thereof.
- 6.1.17.3 Clause 6.7.3 of the *Procedure for the Appointment of Contract Employees* prescribes that the maximum employment age of fixed-term employees is the retirement age of UNISA. In exceptional cases, with substantive motivation, appointment above the retirement age may be allowed, subject to the approval



by the Management Committee, Vice-Principal: Teaching, Learning Community Engagement and Student Support, Vice-Principal: Research, Postgraduate Studies, Innovation and Commercialisation and Vice-Principal: Institutional Development and Transformation, where applicable.

UNISA Management Committee Report on the Extension of the retirement age to 65 years, dated 6 November 2012

- 6.1.17.4 A document titled the *UNISA Management Committee Report on the Extension of the retirement age to 65 years, dated 6 November 2012 (Report on extension of UNISA Retirement Age)* that was submitted to the UNISA Management Committee attached Addendum 1 to the 2007 Conditions of Employment Collective Agreement (Addendum to the Conditions of Employment, 2007) and confirms the extension of the retirement age to 65 years for all UNISA employees. The Management Report states that the UNISA Bargaining Forum was consulted on 11 September 2012 and that changes to the Conditions of Employment successfully negotiated.
- 6.1.17.5 Addendum 1 to the 2007 Conditions of Employment Agreement states that Clause H2 of the 2007 Conditions of Employment be deleted and replaced by the wording: *“The official retirement age for all employees in Unisa will be 65 years as from 23 November 2012.”*

Additional response received from Mr Ndaba

- 6.1.18 Following the Investigation Team’s request for clarification (dated 27 November 2025) on whether Mr Matlala’s fixed-term employment was indeed dealt with as an *“exceptional case”* as prescribed by Clause 6.7.3 of the Procedure for the Appointment of Contract Employees and whether substantive motivation and approval was obtained prior to the fixed-term appointment of Mr Matlala, Mr Ndaba responded on 12 December 2025, stating as follows:



- 6.1.18.1 The motivation to appoint Mr Matlala was provided, and the appointment memorandum was submitted to the Investigation Team. This is the only motivation related to the appointment. UNISA considers motivations such as this sufficient in its appointment processes. The number of individuals above retirement age serves as evidence that these requests are not considered lightly. Out of the total fixed-term staff complement of one thousand two hundred and seventy-eight (1278) individuals, only fifteen (15) individuals are above the age of 65;
- 6.1.18.2 The procedure of appointment was approved by the Management Committee on 12 December 2017. The University's Delegations of Authority was approved by the Executive Committee of Council on 10 December 2018. This is the delegations of authority document that was approved by Council, which is the highest decision-making authority in UNISA, and it supersedes the approval authority mentioned in the Procedure for the Appointment of Contract Employees; and
- 6.1.18.3 The approval for this appointment was granted in line with Delegations of Authority. Clause 10.8 of the Delegations of Authority states that the relevant approval authority for an appointment on P6 not exceeding 12 months, is the relevant Management Committee Line Function Manager.
- 6.1.19 Mr Ndaba submitted the following document in support of his response:

Copy of the Delegation by Council of Decision-Making Authority

- 6.1.19.1 A document titled *Delegation by Council of Decision-Making Authority (UNISA Delegations of Authority)* indicating that it was approved by Council on 23 November 2017 and revised and approved by the Executive Committee of Council (EXCO of Council on 10 December 2018, states as follows:



- a) In terms of Clause 1, the purpose of the document is to provide for the delegation of powers and assignment of duties or functions by Council in respect of matters provided for directly in the Higher Education Act, No 101 of 1997, as amended and matters pertaining to the governance and overall management of the university in order to ensure that a common understanding and proper execution of such delegated or assigned functions for the effective functioning of the university is in place;
- b) In terms of Clause 10.8 the approval of contract appointments not exceeding twelve months at post levels 5 and 6 is as follows:

Approval of temporary (TES), part-time and contract appointment not exceeding twelve months

Nature of function/activity	Approver	Regulatory reference	Initiator of action(s)
Post levels 5-6	Relevant MANCOM line function manager or Executive Dean: School of Business Leadership on recommendation of Executive Dean/ Executive Director		Department: Human Resources

