



In the matter between:

CORRUPTION WATCH (RF) NPC

Applicant

and

**MEMBER OF THE EXECUTIVE COUNCIL FOR THE
DEPARTMENT OF EDUCATION, GAUTENG**

1st Respondent

**HEAD OF DEPARTMENT GAUTENG DEPARTMENT
OF EDUCATION**

2nd Respondent

**DEPUTY INFORMATION OFFICER: GAUTENG
DEPARTMENT OF EDUCATION**

3rd Respondent

GOVERNING BODY: HALFWAY HOUSE

PRIMARY SCHOOL

4th Respondent

HALFWAY HOUSE PRIMARY SCHOOL

5th Respondent

SAB & T CHARTERED ACCOUNTANTS

6th Respondent

NOTICE OF MOTION

TAKE NOTICE that the Applicant intends to make application to the above Honourable Court on a date to be determined by the Registrar for an order in the following terms:

1. Declaring that the Third Respondent's decision to refuse the Applicant's request for access to the 2014 forensic audit report into the financial irregularities at the Fifth Respondent conducted by the Sixth Respondent ("the requested record") is unlawful and in conflict with the Promotion of **Access** to Information Act 2 of 2000 ("PAIA");
2. Directing the Second and / or Third Respondent to supply the Applicant with a copy of the requested record within 15 days of the granting of the order sought;
3. Alternatively, directing the Second and/ or Third Respondent to refer the request to the appropriate Information Officer in terms of section 20 to be dealt with by any such information officer in accordance with the provisions of **section 20** of PAIA;
4. Directing the First and Second Respondents, and any other party that opposes this application, to pay Applicant's costs, jointly and severally with such costs to include the costs of two counsel; and
5. Further and/or alternative relief.

TAKE NOTICE FURTHER that the accompanying affidavit of **KABELO SEDUPANE** and annexures thereto will be used in support hereof.

TAKE NOTICE FURTHER that the applicant has appointed the offices of **CLIFFE DEKKER HOFMEYR INC** attorneys, at the address set out below at which it will accept service of all process and proceedings.

TAKE NOTICE FURTHER that:

- (a) Notice of intention to oppose this application must be given within 15 (fifteen) days after receipt hereof and must contain and address within 8 (eight) kilometres of the

Court to which the application is brought, where notice and service of documents will be accepted.

- (b) Answering affidavits, if any, must be filed with 15 (fifteen) days after service of the notice of intention to oppose this application.
- (c) In default of your complying with rule 3(5) of the Rules of Procedure for application to this Court in terms of PAIA, the Applicant may request the clerk of the court or the Registrar as the case may be, to place this application before the Court for an order in terms of section 82(b) of PAIA.
- (d) In default of you delivering a notice of intention to oppose, the matter will without further notice, be placed on the roll for hearing after the expiry of the period mentioned in paragraph (a) above, on a date fixed by the clerk of the court or the Registrar as the case may be, in terms of rule 3(6) of the Rules of Procedure in terms of PAIA.

DATED AT JOHANNESBURG ON THIS 25th DAY OF MARCH 2015.



CLIFFE DEKKER HOFMEYR INC

Applicant's Attorney

1 Protea Place

Sandown

Sandton, 2196

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Email: Tricia.Erasmus@dlacdh.com

Ref: T Erasmus / J Cassette

TO:

**THE REGISTRAR
 GAUTENG LOCAL DIVISION, JOHANNESBURG**

BY HAND

AND TO:

THE MEC: GAUTENG DEPARTMENT OF EDUCATION

First Respondent
 Arcadia Building, 10th Floor,
 111 Commissioner Street,
C/O The Office of the State Attorney
 95 Market Street
 Johannesburg

SERVICE BY SHERIFF

AND TO:

THE HEAD OF DEPARTMENT: GAUTENG DEPARTMENT OF EDUCATION

Second Respondent
 Arcadia Building, 10th Floor
 111 Commissioner Street
C/O The Office of the State Attorney
 95 Market Street
 Johannesburg

