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## GOVERNMENT NOTICE

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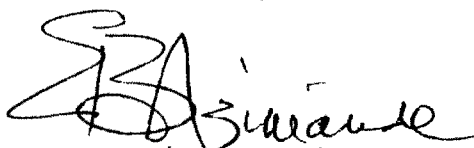
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11 May 2012

#### HIGHER EDUCATION ACT (ACT 101 OF 1997)

#### REPORT OF THE INDEPENDENT ASSESSOR INTO THE AFFAIRS OF VAAL UNIVERSITY OF TECHNOLOGY, APPOINTED BY THE MINISTER OF HIGHER EDUCATION AND TRAINING

I, Bonginkosi Emmanuel Nzimande, MP, Minister of Higher Education and Training, in terms of Section 47 (2) of the Higher Education Act, 1997 (Act No. 101 of 1997), publish the report of Adv. Frederick Mzawuvuke Sikhakhane, the Independent Assessor (appointed under Section 44 of the same Act) on the investigation conducted into the affairs of Vaal University of Technology, as set out in the Schedule.



**Dr Bonginkosi Emmanuel Nzimande, MP**

**Minister of Higher Education and Training**

**Date: 02/05/12**

# **REPORT OF THE INDEPENDENT ASSESSOR**

**THE VAAL UNIVERSITY OF TECHNOLOGY**

**BY**

**ADV. MUZI SIKHAKHANE**

**TABLE OF CONTENTS**

	<b><u>Page</u></b>
1. Introduction	3
2. Purpose of Investigation	3
3. Terms of Reference	3
4. Summary of findings	4
5. Method, Procedure and Approach	8
6. Evidence obtained	11
7. Financial Overview	27
8. The Analysis	31
9. Conclusion/Recommendations	34
10. Annexures	
10.1 Annexure A1	37
10.2 Annexure A2	41
10.3 Annexure A3	44
10.4 Annexure A4	47
10.5 Annexure A5	50

## **1. INTRODUCTION**

- 1.1. On 10 February 2012, by Government Gazette No. 35029 Vol. 560 and in terms of Section 44 (1) (a) of the Higher Education Act 101 of 1997 ("the Act") the Minister of Higher Education and Training, Dr Blade Nzimande ("the Minister") appointed me as an Independent Assessor to conduct an investigation into the affairs of the VAAL UNIVERSITY OF TECHNOLOGY ("VUT or the institution"). A copy of the Gazette is annexed hereto as "Annexure A1".

## **2. PURPOSE OF THE INVESTIGATION**

- 2.1. The overall purpose of the investigation is recorded as to advise the Minister and the University Council on the following:
- 2.1.1 The nature of the problems facing VUT, including those relating to governance, financial management and procurement practices, administration matters, student governance and any other matter that may arise;
- 2.1.2 Measures required to resolve problems identified in all areas; and
- 2.1.3 Clear, short, medium and long-term recommendations.

## **3 TERMS OF REFERENCE**

- 3.1 The precise terms of reference upon which my report is required are to:
- 3.1.1 Conduct a detailed analysis of and provide a report on the current situation of the university governance and executive management structures, in particular their functioning and efficacy, and relationships between various structures and portfolios;
- 3.1.2 Conduct a thorough investigation of the financial policy and procedure of the institution, with a specific focus on internal audit processes, procurement and tender procedures, expenditure on legal fees, donor funding management, the management of NSFAS allocations, and any specific allegations of

financial irregularity that may be brought to the attention of the independent assessor;

3.1.3 Investigate the operations of the Office of the Registrar in relation to the management of academic affairs, registration and certification matters and any other matter that the independent assessor believes warrants investigation;

3.1.4 Investigate the problems in the area of student governance; and

3.1.5 Investigate and report on any matters that, in the opinion of the independent assessor, may impact on the effective functioning of the university, from the analysis of problems relating to governance and management. A copy of the terms of reference is attached hereto as "Annexure A2".

#### **4 SUMMARY OF FINDINGS**

4.1 The appointment of the independent assessor had as its genesis the historical difficulties experienced by VUT since its inception in 2004, the summary of which is as follows:

4.1.1 There is unending conflicts at the level of VUT's Council which is exacerbated by the existence of "factions" within Council and top management;

4.1.2 There is failure by VUT's management to resolve job evaluation issues and Human Resource ("HR") disparities at various levels of the institution;

4.1.3 The allegations of race-based appointments in certain departments and faculties, resulting in the promotion and employment of white candidates to the exclusion of black ones;

4.1.4 The tension between the Vice Chancellor and one of her Deputy Vice Chancellors has resulted in a state of paralysis at the level of top management, making it difficult for management to act decisively on issues affecting the institution;

- 4.1.5 Management has failed to deal with the allegations of corruption and mismanagement of funds, manipulation of procurement processes and non-compliance with procedure; and
- 4.1.6 There is a perception that the legacy of the former Vice Chancellor continues to have a negative impact and influence on the institution and is the major cause of the ongoing conflict within VUT.
- 4.2 The details of the above allegations are contained in various communications to the Minister by different stakeholders. They are also recorded in the letter addressed by the Minister to the Chairman of Council on 16 January 2012, a copy of which is attached hereto as “Annexure A3”.
- 4.3 Having been advised of the Minister’s appointment of an independent assessor the Chairman of Council on 27 January 2012 addressed a letter to the Minister welcoming the Minister’s decision to appoint an independent assessor. A copy of the letter is attached hereto as “Annexure A4”. This was also confirmed by a letter of 7 February 2012 by the Vice Chancellor addressed to the Minister expressing support for the appointment of an independent assessor. A copy of the letter is attached hereto as “Annexure A5”.
- 4.4 The historical background of the institution is relevant and may be summarized as follows:
- 4.4.1 The institution was first established in 1966 and was then called the Vaal Triangle College for Advanced Technical Education. It was later, between 1979 and 2003, renamed the Vaal Triangle Technikon including its satellite campuses. In 2003 the Institutions had about 15 000 enrolled students and this number to date has grown to approximately 21 000 in 2011. I shall return to this growth and the implications thereof later in this report. For present purposes, the following summary suffices:
- 4.4.1.1 The institution comprises four faculties, i.e. Applied and Computer Science, Engineering, Human Sciences and Management Sciences. In order to give effect and support to these academic functions the institution has a four component support structure,

i.e. Vice Chancellor and Principal, Academic Support, Institutional Support and Resources and Planning.

- 4.4.1.2 The institution has its main campus and seat of governance in Vanderbijlpark and three satellite campuses, namely Ekurhuleni, Secunda and Upington.
- 4.4.1.3 The institution has recorded significant growth in student numbers since the period of the mergers or reconfigurations in 2004/2005. The numbers have increased from 15 900 in 2003 to 16 800 in 2008 and 21 000 in 2011. Consequently, and in line with this growth the institution has recorded an increase in student graduations, from 2 100 in 2003 to 2 677 in 2007 and 3116 in 2010.
- 4.4.1.4 The above growth, while constituting a positive development in relation to the general national object, vision and mission of higher education, carries with it new demands and pressures on the institution whose infrastructure and resources were meant to cater for fewer students. It is this challenge that requires governance structures that understand the strategic nature of their functions as well as the imperative of turning these challenges into greater opportunities for the already evident improvement and growth of this institution.
- 4.4.2 As stated above, in 2004 and as a result of the mergers and reconfiguration of other higher education institutions, the institution became known as the Vaal University of Technology. This “reconfiguration” is crucial for present purposes since some of the challenges facing the institution are a consequence of such “reconfiguration” of higher education institutions and the management thereof. There are conspicuous parallels between the challenges facing VUT and what has become common place in the historically black institutions of higher learning in South Africa.
- 4.4.3 At the outset, it is important to state that certain aspects of the institution are still held back by the consequences of the “reconfiguration”, but more

particularly the transition of former Technikons into Universities of Technology. This is also compounded by the fact that the transformation of historically white institutions of apartheid education into institutions of post-apartheid South Africa has its own complexities and dynamics, the details of which are outside the scope of this report. I will return to this aspect after traversing the relevant evidence and some of the facts that emerged from the investigation.