Response received from Mr Bertus Albrecht

6.1.20 On 21 January 2026 the Investigation Team sent an email to Mr Bertus Albrecht (Mr Albrecht), the Deputy Director: HR Operations and Acting Director: Employee Relations and Wellness requesting clarity regarding Mr Matlala’s remuneration package prior to his retirement. Furthermore, to clarify



the process of requesting of approval for fixed term contracts and if UNISA has defined the criteria for what can be regarded as exceptional circumstances. Mr Albrecht responded 27 January 2026, stating, *inter alia*, as follows:

- 6.1.20.1 The Executive Director for Protector Services was on suspension at the time when the fixed-term contract of Mr Matlala was processed. The Executive Director: Protection Services would have been the requestor in this instance, and the Vice Principal would have been the approver, however, in the absence of the Executive Director, the Vice Principal completed all the forms;
- 6.1.20.2 The Human Resources Department has identified instances where the requestor and the approver is the same person as a potential governance risk. The Department has taken steps to strengthen controls to mitigate any risk relating to conflict of interest and impartiality. Accordingly, measures have been implemented to ensure that, in all appointment processes, where the requester is also the approver, such requests would not be processed;
- 6.1.20.3 There are no fixed criteria for “*exceptional cases*” in terms of Clause 6.7.3 of the Procedure for the Appointment of Contract Employees. The approval authority must exercise discretion, based on the specific circumstances and operational requirements of the relevant department and the University.
- 6.1.20.4 An extract from the UNISA Oracle Human Resources Information system was provided which reflects Mr Matlala’s total remuneration package at the end of 2023 as one million four hundred and fifteen thousand four hundred and fifty-two rand (R1 415 452) and his post level as 6.

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



6.1.21 A notice in terms of section 7(9)(a) of the Public Protector Act (section 7(9) notice), dated 27 February 2026, was issued to Prof LenkaBula, Mr Matlala, Mr Motebele and Mr Alberts.

Mr Alberts' response to the section 7(9) Notice

6.1.22 Mr Alberts responded to the section 7(9) notice in an email dated 03 March 2026, stating, *inter alia*, that:

6.1.22.1 *We have consulted with the whistleblower and advise as follows:*

6.1.22.2 *We are in agreement with the findings of the Public Protector;*

6.1.22.3 *In terms of the sanctions, we would also like to see the following implemented:*

6.1.22.4 *That for the wasted costs that UNISA incurred, Mr Motebele must be held personally liable, insofar it may be legally possible. This will present as an effective deterrent to any other managers and employees of UNISA.*

6.1.22.5 *With reference to the remedy in Paragraph 8.3.1, the Vice Chancellor must make known to all employees at UNISA the new mechanisms devised to ensure that a repeat of the unlawful conduct or similar conduct do not take place again.*

6.1.23 On the same day the Investigation Team requested Mr Albert to clarify his comment that Mr Motebele should be held personally liable, "*insofar it may be legally possible*", considering that a service was delivered during the fixed-term contract period and that the service was paid for.

6.1.24 Mr Alberts responded later the same day by stating: "Thank you and so noted".

UNISA's response to the section 7(9) Notice

6.1.25 Prof LenkaBula responded to the section 7(9) Notice on 13 March 2026, stating, *inter alia*, that:



- 6.1.25.1 *The University notes and accepts the findings of the Public Protector. Although the memorandum initiating and approving the appointment was processed by Mr Motebele in his capacity as Vice Principal: Operations and Facilities, it is pertinent to record that the Human Resources Department is the designated process owner responsible for the administration and oversight of appointment processes, including fixed-term contract appointments;*
- 6.1.25.2 *In its capacity as custodian of the appointment framework and the unit responsible for ensuring compliance with applicable institutional prescripts, the Human Resources Department ought to have advised that where the initiating authority is also the requesting party, the approval should be escalated to an appropriate approving authority. This is necessary to ensure the proper separation of roles and compliance with the University's governance requirements;*
- 6.1.25.3 *Notwithstanding the foregoing contextual considerations, the University acknowledges that the approval process in this instance did not fully comply with the applicable governance framework and accepts the finding that the provisions of the Delegations of Authority were not adhered to in their entirety;*
- 6.1.25.4 *In compliance with the remedial action set out in paragraph 8.3.1 of the Notice, the University has implemented strengthened internal control measures and oversight mechanisms to ensure strict adherence to the institutional prescripts governing appointments. These measures include reinforcing the requirement that the initiator or recommender of an appointment may not act as the approving authority in respect of the same request;*