SERVICE BY SHERIFF**INFORMATION OFFICER: GAUTENG DEPARTMENT OF EDUCATION**

Third Respondent
 Arcadia Building, 10th Floor
 111 Commissioner Street
C/O The Office of the State Attorney
 95 Market Street
 Johannesburg

SERVICE BY SHERIFF**GOVERNING BODY: HALFWAY HOUSE PRIMARY SCHOOL**

Fourth Respondent
 291 Van Heerden Road
 Halfway Gardens
 Midrand
 Johannesburg

SERVICE BY SHERIFF**HALFWAY HOUSE PRIMARY SCHOOL**

Fifth Respondent
 291 Van Heerden Road
 Halfway Gardens
 Midrand
 Johannesburg

SERVICE BY SHERIFF**SAB & T CHARTERED ACCOUNTANTS**

Sixth Respondent
 1st Floor Hazel Park
 119 Witch Hazel Avenue
 Centurion
 Pretoria

SERVICE BY SHERIFF

ORIGINAL

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG**

CASE NO: /2015

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HALFWAY HOUSE PRIMARY SCHOOL

5th Respondent

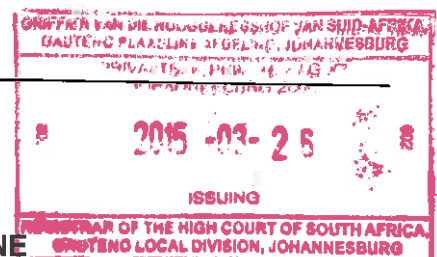
SAB & T CHARTERED ACCOUNTANTS

6th Respondent

FOUNDING AFFIDAVIT

I, the undersigned,

KABELO TUMISANG SEDUPANE



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do hereby make oath and state that:

- 1 I am an adult, female, In-House attorney currently employed at Corruption Watch (RF) NPC ("the Applicant").
- 2 The facts and allegations contained in this affidavit are within my personal knowledge, unless otherwise stated or it appears from the context to the contrary, and are to the best of my belief, both true and correct.
- 3 I have personal knowledge of this matter and I am duly authorised to bring this application and depose to this affidavit on behalf of the Applicant. In this regard, I annex hereto marked "CW1" a copy of a resolution of the Board of the Applicant.
- 4 To the extent that I make legal submissions in this affidavit, I do so on the advice of the Applicant's legal advisors which advice I believe to be correct.

THE PARTIES

- 5 The Applicant is Corruption Watch (RF) NPC, a civil society organisation duly registered as a non-profit company in terms of the company laws of the Republic of South Africa with registration number K2011/118829/08 and with its head office at 8th Floor, Heerengracht Building, 87 De Korte Street, Braamfontein, Johannesburg.
- 6 The present application arises out of a request for information that the Applicant made in terms of the Promotion of Access to Information Act, 2 of 2000 ("PAIA"). The Applicant approaches this Court in the public interest.
- 7 The First Respondent is the Member of the Executive Council for Basic Education, Gauteng Province ("the MEC") with offices situated at Arcadia Building, 10th Floor, 111 Commissioner Street, Johannesburg. The MEC is cited in his official capacity because of his interest in this matter. As MEC he is the member of the Provincial

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Executive constitutionally responsible for the implementation (where applicable) of National legislation and Provincial legislation concerning the provision, administration, management and funding of public schools in Gauteng Province including, inter alia, the South African Schools Act, No 84 of 1996 ("the Schools Act"), and the Gauteng Schools Education Act, No 6 of 1995 ("the Gauteng Schools Act").