- 4.5 It seems that since its inception in 2004 the institution has experienced a series of governance problems, relating to, *inter alia*, maladministration and allegations of corruption, unfair labour practice and abuse of power. These problems led to the appointment of a three person commission of inquiry in 2006 which was chaired by Mabel M. Jansen S.C., assisted by Prof Ben Khoapa and Mr Seth Radebe.
- 4.6 Although that commission of inquiry precipitated the departure of the then Principal and Vice Chancellor, Prof A.T. Mokadi ("Prof Mokadi"), VUT has continued to experience administrative challenges, some of which are attributable to the legacy of Prof Mokadi and the manner in which his departure was handled. The more strategic and governance challenges, which continuously bubble in the belly of the institution, threaten to compromise and undermine the very purpose for which an institution of this nature exists i.e. the production of knowledge and the creation of a scholarly environment conducive to the production of knowledge that every institution of higher learning requires.
- 4.7 These challenges have often led to sporadic internal conflicts and protests within the institution. They also manifest themselves in unending disputes within the governance structures of the institution. If left unchallenged, disputes of this nature create a state of paralysis within an institution, rendering it a lump of dysfunctionality at the level of strategic governance. Soon, such dysfunctionality may force the institution to inadvertently produce mediocrity at every level. There is already evidence of this decline in the intellectual and strategic output of Council. One has only to peruse the minutes of Council to notice how certain elements in Council have negatively affected the strategic and intellectual pedigree of the whole Council, to the utter frustration of the other well-meaning members of this body.



- 4.8 At the centre of all the challenges facing the institution is the calibre of Council as the highest decision making body of the institution. In fact, as the evidence will amply show, the institution has recorded an upward graph in many aspects of its academic and management functions. The evidence will further show that even the most cynical of those interviewed unanimously agree that the institution has recorded visible improvement and stability under the current management.
- 4.9 Although the issue of Prof Mokadi is not within the scope of this report, the manner in which his departure was handled remains a legacy that troubles certain people within the institution, and is even a sore point to some. Prof Mokadi also made a formal request to make oral submissions to the Independent Assessor. This formal request was accompanied by written submissions, the contents of which have been taken into account. While Prof Mokadi's request to make oral submissions was declined, his written submissions as well as the fact that his era and departure still impact in some way on the current developments at VUT, his issue is briefly considered in this report.
- 4.10 Similarly, I was inundated with written submissions and requests from various staff members who sought to address me on every problem they experience. Their issues ranged from complaints about promotions, rude supervisors and some discrepancies on their pay slips. Unfortunately, and given the time constraints, it was practically impossible to stick to the schedule and still meet each and every person that registered some grievance or some degree of discontent. I am not unsympathetic to these issues. However, the majority of them did not belong to the strategic questions for which the investigation was set up. This report will seek to suggest mechanisms which particular line functions and Human Resource Management of the institution must adopt in order to deal with some of the staff issues that emerged from these submissions.

## **5 METHOD, PROCEDURE AND APPROACH**

- 5.1 The process of conducting an investigation of this nature has no powers of compulsion or the issuing of subpoenas. Invitations were issued in advance to persons and bodies that would be interviewed. Written submissions were also accepted from various stakeholders. Ultimately, more than forty persons were interviewed. Several of these submissions were of a nature that the persons require protection of their identities. It is for this reason that many aspects of the evidence are

not attributed to specified people. Although several persons were requested to appear, others made the request to make oral submissions. As a result of time constraints, not everyone that made such requests was granted the opportunity to make oral submissions.

- 5.2 It is also important to state that the proceedings were not a trial nor a vehicle or mechanism for enquiring into HR or labour disputes within VUT. The task was simply to investigate rigorously the issues raised in the terms of reference. However, in order to gain greater insights into the challenges facing VUT submissions were not limited or confined. The individual persons had some liberty to make broad oral submissions.
- 5.3 The process of conducting the interviews was commenced with a clear objective of achieving deeper insights into the challenges facing VUT and the underlying complexities and causes of such difficulties. Accordingly, the process was rigorous, but did not adopt the format of cross-examination of those interviewed. The object was to get to the bottom of the real problem by means of rigorous engagement with those who appeared to make oral submissions.
- 5.4 The point of departure for this exercise was that institutions of higher learning are serious pillars for knowledge production and the development of society. The approach to solving its problems must be preceded by a thorough and objective analysis of the unique features and dynamics of each institution. A one-size-fits-all approach to dealing with the challenges that confront South Africa's higher education institutions or any institution for that matter, is bound to lead to irremediable damage and consequently intellectual genocide of alarming proportions in a society in transition.
- 5.5 The kernel of the problem facing the institution is whether its governance structures act within the law, in pursuance of the general objectives of higher education, the vision and mission of the institution and in the best interest of knowledge production and students.
- 5.6 It was crucial therefore to make a careful assessment of what works within the institution, what's to be preserved and encouraged to grow and develop, as well as what is to be discarded. In that way one could isolate the areas that are problematic

and deal with them without destroying the stable aspects of VUT as well as the morale of students and staff. One could only do this by having serious conversations with various stakeholders about how they experience the institution and whether there is a sense of growth and transformation.

- 5.7 Because university communities are indeed a microcosm of society, reflecting most of society's dynamics and contradictions, they are never a monolithic group. Their perception of the institution they inhabit is also a function of socialization, history, race and class position, as well as narrow personal and group interests. I was acutely mindful of these issues and sought to approach the investigation as objectively as I could. Fortunately, the Department provided me with the greatest individuals to support me. Ashley Francis, Patricia Watson and I shared the philosophy on the basis of which such a delicate assignment was to be approached. I am highly indebted to them for their assistance and insights. No day passed without our long discussions and analysis of the evidence and what it reflected, as well as how best to do our job without creating a sense of disruption for management.
- 5.8 We were also in agreement that any solution to be adopted must seek to improve rather than demoralize the entire institution. It must take the institution to a higher level. Depending on the facts, we were mindful that a sledge hammer approach may well solve one problem and create many more. Great lessons must be learnt from recent experience in various institutions, particularly the historically black universities. At the centre of post-apartheid institutions of higher learning is the replacement of institutions of oppression that ensured the continued survival of apartheid, with those of liberation that are guided by the ethos of development, excellence and equality. Vaal University of Technology is no exception in this regard. It is for that reason that where signs or prima facie evidence of self-interest, corruption or intellectual indolence are apparent, the recommendations adopt a harsher tone and approach.
- 5.9 This approach was also made possible by the warm and pleasant co-operation and reception from the Chairperson of Council, the Vice Chancellor, Deputy Vice Chancellors, Exco members, staff and students. From the moment we entered the security guards welcomed us with great enthusiasm, the staff in the kitchen took care of us and every class of employee treated us with great respect and enthusiasm.

5.10 The investigation commenced on 27 February 2012 with a two-hour interview with the outgoing chairperson of Council, Dr David Phaho ("Dr Phaho"). On the same day another long interview was held with the Vice Chancellor, Prof Irene N Moutlana ("the Vice Chancellor"). We also met all the three Deputy Vice Chancellors, including Prof Prakash Naidoo ("Prof Naidoo") who is currently suspended. I thought it would be fair to grant him an opportunity to be heard regardless of his suspension. On the same basis, Mr Stone Lophoko was invited to make oral submissions. The merits or demerits of their suspensions are not within the scope of this report, and are already before other forums for labour disputes.