- 6.1.25.5 *Furthermore, the University will implement enhanced Human Resource compliance verification processes to ensure that all appointment requests are verified for compliance with the Delegations of Authority and applicable procedures prior to approval. Internal governance controls will also be further strengthened to ensure proper segregation of duties and accountability within appointment processes; and*
- 6.1.25.6 *We appreciate the opportunity to respond to the notice and reaffirm our commitment to fully cooperate with the Office of the Public Protector in carrying out its constitutional and statutory duties.*

Applicable law

Constitution of the Republic of South Africa, 1996

- 6.1.26 Section 195(1) of the Constitution provides, *inter alia*, that:

“Public administration must be governed by the democratic values and principles enshrined in the Constitution, including the following principles:

- (a) A high standard of professional ethics must be promoted and maintained;*
- (b) ...;*
- (c) ...;*
- (d) ...;*
- (e) ...;*
- (f) Public administration must be accountable.*
- (g)*
- (h) Good human-resource management and career-development practices, to maximise human potential, must be cultivated;*
- (i) ...”*



Labour Relations Act, 1995 (LRA)

- 6.1.27 Section 23(1) of the LRA regulates the legal effect of collective agreements by stating that a collective agreement binds:
- (a) the parties to the collective agreement;
 - (b) each party to the collective agreement and the members of every other party to the collective agreement, in so far as the provisions are applicable between them;
 - (c) the members of a registered trade union and the employers who are members of a registered employers' organisation that are party to the collective agreement if the collective agreement regulates— (i) terms and conditions of employment; or (ii) the conduct of the employers in relation to their employees or the conduct of the employees in relation to their employers.
- 6.1.28 Section 23(2) states that a collective agreement binds for the whole period of the collective agreement every person bound in terms of subsection (1)(c) who was a member at the time it became binding, or who becomes a member after it became binding, whether or not that person continues to be a member of the registered trade union or registered employers' organisation for the duration of the collective agreement.
- 6.1.29 In terms of section 23(3) of the LRA, a collective agreement varies any contract of employment between an employee and employer who are both bound by the collective agreement.
- 6.1.30 Section 24(2) states that if there is a dispute about the interpretation or application of a collective agreement, any party to the dispute may refer the dispute in writing to the Commission.
- 6.1.31 Section 31 of the LRA regulates the binding nature of collective agreements concluded in a bargaining council by stating that it binds the parties to the



bargaining council who are also parties to the collective agreement and each party to the collective agreement and the members of every party to the collective agreement in so far as the provisions thereof apply to the relationship between such a party and the members of such other party.

The Higher Education Act, 1997

- 6.1.32 Section 27(1) of the Higher Education Act states that the council of a public higher education institution must govern the public higher education institution, subject to this Act, any other law and the institutional statute.
- 6.1.33 Section 30 states that the principal of a public higher education institution is responsible for the management and administration of the public higher education institution.
- 6.1.34 Section 34(1) states that the council of a public higher education institution must appoint the employees of the public higher education institution.
- 6.1.35 Section 34(3) states that the council must determine the conditions of service, disciplinary provisions, privileges and functions of the employees of the public higher education institution, subject to the applicable labour law.
- 6.1.36 Section 68(1) provides that the Minister may, on such conditions as he or she may determine, delegate any of his or her powers under this Act, except the power to make regulations, and assign any of his or her duties in terms of this Act, to -
- (a) the council of a public higher education institution;
 - (b) the Council on Higher Education (CHE);
 - (c) any employee of the Department of Education; and
 - d) any organ of state.