- 8 The Second Respondent is the Head of the Department of Basic Education, Gauteng Province ("the HOD") whose offices are situated at Arcadia Building, 10th Floor, 111 Commissioner Street, Johannesburg. The Second Respondent is cited in his capacity as the Department's designated Information Officer in terms of PAIA, as well as his capacity as the Head of the Gauteng Department of Basic Education ("the Department").
- 9 The Third Respondent is the Deputy Information Officer of the Department whose office is also situated at 111 Commissioner Street, Johannesburg. He is the official who made the decision at issue in this application and more fully described below.
- 10 The Fourth Respondent is the Governing Body of the Halfway House Primary School ("the SGB") that is duly elected and constituted in terms of sections 16 and 23 of the Schools Act situated at 291 Van Heerden Road, Halfway Gardens, Midrand and the subject of this application.
- 11 The Fifth Respondent is Halfway House Primary School ("the School"), situated at 291 Van Heerden Road, Halfway Gardens, Midrand and the subject of this application.
- 12 The Sixth Respondent is SAB & T Chartered Accountants, trading as Nexia with registration number 1997/018869/21 ("Nexia"), with its registered address at 1st Floor Hazel Park, 119 Witch-Hazel Avenue Centurion. Nexia prepared an audit report

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reviewing the financial affairs of the school that forms the subject of the PAIA request. No relief is sought against Nexia, save for a costs order in the event of opposition. It is merely cited for any interest it may have in the application.

- 13 I point out that in terms of the Rules of Procedure in terms of PAIA, the Applicant need not have formally cited Nexia and could have simply relied on the Second, Third and Fourth Respondents informing it of this application. Nevertheless, the Applicant has taken the view that it is most efficient and prudent to cite Nexia, in the manner set out above.

OVERVIEW OF THIS APPLICATION

- 14 This is an application brought in terms of the provisions of PAIA for access to records held by the Respondents.
- 15 The PAIA request, which was lodged on 13 August 2014, sought access to a record stemming from a forensic investigation into the financial affairs of the School as a result of allegations of financial irregularities and maladministration at the School ("the forensic investigation").
- 16 The School is a public school as defined in the Schools Act and the Gauteng Schools Act and is subject to the relevant provisions of both of these Acts. As a public school located in the Gauteng Province it is subject to the oversight of the First and Second Respondents.
- 17 Both the School's current Principal, who we were informed requested the forensic investigation, as well as Nexia, being the private service provider contracted to carry out the forensic investigation, have on numerous occasions confirmed with the

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Applicant that a forensic investigation was indeed being conducted into the affairs of the School pursuant to the said allegations.

- 18 Despite this, the Second Respondent, in his capacity as the Department's Information Officer, failed to respond to the Applicant's request for access to the record. In light of such failure, the Applicant's request was deemed to have been refused.
- 19 On 29 September 2014, the Applicant brought an internal appeal against the Second Respondent's deemed refusal of access to the record sought. On 2 October 2014, in the only correspondence ever received by anyone from the Department concerning the Applicant's request and internal appeal, the Third Respondent acknowledged receipt of the "request" and advised that the Department did not have the requested records because the forensic investigation in issue was not conducted by the Department.
- 20 For the reasons to be dealt with below the Third Respondent's response, which effectively constitutes a constructive refusal of the request / appeal, does not constitute a proper or lawful response in terms of PAIA. The Applicant accordingly has been required to bring this application in terms of section 78(2) read with section 82 of PAIA to review the decision.
- 21 In this affidavit, I deal with the following issues:
 - 21.1 The Applicant's interest and standing in the matter;
 - 21.2 Jurisdiction;
 - 21.3 The right to access to information as provided for in section 32 of the Constitution and the relevant provisions of PAIA;
 - 21.4 The factual background to this application;

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- 21.5 The refusal by the Third Respondent to grant the Applicant access to the records and why such refusal is without merit and does not constitute a lawful and justifiable response to the request and appeal in terms of PAIA; and
- 21.6 The relief sought in the notice of motion.