5.11 One of the most enlightening experiences was the impromptu interviews with workers and students on the premises. These interviews were not pre-arranged. We simply took a walk around the campus and had long discussions with cleaners, students and security guards and general staff about the institution and their levels of confidence in the current administration. The insights and analysis of the Student Representative Council ("SRC") and the National Education, Health and Allied Workers' Union ("NEHAWU") on the difficulties facing VUT revealed great maturity and left one with great optimism about the role of these two bodies within VUT.

5.12 At no point during the course of the proceedings were we ever made to feel uncomfortable or questioned in any manner whatsoever. Even the members of Council who may have had some reservations about the appointment of an assessor cooperated with the process. However, because of the pervasive mistrust within Council and top management, some evidence was presented on the basis of confidentiality. To a greater extent, I try in this report to balance the duty to reveal the nature of the evidence without unduly attacking individuals or revealing the identities of those who expressed views on the basis of confidentiality. This is a difficult balance to strike since this report must assist the Minister to understand the nature and extent of the challenges facing VUT.

## **6 EVIDENCE OBTAINED**

6.1 The views expressed below emerged from the interviews and are not my personal views. They were expressed in the spirit of openness and cooperation with the process. They represent no malice on my part and hopefully on the part of those who expressed them. Although many views were expressed about certain individuals, it

would be remiss to simply attach all statements made to individuals. Where I conceal the identities of the individuals who expressed certain views, I do so in order not to undermine the very objective of creating a good working relationship between stakeholders. There is no need to add to the toxicity of the environment. If anything, this process must seek to build relations rather than destroy them. At the outset, it is important to summarize the observations that arise from the majority of those interviewed. In making this summary I do not wish to be understood, at this stage, to be expressing my views or questioning the integrity of individuals mentioned. The evidence, the details of which follow later in this report, may be summarized as follows:

- 6.1.1 Council is affected by the existence of a "faction" or "clique" that does not function in the interest of the institution, but seeks to pursue its vested interests using their membership in Council;
- 6.1.2 This "faction" or "clique", which was identified as a powerful yet destructive component within Council has rendered Council completely dysfunctional. As a result, Council often places those well-meaning members in an invidious position of either taking sides or maintaining their golden silence;
- 6.1.3 As currently constituted, Council is devoid of the requisite skill, will and intellectual pedigree to meaningfully advance the strategic and leadership function it ought to be performing. Instead, it has been turned into a cut throat environment characterized by personality clashes and narrow interests;
- 6.1.4 Rumour and the peddling of lies and half-truths have become the hallmarks of the style of operation, with emails and counter-emails circulated to publish malicious innuendos about others. The environment is unsuitable for the primary object of an institution of higher learning;
- 6.1.5 Although the Vice Chancellor has made a significant improvement and taken the institution to greater heights at the level of stability, there is a perception that she has been indecisive in certain aspects. This notwithstanding, the majority feel that VUT is much better with her than without her;

- 6.1.6 There are still disparities at the level of HR that require attention. While the policies are in place, their pace of implementation has been slow. This manifests itself in the perception that white persons still get preference in respect of promotions and employment in certain departments of the institution;
- 6.1.7 The manner in which the issue of Prof Mokadi was handled remains divisive within VUT. While there are still remnants of his supporters, even those that do not support him *per se* feel that the manner in which his dismissal was handled was vindictive and unjust;
- 6.1.8 From the tone of the minutes of Council meeting it seems that there are individual members of Council whose understanding of the strategic issues to be handled by Council are questionable and unsuitable for the strategic tasks of a university Council. This lack of understanding often manifests in belligerence, antagonism and factionalist behaviour;
- 6.1.9 The relationship between the Vice Chancellor and the Deputy Vice-Chancellor: Finance lacks the requisite trust for them to work together. In this regard, the overwhelming evidence attributes the problem to the "destructive and devious" manner in which the two engage with each other even in the presence of people they are supposed to lead;
- 6.1.10 The resignations of members of Council like Mr Mangena, was attributable to the frustrations caused by the manner in which some "clique" had turned Council into a political forum almost abdicating the entirety of its strategic functions;
- 6.1.11 There are members of Council whose continued membership is viewed to be in violation of the Statute, either because they have stayed beyond the prescribed term or the formal existence of the very constituencies they ought to be representing on Council is questionable;
- 6.1.12 The representation of Alumni in the Council by the former SRC member is a point of concern to the SRC in that the basis for such representation remains unclear;

- 6.1.13 In spite of the governance problems the institution is financially sound and stable. The academic enterprise has not been compromised as yet;
- 6.1.14 There are issues of over-expenditure that require attention. The most serious problem is prima facie evidence of inconsistencies in the administration of residences. In particular, the invoices and contract between the institution and a company called Prellex 10 CC (Prellex); and
- 6.1.15 Lastly, the Statute needs immediate revision as the old Statute is no longer appropriate for the composition of Council. Certain members of Council have been on Council beyond their permissible term. Others, in particular the Alumni representation, sit on Council when the formal and structural existence of the constituency they ought to represent is questionable and unclear.
- 6.2 Apart from the interviews held with general staff and students on an impromptu and informal basis, the following persons and structures were formally interviewed:
- 6.2.1 Members of Council;
- 6.2.2 Members of Exco (senior management);
- 6.2.3 Labour unions;
- 6.2.4 Student Representative Council; and
- 6.2.5 Members of staff
- 6.3 The following views were expressed by Members of Council.
- 6.3.1 There are still people within the Institution who have issues with the manner in which the former Vice-Chancellor left the institution. This viewpoint comes from those who supported him, as well as those whose only issue is the "vindictive" nature in which his departure was handled;
- 6.3.2 Cliques have emerged within Council and this has hindered Council's capacity to deal with its functions;

- 6.3.3 There is just a chronic lack of maturity at the level of Council that other members, who are serious about their work, have become fatigued by, specifically unending bickering and narrow personal agendas. While the Ministerial appointments to Council are top class individuals, the level of engagement at the level of Council is very poor and this has resulted in a state of mediocrity that repels other members of Council from making a serious and strategic contribution. There are members on Council who should not be anywhere near a university structure. In its current state and constitution Council has no intellectual capacity to perform its function or to be of any strategic assistance to the management and direction of the institution.
- 6.3.4 Council is not incompetent, but there are elements within it whose level of engagement is just far below the level required for a university Council. As a result even simple issues like the Minister's appointment of an assessor took four hours to debate;
- 6.3.5 This has frustrated certain members of Council, who have been left with no choice but to resign and seek to contribute elsewhere in society rather than waste their time with mundane battles within the Council of VUT;
- 6.3.6 Council is actually divided and this has negatively affected the quality of engagement;
- 6.3.7 There is growing antagonism towards the current Vice Chancellor by certain members of Council who single-mindedly seek her ousting. This agenda has dominated the atmosphere within Council leading to the breakdown of trust between Council and management and within management itself;
- 6.3.8 The Vice Chancellor and the Chairperson of Council could have been more decisive on certain issues. There is definitely room for improvement within management and how things are done. However, the appointment of the current Vice Chancellor brought remarkable improvements to the stability of the institution;
- 6.3.9 There is clear tension between certain members of Council and the Vice Chancellor. The appointment of the Task Team to investigate over-



expenditure in respect of the appointment of MPL Capital (MPL) is one symptom of this antipathy towards the Vice Chancellor;

6.3.10 In some areas there are shortcomings in internal financial controls. There have been deviations from budgets which could have been handled better.