Procedure for the appointment of contract employees, fixed-term



contractors, temporary employment service workers and independent contractors and related matters, revised and approved by ManCom on 12 December 2017

- 6.1.37 Clause 5.7 of the Procedure for the Appointment of Contract Employees states that in the case of a fixed-term contract appointment, the applicant requesting the appointment must confirm that no permanent employee is available to perform the duties/functions.
- 6.1.38 Clause 6.1 states that only a vacant funded position on the approved organisational structure of administrative departments and support services (confirmed by the Directorate: Organisation Development) may be filled by means of a fixed-term contract appointment or where funds are made available for this purpose. The fixed-term contractor must comply with the minimum requirements pertaining to educational qualifications, work experience, relevant competencies and skills for the intended position, which position title, P-level and Job description must be confirmed by the HR: Organisation Development prior to the appointment as well as the operational need thereof.
- 6.1.39 Clause 6.7.3 of the Procedure for the Appointment of Contract Employees states that the maximum employment age of fixed-term employees is the retirement age of UNISA. In exceptional cases with substantive motivation, appointment above the retirement age may be allowed, subject to approval by the Management Committee, Vice-Principal: Teaching, Learning Community Engagement and Student Support, Vice-Principal: Research, Postgraduate studies, Innovation and Commercialization and Vice-Principal: Institutional Development and Transformation, where applicable.

UNISA Delegation by Council of Decision-making Authority, 2018 (Delegations of Authority)



6.1.40 UNISA’s Delegation of Authority was approved by the Executive Committee of the Council on 10 December 2018.

6.1.41 Clause 1 of the delegation provides that:

6.1.41.1 The purpose of the document is to provide for the delegation of powers and assignment of duties or functions by Council in respect of matters provided for directly in the Higher Education Act, as amended and matters pertaining to the governance and overall management of the university in order to ensure that a common understanding and proper execution of such delegated or assigned functions for the effective functioning of the university is in place.

6.1.41.2 Clause 10 of the Delegations of Authority provides for the approval of temporary (TES), part-time and contract appointments not exceeding twelve (12) months.

6.1.41.3 *Clause 10.8 of the Delegations of Authority provides that:*

Nature of function/ activity	Approver		Initiator of action(s)
<i>Appointment of employees</i>			
...			
<i>Post level 5 to 6</i>	<i>Relevant MANCOM line function manager or EDean: SBL on recommendation of line functions manager</i>		<i>Department: HR</i>



UNISA Policy for Termination of Employment by Employees, approved by Exco of Council on 10 December 2018

- 6.1.42 The definition of “extended retirement” is stated as the option to retire at the end of December of the year in which an employee is to retire.

Case Law

- 6.1.43 In the Labour Court matter of *JW Kruger and the University of South Africa (Case no JS 207/19)*, Prinsloo J confirmed at paragraph 1 that the conditions of employment agreement entered into between UNISA and NEHAWU in 2007 states that “employees wishing to remain in the employ of UNISA beyond their retirement age will be given consideration by the management of UNISA, but such consideration will be based on operational requirements. Such employees will still be required to retire from the institution, but may be re-employed on a contract basis, which contracts will not be extended beyond the age of 65.”
- 6.1.44 The court goes further at paragraph 62, by stating, *in my view, it has been established that UNISA’s agreed retirement age is 65.*
- 6.1.45 In *Manyike v S⁵ Shongwe* AJP stated that what constitutes exceptional circumstances depends on the facts of each case. Reference was made to Thring J in *MV Ais Mamas Seatrans Maritime v Owners, MV Ais Mamas & Another*,⁶ who remarked that:

“What is ordinarily contemplated by the words “exceptional circumstances” is something out of the ordinary and of an unusual nature; something which is

⁵ (527/17) [2017] ZASCA 96 (15 June 2017) at paragraph 3.

⁶ 2002 (6) SA 150 (C) at 156H.



accepted in the sense that the general rule does not apply to it; something uncommon, rare or different . . .”