THE APPLICANT'S INTEREST AND STANDING IN THE MATTER

- 22 The Applicant is a non-profit civil society organisation which is governed by an independent board of directors. It is independent and has no political or business alignment. The Applicant's ultimate objectives include fighting the rising tide of corruption and the abuse of public funds in South Africa, and promoting transparency and accountability to protect the beneficiaries of public goods and services. It seeks the information sought by way of the PAIA request at issue in this application in the public interest.
- 23 Confronting corruption requires an active and engaged citizenry that is prepared to hold to account leaders who wield public power and control public resources, including those in the private sector who supply and distribute these resources.
- 24 To this end, the Applicant endeavours to discharge its mandate of exposing corruption and the abuse of public funds, seeking to ensure that those who engage in corruption are held accountable and by developing and, importantly, fostering tools which civil society can utilise to defend itself from *inter alia* the abuse of public resources intended for the use of millions of disadvantaged South Africans.
- 25 The Applicant does so in the following ways:

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- 25.1 via communication platforms available to the public who are encouraged and enabled through its platforms (which include a 'walk-in' office, traditional post, SMS, e-mail, fax and Facebook channels) to report corruption;
- 25.2 through internal resources that are applied to investigate reports of corruption – which may entail the Applicant working with the Public Protector and various other law enforcement agencies - and which are applied to analysing data that reflects patterns, trends and 'hotspots' of corruption; and
- 25.3 through a legal advocacy and policy unit that, where appropriate, will litigate in order to ensure that the laws of South Africa are developed and applied in a manner that serves to assist the fight against corruption through fostering transparency and accountability of both public and private persons or entities.
- 26 One of its thematic focus areas since 2013 is corruption in schools, which resulted from the large number of reports being received detailing corruption in schools all over South Africa.
- 27 To date, the Applicant has received over 1,000 (one thousand) reports on corruption in schools. Over 22 per cent of these reports pertain to schools in the Gauteng Province, with the three most often cited types of corruption being financial mismanagement in schools, corruption related to tenders and theft of funds or goods.
- 28 Approximately 46 per cent of reporters indicated that there was financial mismanagement taking place at their schools in Gauteng. Financial mismanagement involves a whole host of activities including misappropriation of funds, lack of adequate financial accounting, disregard for processes and a lack of financial reporting to both parents and members of the School's Governing Body ("SGB"). The most commonly cited culprits are Principals. Staff members who

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have reported these activities often noted that Principals are dictatorial and aggressive when questioned about the accounts, and often intimidate those who have questioned their authority.

- 29 From its data, the Applicant has established that stakeholders in schools are manipulating and abusing the system to enrich themselves. Where processes and systems are put in place to curb corruption, corrupt officials find a way to flout the rules to abuse the system, and where no such systems exist, they are able to mismanage and misappropriate funds as they please with little or no consequence. The Department has been tasked with curbing corrupt conduct and with bringing corrupt officials to book, but as our reports indicate, this system has failed. Non-responsiveness or lack of feedback by the Department, coupled with corrupt officials and ever diminishing school funds are just some of the challenges faced by reporters.
- 30 The Applicant's interest in this matter stems from its objective to ensure that resources allocated by the State in respect of education, are properly and lawfully distributed and that they are invested in the learners to whom they have been allocated.

JURISDICTION

- 31 I am advised and submit that this Court has jurisdiction to hear this application by virtue of the definition of "court" in section 1 of PAIA which provides that the word "court" includes the High Court within whose area of jurisdiction the requester is domiciled or ordinarily resident. As indicated above, I confirm that the Applicant is domiciled within Johannesburg and therefore within this Honourable Court's jurisdiction.