6.3.11 There is also no mechanism to ensure that members of Council declare their interests. Members do not properly declare their interests or conflict of interests;

6.3.12 There is no internal audit unit, apart from the financial section itself, which runs the finances of the institution;

6.3.13 Unions and students get drawn into unnecessary conflicts and interests of certain individuals within Council;

6.3.14 There is no internal audit unit, apart from the financial section itself, which runs the finances of the institution;

6.4 The following views were expressed by members of senior management.

6.4.1 One of the challenges of the institution is the fact that it was designed for about 15 000 students, but has had to accommodate approximately 21 000 students. This has a strain on the financial and other resources of the institution;

6.4.2 The finances of the institution are sound and it continues to pay for its services, salaries and day-to-day activities without difficulty;

6.4.3 There was a deep level of dysfunctionality and non-productivity at the time when the Vice-chancellor joined the institution. Many changes had to be made and this has in some way created certain difficulties for certain people that were directly affected by some of those changes;

6.4.4 The Vice Chancellor sought to develop a clear vision for the institution. In this regard, she inquired about the best service provider in the area of institutions of higher learning. MPL was discovered through this process. The Vice

Chancellor first engaged with MPL in order to brief it about the areas that she sought assistance on. Later, the then Chair of Council advised that the appointment of a service provider should go on tender;

- 6.4.5 Everyone agreed that MPL put up the best proposal. It was accordingly appointed. A report by the independent Internal Auditors, PriceWaterhouseCoopers (PWC), states that the over-expenditure was justified;
- 6.4.6 There is a feeling that the over-expenditure on the library project and MPL are serious matters;
- 6.4.7 Some members of the management indicated that the DVC: Finance is very antagonistic towards the Vice Chancellor and this creates an unhealthy and hostile environment within management;
- 6.4.8 Some members of the management indicated that the DVC: Finance is very antagonistic towards the Vice Chancellor and this creates an unhealthy and hostile environment within management;
- 6.4.9 Students were used as a power base for certain people and this has created divisions in the institution;
- 6.4.10 A stop was put to the official abuse of resources by SRC members who in the past had more offices than academic staff, were entitled to the use of resources like cars and the purchasing of designer clothing items for themselves;
- 6.4.11 Promotion used to happen without due regard to competence. In some limited way this still happens but there are clear HR policies that must be implemented better;
- 6.4.12 Students did not have residences in the past and this has been changed as there are now accredited housing policies. There was also unnecessary expenditure, with SRC members being given cars that they took away from the institution. This unnecessary expenditure was cut down and done away with by the current Vice Chancellor;

- 6.4.13 The problem with Council is simply a disruptive minority which has derailed progress and frustrated other members. Outside politics tends to drive their participation in Council;
- 6.4.14 The academic enterprise has improved and an affirming environment has been created;
- 6.4.15 The current Council is disruptive and driven by petty and narrow personal agendas rather than the interests of the institution. This is not caused by the majority of members of Council, but a few elements that frustrate all the strategic discussions. The SRC and NEHAWU as well as certain members of Council have made great contributions to Council, but are constantly frustrated by a few elements who use Council for their own personal agendas;
- 6.4.16 As a result of the current Statute and the composition of Council, these elements lobby themselves into Council in order to protect their own interests and agendas;
- 6.4.17 The level of bickering at Council has frustrated everyone and rendered Council unworkable and ineffective except for the petty battles between members. Certain members of Council do not have an idea of what a university Council is and what its functions are;
- 6.4.18 This clique is determined to create a sense of dysfunctionality within the institution;
- 6.4.19 Ethnicity or regionalism remain a serious challenge for any Vice Chancellor who will come from outside to lead the institution;
- 6.4.20 The relationship between the DVC: Finance and the Vice Chancellor is not workable. It lacks the requisite trust and is disrespectful and destructive, making it difficult for management to work as a team. In the absence of the DVC: Finance it was felt that collegiality and trust is restored. The continued double representation of NEHAWU is destructive and unlawful;

- 6.4.21 The SRC raised the issue of the role and status of the representative of Alumni on Council. They questioned the representative status and the contribution as opportunistic and destructive. More clarity on the Convocation and Alumni is required;
- 6.4.22 A new structure to govern the institution must be established with immediate effect in order to safeguard the interests of students. It was stated that for as long as the Statute remains as it is Council will be used for narrow personal and political agendas that have nothing to do with the primary objective of a university.
- 6.4.23 It was also stated that the Statute that governs the composition of Council is old and outdated. It was felt that some external members stay on after the end of their term. There is some contradiction between the old Statute and the Act;
- 6.4.24 It was also disputed that the Council tends to discuss operational issues. There were opinions that Council is managed very well. The problems only started when the issue of the Vice Chancellor's term of office or extension of the contract was discussed;
- 6.4.25 It was stated that Council has allowed petty issues and personality differences to divert it from its core function of giving strategic leadership;
- 6.4.26 The system of registration is relatively good and stable. Where there has been a problem it was identified and solved immediately;
- 6.4.27 The incidents of cheating were dealt with immediately whenever they surfaced;
- 6.5 The following views were expressed by members of the Student Representative Council (SRC). From the evidence and interviews with the SRC the following issues emerged.
- 6.5.1 The "factions" within Council are the most serious cause of the difficulties faced by VUT. In this regard it was presented that there is a clear "faction"

within Council whose participation seems to be motivated by narrow personal power and business agendas rather than the interests of the students;

- 6.5.2 Members of this “faction” want nothing else but to oust the current Vice Chancellor. Council is used for lobbies and interests that are not for the benefit of the institution;
- 6.5.3 The existence of these “childish” divisions has compromised the interests of the students. The discussions are petty and driven by this destructive and narrow agenda;
- 6.5.4 There are members of Council whose continued membership is unlawful since their tenure has long expired but they continue to serve. In this regard, the Deputy Chairperson was specifically mentioned in that he has been on Council for approximately seven years. It was also presented that he is from the satellite campus, Secunda, and his continued membership unfairly deprives other satellite campuses of representation and making a contribution to the life and governance of VUT;
- 6.5.5 Constructive members of Council have resigned in frustration at the poor level of engagement caused by the existence of the faction they refer to;
- 6.5.6 The manner in which the extension of the term of office of the current Vice Chancellor was dealt with was vindictive and unhelpful. It did not take into account the fact that there has been an improvement since her arrival;
- 6.5.7 It is this “faction” that appointed itself as the Task Team<sup>1</sup> to investigate an issue of “over-expenditure” in the appointment of a company called MPL, which was appointed to develop a strategy, vision and mission for VUT. Some members of these “factions” hold meetings outside the institution.
- 6.5.8 It was stated that the individuals that constitute this faction are a clear lobby within Council and their poor level of engagement has compromised the intellectual and strategic nature of Council and its ability to function at a level

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<sup>1</sup> The Deputy Chairperson of Council and member of the Task team, at my request furnished me with a copy of the report of this Task Team.

expected of an academic institution. Their only object is the removal of the current Vice Chancellor at all costs;

6.5.9 It was also stated that while there has been great improvement since the current Vice Chancellor took over it would enhance the capacity of VUT if she was more decisive and hands-on. Her lack of decisiveness in dealing with certain issues was of concern;

6.5.10 The manner in which the previous Vice-Chancellor was dismissed was inappropriate and unjust. This view was held not as a form of support for the previous Vice-Chancellor, but as caution that the manner in which his pension was withheld was unjust and vindictive<sup>2</sup>; The continued double representation of NEHAWU is destructive and unlawful;

6.5.11 The SRC raised the issue of the role and status of the representative of Alumni on Council. They questioned the representative's status and the contribution as opportunistic and destructive. More clarity on the Convocation and Alumni is required;

6.5.12 The role of the DVC: Finance in the institution is destructive and this requires attention. It was presented that his continued and clear collaboration with the "faction" that constituted the Task Team is unhelpful. The current Vice Chancellor and the DVC: Finance cannot operate in the same environment. There is no trust between them and this is obvious to everyone;

6.5.13 The existence of these divisions tends to force people to take sides and forget the strategic debates about the future and governance of VUT. It was stated, however, that VUT is a stable environment for the students. If the divisions at the level of Council can be eliminated immediately, VUT will be a great institution; and

6.5.14 A new structure to govern the institution must be established with immediate effect in order to safeguard the interests of students. It was stated that for as long as the Statute remains as it is Council will be used for narrow personal

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<sup>2</sup> The issue of the previous Vice-Chancellor is a matter that is raised by a wide range of people. There is a general feeling that certain elements within management used the withholding of his pension in order to settle their own personal scores with him. This is dealt with as a separate issue in this report.

and political agendas that have nothing to do with the primary objective of a university.