Analysis

- 6.1.46 The evidence before the Public Protector indicates that Mr Matlala was employed by UNISA since 1989 and, at the time of his retirement, had progressed to the position of Manager: Physical Security Services, Gauteng Sites, at post level P6. Mr Matlala retired from UNISA at the end of December 2023, having attained the age of 65 years in March 2023.
- 6.1.47 Contrary to the complainant’s contention that Mr Matlala’s salary was increased to R1 415 452 upon his appointment on a fixed-term contract, the evidence before the Public Protector obtained from the Oracle Human Resources Information System reveals that Mr Matlala’s total remuneration package was already at R1 415 452 at the end of 2023, when he retired, at post level 6. The evidence further indicates that the remuneration for the fixed-term appointment was an all-inclusive salary of R986 226 per annum.
- 6.1.48 The evidence further indicates that Mr Motebele initiated the process of appointing Mr Matlala on a fixed term contract through a memorandum dated 19 December 2023. The memorandum indicates that it was addressed to the Human Resources Department and was submitted by Mr Motebele who is also listed as the Portfolio Manager. Mr Motebele approved the memorandum in his capacity as the Vice-Principal: Operations and Facilities and the delegated official in terms of Clause 10.8 of the UNISA Delegations of Authority.
- 6.1.49 Notably, the memorandum indicates that Mr Motebele is the initiator and approver of the memorandum, which is contrary to the provisions of Clause 10.8 of the UNISA Delegations of Authority which stipulates that the Human Resources Department is responsible for initiating actions relating to



appointments on fixed-term contracts and the approver is the relevant MANCOM line function manager. Even though Clause 10.8 of the UNISA Delegations of Authority confers approval authority on Mr Motebele, it does not dispense with the requirement for institutional separation of functions, procedural compliance, or HR-led initiation to ensure checks and balances consistent with section 195(1) of the Constitution.

- 6.1.50 Despite the glaring evidence of non-compliance with Clause 10.8 of the UNISA Delegations of Authority and good governance principles, it is concerning that Mr Motebele maintained that he acted correctly in initiating and approving the appointment of Mr Matlala on fixed term contract all by himself.
- 6.1.51 Even the Human Resources Department of UNISA has acknowledged that instances where the requester and the approver is the same person, leads to potential governance risks. Accordingly, it has implemented procedural safeguards to prevent the processing of such memoranda in future.
- 6.1.52 The Public Protector has also observed that the application form for a fixed-term contract appointment, is not signed by the applicant, Mr Matlala, and his qualifications are not listed. The incomplete application form (unsigned, and no qualifications listed) raises procedural concerns in the appointment process of Mr Matlala.
- 6.1.53 Addendum 1 to the 2007 Conditions of Employment Agreement deleted Clause H2 of the 2007 Conditions of Employment section H.2 which states: "... *contracts will not be extended beyond the age 65*" and replaced it with the wording: "*The official retirement age for all employees in Unisa will be 65 years as from 23 November 2012.*" Furthermore Clause 6.7.3 of the Procedure for the Appointment of Contract Employees that states that in exceptional cases with substantive motivation, appointment above the retirement age may be allowed, subject to approval.
- 6.1.54 Evidently, the reasons for appointing Mr Matlala as recorded in the



appointment memorandum is that there was an urgent need for the fixed-term contract to minimise any security breaches that might be encountered by UNISA as well as capacitating the security environment.

6.1.55 In fact, Prof LenkaBula and Mr Motebele, in responding to the allegations, elaborated and indicated that the substantive reasons as required by Clause 6.7.3 of the Procedure for the Appointment of Contract Employees was that Mr Matlala had the necessary experience and that there was a need to safeguard the multiple construction activities at the Sunnyside Campus of UNISA. This was because there were reportedly threats from Construction Mafias invading the construction of the Centre for Excellence for People with Disabilities; the safeguarding of the Assets in the Parameter fence construction and the safeguarding of the Multiple Computer Labs.

6.1.56 The motivation as recorded and as articulated by Prof LenkaBula and Mr Motebele in the response to the Public Protector, are substantive reasons as required by Clause 6.7.3 of the Procedure for the Appointment of Contract Employees.