6.6 The following views were expressed by the unions, specifically NEHAWU and NTEU:

6.6.1 The institution has transformed from being a white only institution to being a non-racial one, with 95% black students;

6.6.2 There was a lot of power struggles before the current Vice Chancellor was appointed;

6.6.3 Transformation was undertaken in a polarizing manner and the campus community was divided;

6.6.4 The first years of the current Vice Chancellor's appointment were very positive. She engaged with all unions;

6.6.5 However, current leadership is not giving proper guidance. There is unhappiness with the manner in which the Deputy Vice-Chancellor, Academic runs things;

6.6.6 The current Vice Chancellor has made a great deal of progress from where the institution was when she arrived. Lines of communication are better under her leadership;

6.6.7 Labour used to be victimized before she came;

6.6.8 There is still preferential treatment for NEHAWU members. Promotions are given to NEHAWU members rather than NTEU members;

6.6.9 The institution was designed for 15 000 students but has to cater for about 21 000 students who are currently registered;

6.6.10 There is no strategic guidance from Council. It is dysfunctional and deals with personal issues and vested interests of individuals;

6.6.11 The crisis and conflict are located at top executive management and Council of the institution. As a result members and staff find themselves in the

invidious position of having to take sides when “factions” are at war with each other;

6.6.12 Council and the Institutional Forum have become contested terrains for battles that have very little to do with the strategic direction and governance of the institution;

6.6.13 Council nominations remain irregular and Council members have vested interests, thus compromising the integrity of the institution and hampering the proper functioning of Council as a whole;

6.6.14 The Deputy Chairperson was not supposed to be re-elected. There is inconsistency in the application of the Statute;

6.6.15 The manner in which the Task Team appointed itself is suspicious. It is also suspicious why the Task Team only selected the MPL over-expenditure as the subject of its investigation, leaving untouched more serious issues like student residences, the changing of the security company, the existence of cabals within Council, the cafeteria service provider as well as the racial disparities in salaries;

6.6.16 Cabals and clique on Council and management compromise everyone involved, forcing people to take sides;

6.6.17 The issues raised in the Jansen Report are relevant in that its recommendations were not implemented. There was no systemic intervention. Instead, the intervention targeted the individual, Prof Mokadi, instead of dealing with his legacy and systemic failures;

6.6.18 The DVC: Finance is the only survivor from the previous era and his continued role is not a very constructive one to the institution. He seems to have more power than other members of the rectorate and the perception exists that he uses this power in a manner that compromises the integrity of the institution and his colleagues. He is the only member of the rectorate with a permanent post and this has a negative impact on the morale of the



institution. There is a general feeling that if you are not in agreement with him your opportunities of career advancement may be limited;

6.6.19 There is a "faction" on Council that is driving other resourceful members away from Council. This "faction" does not have the interests of the institution at heart;

6.6.20 Council nominations are irregular and the same members of Council serve for more terms than the Statute permits. The Deputy Chairperson of Council has been on Council for seven years and his continued membership is not lawful. Nor does it auger well for good governance within the institution;

6.6.21 There are suspicions that certain members of Council seek to do business with the institution, hence their interference with operational issues of management;

6.6.22 There is a need to investigate the procurement procedures, the tenders that are in line to be issued, appointments to positions, disparities in salaries and the manner in which black lecturers and staff are promoted or not, in their respective departments;

6.6.23 There is also a need to look into the issue of medical aid for general staff and to investigate the renewal of BestMed as the only medical aid service provider;

6.6.24 White lecturers have a better chance of promotion within the faculties than their black counterparts; and

6.6.25 Composition of Council is problematic since it allows for the representation of persons without the requisite skill or will to assist the university to take strategic decisions. There is a great need to revise the current Statute to avoid cabals and agenda pushing on Council.

6.7 The following are views from members of staff from various functions and appointment levels.

- 6.7.1 The current Vice Chancellor is a mother figure who has stabilized the institution;
- 6.7.2 Ordinary workers personally knew the Vice Chancellor and felt that under her the institution is theirs and that she respects all classes of workers. The cleaning ladies in some buildings felt that the current Vice Chancellor does not discriminate between different classes and races of workers;
- 6.7.3 Some old staff members who have been there for decades are disillusioned with the changes that have occurred. In particular they are unhappy with the doing away with certain campuses and faculties;
- 6.7.4 Workers, in particular black workers, have a better chance of promotions and job opportunity under the current administration than they did before;
- 6.7.5 Students feel that the institution belongs to them as their home. The approach of the Vice Chancellor makes them feel comfortable within the institution. Some feel that certain student residences require improvement as some students live like animals in dilapidated environments;
- 6.7.6 Security guards feel that the environment is better under the current management in that they now have shelters. Although these are not sufficient, they seemed to appreciate the effort by management;
- 6.7.7 In its current state and constitution, Council has no intellectual capacity to perform its function or to be of any strategic assistance to the management and direction of the institution;
- 6.7.8 The academic enterprise has improved and an affirming environment has been created by the current-Vice-Chancellor;
- 6.7.9 The University's Statute must be renewed;
- 6.7.10 The relationship between the Vice-Chancellor and DVC: Finance has broken down and negatively impacts the institution, and this is an obstacle in the institution;

- 6.7.11 The DVC: Finance seemed to object to efforts of transformation that would change the structure of management in a manner that removes certain functions from him;
- 6.7.12 Students and staff are often drawn into the battles of top management and the Council;
- 6.7.13 Before the Vice-Chancellor arrived fraud and corruption in the institution was rife, but these have been addressed;
- 6.7.14 There are claims of mismanagement with regards to student residences and the conduct of Prellex;
- 6.7.15 The performance of the institution is sound. The problem is only at the top and even there the differences are not of a strategic nature. Council still comprises people who are still stuck in the past;
- 6.7.16 Top management was advised at some point to go away and hold a workshop in order to sort out their differences;
- 6.7.17 Council should have renewed her contract for another five years rather than two years. Their decision to limit the term to two years without much rationale has rattled her a great deal;
- 6.7.18 HR policies are excellent but there have been problems in regard to their implementation of policies;
- 6.7.19 At the level of the academic area, the positions are not filled timeously and this creates a burden on the existing lecturers. In this regard, there is still an issue about promotions. There is no succession plan in the area of management in different departments;
- 6.7.20 The differences between some staff members and Vice Chancellor emerged when the Vice Chancellor stopped the end of year buying of groceries for employees, introducing a different incentive structure; and

6.7.21 There is just lack of understanding of the role of a university Council by certain members of Council. More importantly, the issue of vested interests and external politics has compromised the functioning of Council.

## **7 FINANCIAL OVERVIEW**

7.1 The majority of institutions that have experienced serious challenges begin with a decline in their financial management. In order to know whether the affairs of the institution have been compromised, it was critical to make an assessment of the financial situation of the institution. Accordingly, we conducted an assessment of the financial stability, policies and procedures of VUT with specific focus on financial profitability, financial structure, internal control processes, financial aid and procurement processes.

7.2 Our assessment included interviews and discussions with the key stakeholders of the institution with specific financial detail focused on the Executive Director of Finance, an analysis of financial reports, review of the minutes of the Finance Committee meetings of 2011, review of the minutes of the Audit Committee meetings of 2011 as well as the review of specifically identified tenders and awarded contracts.

### **7.3 Financial Management:**

7.3.1 Having perused all of VUT's financial reports and financial statements, it is plain that in spite of certain challenges at governance and other levels, VUT is in an extremely stable financial position. Financial profitability has experienced steady growth over the past six years whilst its financial structure is strong and robust, attached hereto as "**Annexure A6**". The institution administers a competent financial management system with good corporate governance policies in place at most levels. VUT has an excellent current ratio, meaning that it is able to adequately pay all of its current liabilities as and when they become due and payable. It is pleasing to note that its operational costs could be covered for at least six months without the receipt of any form of funding or income. Furthermore, the institution's post-employment liabilities of R203 778 478 are adequately catered for in its

financial structure. R792 498 953 in cash and cash equivalents were available at the end of December 2011.

7.3.2 Despite good governance policies and structures in place, the credentials of certain of the Finance and Audit Committee members are questionable. The weakness of certain members has a direct impact on the effectiveness of these committees. Financial management is strong to the extent that the institution operates within its budgetary framework and that the correct authority levels are in place, however there are certain departments where the signatories do not perform the necessary checks to ensure prudent expenditure. For example, there appears to be inadequate management of the student residential leases (despite a quarterly comment in the Finance Committee commending student residence management of their continuous effort to improve residences) where signed contracts with a specific entity viz. Prellex could be subjected to potential mismanagement. In this instance there is evidence of fraud where students are allocated more than one bed in a residence and charged accordingly by Prellex, contracts have been changed illegally attached hereto as “**Annexure A7**”, payments are authorised despite these irregularities and there is an accusation that R200 000 (two hundred thousand rand) was paid to one of the institution’s senior members of staff. Other contracts such as catering and security and general expenditure within the student residential management portfolio may also be subjected to such mismanagement.

7.3.3 The Vice Chancellor has indicated that documentation was not in safekeeping whilst in her office and there have been various instances where documentation has disappeared. There is a sense of paranoia in the Vice Chancellor’s office around security of documentation. Also, on 24 November 2011 there was an attempted break-in into the Finance Department - the reason for the break-in is unknown. This is highlighted merely because of the air of instability within the top structures and its inherent current divide which has caused great discomfort amongst key stakeholders.

#### 7.4 Procurement Policy:

7.4.1 We performed a basic review of the policy documents pertaining to procurement, contracts and tenders as well a review of all tenders awarded during the 2011 financial year attached hereto as “Annexure A8”

7.4.2 Whilst the content of the policy is sound in terms of good governance principles, it should be noted that the policy needs to be reviewed every two years – this review became due during 2011 and has not as yet been initiated. Our interviews and reviews have highlighted that the execution of the policy appears largely to be adhered to, but in its entirety, is not consistent throughout the institution. As referred to in section 4.4 above we believe that student residence management may be inconsistent in its application of the policy and may require further review.

7.4.3 Conflict of Interest Register is not completed by Council members at all nor is disclosure of donations and gifts received by Council members required.

#### 7.5 Financial Aid - NSFAS:

7.5.1 The Financial Aid Office consist of activities from two sections viz. NSFAS and Bursaries. We interviewed the Director of Finance as well as the Manager of Financial Aid at VUT with specific focus on NSFAS. We obtained the necessary confidence that financial aid was being well managed and that the interests of deserving students were of the highest priority. It is apparent that there is a consistent shortfall of demand against availability of funds in the region of approximately R40 million annually. In 2011 the allocation from NSFAS was R145 679 951 (one hundred and forty five million six hundred and seventy nine thousand nine hundred and fifty one rand). NSFAS allocated study loans to 5 743 students under the DE/General category. VUT claimed the R115 696 125 allocated in this category in 2011. This year the number of disabled students increased to 22 from 8 funded last year and an amount of R602 061 was claimed for these students. Distribution of 2012 NSFAS application forms was finalised towards the end of October 2011. VUT received 7 491 applications from both new and senior students.

7.5.2 There is no reason to believe that the financial aid office requires any further investigation.

## 7.6 Committees

7.6.1 **Finance Committee:** We reviewed the minutes of 23 May 2011, 24 August 2011 and 2 November 2011. The scheduled meeting of 15 February 2012 has not been held as at 2 March 2012. The minute taking appears adequate and most strategic aspects of finance seem to be covered. The student residence management is continuously being commended for successfully managing the residences but we have reason to believe that this aspect of the institution needs further investigation. The leasing of the student residences, in particular, is not being discussed despite a R25 million outflow annually for this line item attached hereto as “Annexure A9”;

7.6.2 The performance of the Finance Committee, however, is not reviewed annually which in light of its critical strategic importance to the institution Council should be assured of its continued performance;

7.6.3 **Audit Committee:** We reviewed the minutes of 11 May 2011, 2 August 2011 and 19 October 2011. The scheduled meeting of 2 February 2012 has not been held as at 2 March 2012. PriceWaterhouseCoopers (PWC) are the institution's independent external auditors and have issued an unqualified audit report for the year ended 31 December 2010. The summary of the audit for the 2011 year under review were insignificant. Deloitte is the institution's independent internal auditors and have performed a variety of different audits during the year under review. Despite an array of issues raised none were of a significant nature;

7.6.4 Council, at its meeting of 17 November 2011, raised concern on external audit findings on over expenditure on two projects, viz. MPL and the library. This resulted in Council appointing a Task Team to investigate the allegations. Three Council members formed the Task Team. PWC gave an independent opinion that there was no evidence of corruption but a mere over-expenditure, the approval of which was authorised accordingly.

7.6.5 Other than an Internal Audit Coverage Plan of the Internal Auditors, I was unable to find an Audit Committee Risk Strategy to assess risk attributable to the institution. The performance of the Audit Committee is, however, not reviewed annually which, in light of its critical strategic importance to the institution, Council should be assured of its continued performance.

## 7.7 General Issues

7.7.1 The university is structurally designed for 15,000 (fifteen thousand) students but the 2011 intake was approximately 21,000 (twenty one thousand). The ideal target of management is 18,000 (eighteen thousand) but the institution would still be under capacitated to cope with this overflow. The university faces challenges in that it wishes to provide the continuous quality education to all the deserving students, present and future, as well as to improve current student success and graduation rates. Such challenges require significant investment in infrastructure as well as educational programmes and human capital. The institution cannot address the current backlog in infrastructure from its own funding despite it having adequate liquid cash. Despite this positive cash position, prudent financial control and discipline would place the institution in a financial predicament by investing in this shortfall.

7.7.2 The institution is well short of its benchmark target for student residence accommodation.

## 8 THE ANALYSIS

8.1 The following emerges from the above evidence:

8.1.1 The challenge facing VUT is located within Council in that the structure has been rendered incapable of providing strategic leadership to the institution. It is used for sectarian, petty, operational and political issues rather than the purpose for which a university Council is established;

8.1.2 Despite this, the finances of the institution are sound and well managed. However, there is a need to establish an in-house internal audit division;



- 8.1.3 The history of the institution and the departure of Prof Mokadi still loom large within the institution. While many people feel that the departure of Prof Mokadi was a good step, there is a perception that the withholding of his pension was unjust and unfair. This must be revisited in order to make a clean break with the past. If the withholding of Prof Mokadi's pension was done for ulterior purpose, it will continue to haunt the institution;
- 8.1.4 There is consensus that the current Vice Chancellor has made significant improvements in the institution. The general criticism is that there has been some lack of decisiveness at some points;
- 8.1.5 NSFAS seems to operate fairly well, experiencing the usual problems of insufficient funds in the face of increasing student numbers. No evidence of corruption was detected in this area of the institution. There were submissions that there is some delay in the communication between the NSFAS office and the applicants.
- 8.1.6 The decision by certain members of Council to form a Task Team to investigate the issue of MPL seems ill-conceived and driven largely by the antipathy of certain members towards the Vice Chancellor. A more independent Task Team should have been established if there was any need for such intervention. If this issue warrants any investigation, the new Council once appointed must discuss it and determine whether it warrants any further independent inquiry;
- 8.1.7 The current Statute on the basis of which Council is composed is old and has led to the current problems experienced by Council;
- 8.1.8 The biggest challenge for the institution is the manner in which Council is composed. It lacks the requisite skills and strategic capacity. There is a problem of vested interests and narrow political agendas which have been brought into Council;