6.1.57 The appointment memorandum makes no reference to Clause 5.7 of the Procedure for the Appointment of Contract Employees, which states explicitly that an applicant requesting the appointment must confirm that no permanent employee is available to perform the duties or functions. In this case, Mr Matlala was appointed on a fixed term contract on a position that he occupied prior to his retirement.

Conclusion

6.1.58 Having considered the evidence obtained and the applicable legal framework, the Public Protector concludes that there was a governance and procedural shortcoming in the appointment of Mr Matlala on a the fixed-term contract.



- 6.1.59 Mr Motebele initiated as well as approved his own memorandum, which raises questions of impartiality and conflict of interest. This dual role by Mr Motebele, namely initiator and sole approver, bypasses checks and balances, contravening s195(1)(a) and(b) of the Constitutional principles of professional ethics and impartial public administration and Clause 10.8 of the UNISA Delegations of Authority.
- 6.1.60 Even though Mr Motebele had the delegated authority to request for the fixed-term appointment, the incomplete application form (unsigned, and no qualifications listed) raises concerns of governance and maladministration.

7 FINDINGS

Having regard to the evidence, the regulatory framework determining the standard that the functionaries of UNISA should have complied with, the Public Protector makes the following adverse finding:

7.1 **Whether Mr Matlala was irregularly appointed on a fixed-term contract to the position of Manager: Physical Security Services by the functionaries of UNISA, if so, whether such conduct is improper as envisaged in section 182(1)(a) of the Constitution and amounts to maladministration in terms of section 6(5)(a) of the Public Protector Act**

- 7.1.1 The allegation that Mr Matlala was irregularly appointed on a fixed-term contract to the position of Manager: Physical Security Gauteng, Protection Services, **is substantiated.**



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 notice upon conclusion of an investigation where adverse findings are made.
- 8.2 In the matter of the ***Economic Freedom Fighters v Speaker of the National Assembly and Others: Democratic Alliance v Speaker of the National Assembly and Others***, the Constitutional Court per Mogoeng, CJ held that the remedial action taken by the Public Protector has a binding effect.
- 8.3 The Public Protector has taken cognisance of the response from Prof LenkaBula that UNISA accepts the findings of the Public Protector and has already taken steps in compliance with the remedial action by implementing strengthened internal control measures and oversight mechanisms to ensure strict adherence to the institutional prescripts governing appointments. UNISA will also implement enhanced Human Resources compliance verification processes to ensure that all appointment requests are verified for compliance with the Delegations of Authority and applicable procedures prior to approval. Furthermore, UNISA will also strengthen internal governance controls to ensure proper segregation of duties and accountability within the appointment processes.
- 8.4 The steps taken by UNISA above addresses the comment raised by Adv Alberts in his response to the section 7(9) Notice that the “Vice Chancellor must make known to all employees at UNISA the new mechanisms devised to ensure that a repeat of the unlawful conduct or similar conduct do not take place again.”



8.5 Having regard to the evidence, the regulatory framework determining the standards that UNISA should have complied with, and taking into consideration that Mr Matlala is no longer in the employ of UNISA, the Public Protector takes the following remedial action in terms of section 182(1)(c) of the Constitution:

The Vice Chancellor of UNISA

8.5.1 Within **sixty (60) calendar days** from this report and in line with section 30 of the Higher Education Act, put mechanisms in place to ensure compliance with the applicable institutional prescripts.

8.5.2 Within **sixty (60) calendar days** from the date of this report and in line with Clause 2.3 of the UNISA Code of Ethics and Conduct read with the UNISA Disciplinary Code, take appropriate corrective action against Mr Motebele for non-compliance with Clause 10.8 of the UNISA Delegations of Authority.

9 MONITORING

9.1 The Vice-Chancellor must submit action plans to the Public Protector within thirty (30) calendar days from the date of this report on the implementation of the remedial action referred to in paragraph 8 above.

ADV. KHOLEKA GCALEKA
PUBLIC PROTECTOR
REPUBLIC OF SOUTH AFRICA
DATE: 31 MARCH 2026

Assisted by: Ms Ponatshego Mogaladi
Executive Manager: Investigations