- 8.1.9 Student governance seems to be in good hands. The current SRC seems on top of the issues. Their analysis, together with that of NEHAWU was probably the most insightful.
- 8.1.10 Bar the problems at the level of Council, VUT is a stable institution with sound, healthy financial management;
- 8.1.11 There is a need to look into the role of Deputy Vice-Chancellor: Finance and his relationship with the Vice Chancellor and other members of top management. Without passing judgment on him, there seems to be some level of consensus that his continued presence in the institution is no longer constructive or at least his relationship with the Vice Chancellor requires serious attention. His engagement and lack of respect for his colleagues is felt and perceived by the majority of those that made oral submissions. However, any mechanism for dealing with this issue must be done with utmost respect for his rights.
- 8.1.12 Council needs to function in a manner that attracts best talent to it rather than frustrate well-meaning outside members of Council;
- 8.1.13 There is a need to do away with certain components or categories of representation to Council. The representation of parents, municipality, outside labour, Alumni and other satellite campuses, requires drastic review. Accordingly, there is a need to approve a new Statute with as soon as possible;
- 8.1.14 There is a great need to establish proper channels of communication between the institution and the Department, in order to avoid the dissemination of correspondence from any person between these two separate points;
- 8.1.15 Lastly, it seems that the current Vice Chancellor brings to the institution fresh thinking and strategic direction. She is also much loved and trusted by the majority of key stakeholders within the institution. It seems therefore that her continued stay and security of her contract is critical. Where she may have failed, it is how to deal with a hostile environment. She may have left the issue of her relationship with the Deputy Vice-Chancellor: Finance too late. This has led to perceptions that as soon as her contract was up for review,

she panicked and started acting irrationally. This may have been her only shortcoming. On the whole the current Vice Chancellor is a great asset to the institution and any solution that excludes her is unlikely to achieve stability for VUT.

- 8.2 With all these challenges, it is crucial to bear in mind that VUT executes its academic enterprise in a manner that should not be unnecessarily disrupted. The academic environment seems stable and conducive to learning and teaching. The problem at the level of Council and, to a limited extent top management, is what requires intervention.

## **9 CONCLUSION / RECOMMENDATIONS**

- 9.1 In my assessment the most suitable option to restore good governance at the Vaal University of Technology under the present circumstances, is that a new Council must be constituted and that the administration should be left in the hands of the current Vice Chancellor and her team;

- 9.2 Therefore I recommend that the Minister:

9.2.1 dissolve the current Council and its committees with immediate effect

9.2.2 appoint an Administrator for as short a time as possible to perform the functions of Council until a new council is properly constituted.

- 9.3 The Administrator should be requested to:

9.3.1 recall the new Statute of the Vaal University of Technology that has already been submitted to the Department for approval, and review the statute making certain changes to ensure that the current problems of governance do not persist.

9.3.2 resubmit the statute to the department for approval and reconstitute a new Council as soon as possible thereafter in terms of a new approved Statute;

- 9.4 In addition the Administrator should be requested to:

- 9.4.1 set new performance targets for the current Vice Chancellor and Management regarding strategic transformation milestones for the institution as well as Human Resource related issues;
  - 9.4.2 revisit Council's decision not to extend the Vice Chancellor's contract for a full five year term;
  - 9.4.3 establish a special independent forensic audit to investigate procurement and management in respect of student residences of the institution, in particular the services rendered by a company called Prellex; the forensic audit should pay special reference to (1) residential leases, (2) contracts, (3) management integrity;
  - 9.4.4 suspend the investigation conducted by the Task Team and investigate the very decision to establish the Task Team in order to determine whether it was done in good or bad faith. If necessary, set up a new independent investigation into the issue of MPL in order to settle it once and for all. However, it is important that investigations of this nature are genuinely independent from those personally involved or interested. The report of PWC in this regard must also be considered;
  - 9.4.5 consider seriously mechanisms for resolving the relationship between the DVC: Finance and the current Vice Chancellor;
  - 9.4.6 Ensure that HR produces a document clarifying job descriptions, job profiles, post levels, remuneration and the implementation of equity within the institution.
- 9.5 In respect of Finance the following recommendations are made:
- 9.5.1 Audit and Finance Committees should be dissolved and re-constituted once the new Council is in place based on required skill levels and integrity;
  - 9.5.2 A Risk Management Strategy should be formulated by the new Council;

- 9.5.3 Performance of the Finance and Audit Committees should be reviewed annually. An internal Audit function must be established;
- 9.6 In the future VUT should build its own student residential accommodation for its affected students and do away with third party accommodation;
- 9.7 VUT should also increase the infrastructural capacity of the campuses adequately to cater for all student enrolments.
- 9.8 The newly constituted Council must be inducted as soon as possible, with a special emphasis on the need to declare business and other interests. In this regard, a proper regime for such declaring must be put in place in order to ensure good governance and best practice in the future;

## ANNEXURE A1



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**CONTENTS**

No.

Page  
No. Gazette  
No.**GOVERNMENT NOTICE**

Higher Education and Training, Department of

*Government Notice*

- |     |   |   |       |
|-----|---|---|-------|
| 104 | Higher Education Act (101/1997): Appointment of an independent assessor to conduct an investigation into the affairs of the Vaal University of Technology ..... | 3 | 35029 |
|-----|---|---|-------|



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## GOVERNMENT NOTICE

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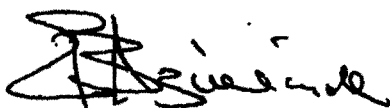
### MINISTRY OF HIGHER EDUCATION AND TRAINING

No. 104

10 February 2012

#### APPOINTMENT OF AN INDEPENDENT ASSESSOR TO CONDUCT AN INVESTIGATION INTO THE AFFAIRS OF THE VAAL UNIVERSITY OF TECHNOLOGY

I, Bonginkosi Emmanuel Nzimande, MP, Minister of Higher Education and Training, in accordance with Section 44 (1) (a) of the Higher Education Act (Act 101 of 1997) hereby appoint an Independent Assessor to investigate the affairs of the VAAL UNIVERSITY OF TECHNOLOGY.



**Dr BE Nzimande, MP**

**Minister of Higher Education and Training**

**Date: 08/02/12**

## ANNEXURE A2

**MINISTRY OF HIGHER EDUCATION AND TRAINING****TERMS OF REFERENCE  
of the  
INDEPENDENT ASSESSOR****TO CONDUCT AN INVESTIGATION INTO THE AFFAIRS OF THE VAAL  
UNIVERSITY OF TECHNOLOGY****INTRODUCTION**

In terms of Section 44 (1) (a) of the Higher education Act, the Minister of Higher Education and Training hereby appoints an Independent Assessor to conduct an investigation into the affairs of the VAAL UNIVERSITY OF TECHNOLOGY. The overall purpose of the investigation is to advise the Minister and the University Council on:

- The nature of problems facing the institution, including those relating to governance, financial management and procurement practices, administration matters, student governance, and any other matters that may arise.
- Measures required to resolve problems identified in all areas.
- Clear, short, medium and long-term recommendations.

**TERMS OF REFERENCE**

1. Conduct a detailed analysis of and provide a report on the current situation of the university governance and executive management structures, in particular their functioning and efficacy, and relationships between the various structures and portfolios.
2. Conduct a thorough investigation of the financial policy and procedures of the institution, with a specific focus on internal audit processes, procurement and tender procedures, expenditure on legal fees, donor funding management, the management of NSFAS

allocations, and any specific allegations of financial irregularity that may be brought to the attention of the Independent Assessor.

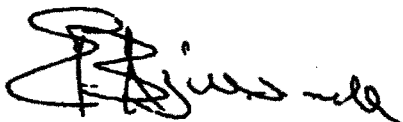
3. Investigate the operations of the office of the Registrar in relation to the management of academic affairs, registration and certification matters and any other matters that the Independent Assessor believes warrants investigation.
4. Investigate the problems in the area of student governance.
5. Investigate and report on any matters that, in the opinion of the Assessor, may impact on the effective functioning of the university, from the analysis of problems relating to governance and management.

#### **TO MAKE RECOMMENDATIONS ON**

1. The restoration of good governance, specifically in relation to the Executive Management of the University and its Council.
2. Short, Medium and Long-term solutions required to address any issues identified in relation to the areas in the Terms of Reference.
3. Any action required to ensure effective academic operations at the university; and
4. Ways of resolving the challenges relating to student governance.
5. Any other areas of action required to ensure the effective functioning of the university.

#### **COMPLETION AND REPORT**

The Independent Assessor must complete his work and submit a report to the Minister within 10 working days of appointment.



**Dr BE Nzimande, MP**

**Minister of Higher Education and Training**

**Date: 08/02/12**

## ANNEXURE A3



MINISTER  
HIGHER EDUCATION AND TRAINING  
REPUBLIC OF SOUTH AFRICA

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Dr David Phaho  
Chairperson of Council  
Vaal University of Technology  
649 Louise Street  
Pretoria Gardens  
**PRETORIA**  
0082

By fax: 086 581 7727

Dear Dr Phaho

**INTENTION TO APPOINT AN INDEPENDENT ASSESSOR FOR THE VAAL  
UNIVERSITY OF TECHNOLOGY**

This letter serves to inform you that I intend to appoint an Independent Assessor for the Vaal University of Technology to conduct an investigation into the source and nature of the governance, management and administrative problems at your university.

After careful consideration of issues raised by various stakeholders regarding governance and management, and the recent investigation done by my Department, I have come to a conclusion that the various allegations related to the following issues, must get further attention:

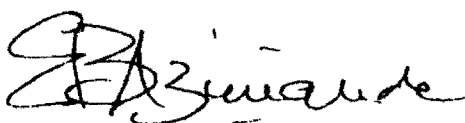
- There is ongoing conflict in the university Council which is caused by the rift and different factions that have formed at the management level.
- There is failure on the side of university management to resolve job evaluation issues and some staff members are on different salary scales even though they are appointed at the same levels and doing similar work
- There are allegations of race-based appointments which are taking place in certain departments of the University. The appointments are alleged to be favouring white candidates, especially at the time when black candidates were on sabbatical abroad

- Moreover, there is an allegation of lack of commitment by Management and Council to deal with allegations of racism. There is a perception that management is paralysed from taking action on this and other matters, such as corruption, because of a tension that exists between the Vice-Chancellor, Prof Irene Moutlana and the DVC Human Resources and Finance, Prof Tracy Naidoo.
- There are allegations that the university Council does not follow university procedures in taking its decisions and that it is manipulated by Management. It is also alleged that management also does not apply university rules consistently.
- There are allegations of corruption and mismanagement of funds against the university Management.
- There are allegations that procurement processes are manipulated, in particular, by external members of Council who seem to be beneficiaries of tenders issued by the University.
- It is perceived that the legacy of former Vice-Chancellor of the university, Aubrey Mokadi, still exists within the University and it is the major cause of the ongoing conflict in Management and Council.
- Both the unions and student leadership expressed a view that Council and Management have failed in executing their responsibilities.

In view of the above and in the best interests of the university community, I have concluded that there is a need to appoint an Independent Assessor at the Vaal University of Technology. I request Council to inform me if there are any reasons why I should not appoint an Independent Assessor. If you do not respond to this request I will take it that you are in agreement with this proposal and I will appoint an Independent Assessor.

I would appreciate it if your response could reach my office within 7 days of receiving this letter

Yours sincerely



**Dr BE Nzimande, MP**  
**Minister of Higher education and Training**  
**Date: 16/01/12**

## ANNEXURE A4



**Vaal University of Technology**

## *Office of the Registrar Council Section*

Tel (016) 950-9693

Fax (016) 950-9132

Dr BE Nzimande, MP  
Minister of Higher Education and Training  
Private Bag X893  
**Pretoria**  
0001  
27<sup>th</sup> January 2012

**RE: INTENTION TO APPOINT AN INDEPENDENT ASSESSOR FOR THE VAAL  
UNIVERSITY OF TECHNOLOGY**

Dear Dr Nzimande,

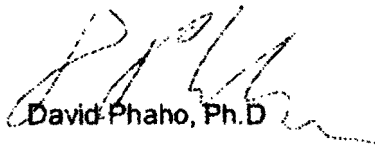
I received and acknowledged correspondence from your office concerning your decision to appoint an Independent Assessor to investigate critical administrative and governance issues at the Vaal University of Technology. The letter was delivered to me on the 24<sup>th</sup> of January 2012 and I informed fellow Council Members about the letter on the same day as well as the need to address it post haste.

At an Extra-ordinary Meeting of Council held on the 26<sup>th</sup> of January 2012 at the Vaal University of Technology, the Council resolved to address the Minister's letter as a matter of priority and it was the only item on the agenda, again highlighting the seriousness we viewed the issues the Minister raised. The Council deliberated on all the issues raised by the Minister to the best of its ability with the honesty and openness these matters demanded. These deliberations are a matter of record and are available to the Department of Higher Education and Training if and/or when they are requested.

The Council resolved to support and fully endorse the Minister's intention to appoint an Independent Assessor as this would be in the greater interest of the university community as well as the multitude of stakeholders on which the university depends for its existence and relevance. Furthermore, Council Members will avail themselves to meet and work with the Independent Assessor to ensure that the issues the Minister has raised are adequately and satisfactorily addressed.

Finally, the Council as the highest decision making body of the University will also avail itself to all officials of the Department of Higher Education and Training if the need arises.

Yours sincerely,



David Phaho, Ph.D

Chairperson: VUT Council.

## ANNEXURE A5



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Private Bag X9192, CAPE TOWN 8000, South Africa • 120 Plain Street, CAPE TOWN, 8000 • Tel: +27 21 469 5150 • Fax: +27 21 465 7956

Email: muzis@law.co.za

**APPOINTMENT AS INDEPENDENT ASSESSOR: VAAL UNIVERSITY OF TECHNOLOGY**

I have pleasure in informing you that in terms of Section 44, 45 and 47 of the Higher Education Act, 1997 (Act 101 of 1997) as amended, I hereby appoint you as the Independent Assessor to conduct an investigation into the governance and management problems at the VAAL UNIVERSITY OF TECHNOLOGY

The Terms of Reference, which set out the specifics of the task, are appended. Administrative arrangements will be made with the Vaal University of Technology to facilitate the assessment. Secretarial support will be rendered by the Chief Directorate: University Policy.

**The Chief Director, Mr Mahlubi Mabizela will be the Department's liaison and his contact details are: 012 312 5252, or Mabizela.c@dhet.gov.za. Terms of your contract relating to your services will be managed by the Acting Deputy Director-General, University Education, Dr D Parker**

**Yours sincerely**

*St. Zuercher*

**Dr BE Nzimande, MP**  
**Minister of Higher Education and Training**

Date: 07/02/12