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32 Moreover, this Court has jurisdiction to hear this matter by virtue of section 82(2) of PAIA which provides that the court hearing an application of the present sort may grant any order that is just and equitable including orders:

- “(a) confirming, amending or setting aside the decision which is the subject of the application concerned;*
- (b) requiring from the information officer or relevant authority of a public body or the head of a private body to take such action or to refrain from taking such action as the court considers necessary within period mentioned in the order;*
- (c) granting an interdict, interim or specific relief, a declaratory order or compensation; or*
- (d) as to costs.”*

THE RIGHT OF ACCESS TO INFORMATION HELD BY THE STATE

33 It is on the coalface of the Constitution and relevant legislation that this application is brought. The following discussion will detail the right of access to information held by the state.

34 Section 32 of the Constitution provides that:

Everyone has the right of access to:

- (a) any information held by the state; and*
- (b) any information that is held by another person and that is required for the exercise of or protection of any rights.*

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35 The Constitutional right of access to information held by the State is a broad one which applies to everyone in respect of "any" information held by the State.

36 This right is elaborated upon in PAIA which is the National legislation enacted in terms of section 32(2) of the Constitution to give effect to the section 32(1) right of access to information.

37 Section 11 of PAIA provides that a requester must be given access to a record of a public body if:

(a) The requester complies with all the procedural requirements in the Act relating to a request for access to that record; and

(b) Access to that record is not refused in terms of any ground for refusal applicable to records of public bodies.

38 Public body is defined in PAIA as including:

(a) Any department of state or administration in the national or provincial sphere of government; or

(b) Any other functionary or institution when

(i) Exercising a power or performing a duty in terms of the Constitution;

or

(ii) Exercising a power or performing a public function in terms of any legislation.

39 A record of or in relation to, a public or private body is defined in PAIA as meaning any recorded information:

(a) Regardless of form or medium;

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(b) *In the possession or under the control of that public or private body,
respectively;*

and

(c) *Whether or not it was created by that public or private body.*

40 In terms of section 4 of PAIA a record in the possession or under the control of:

(i) *an official of a public body in his or her capacity as such; or*

(ii) *an independent contractor engaged by a public body in the capacity
as such contractor*

is regarded as being a record of that public body.

BACKGROUND TO THIS APPLICATION

Reports received by the Applicant on alleged Corruption at the School

41 In July 2013, the Applicant was alerted to allegations of financial irregularities and maladministration at the School. The report came from a staff member at the School and it implicated existing and former staff members.

42 The allegations of financial maladministration at the School included the following allegations:

42.1 That irregular payments were being made to companies which did not supply goods and/or services;

42.2 That there was a lack of correlation between invoices and goods supplied to the School;

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- 42.3 That there were irregular transfer of funds to other accounts belonging to the School; and
- 42.4 Payments were made on staff member's credit card accounts.
- 43 The reporter suspected that the implicated individuals were deriving financial benefit from these irregular payments. The reporter further alleged that the School was in the process of installing new software that threatened to erase the School's financial history, and consequently evidence of these allegations.
- 44 The reporter further confirmed that the Fourth Respondent had been alerted to these allegations on numerous occasions and that the Principal had requested a forensic investigation pursuant to these allegations.
- 45 The reporter was concerned that the findings of the forensic investigation were not going to be communicated to the parents or the Fourth Respondent. The reporter was also becoming increasingly concerned that the matter was not being resolved expeditiously and that the irregular practices at the School were continuing.
- 46 The reporter contacted the Applicant requesting it to intervene and probe the matter further, in the hopes that the irregular and unlawful practices at the School would cease.

The Applicant's Engagement with the School and the Department prior to the PAIA Request

- 47 On 8 April 2014 the Applicant contacted the Principal of the School and informed him of the allegations of financial maladministration at the school. The Applicant enquired what steps the School was taking to investigate these allegations and to

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protect the financial interests and assets of the School. A copy of this email is attached hereto as annexure "CW 2".

- 48 The Principal's initial response to the Applicant on 8 April 2014 highlighted a technical error in the Applicant's correspondence (which related to an incorrectly recorded date for the response deadline). I attach the School's correspondence in this regard as annexure "CW 3". On 9 April 2014 the Applicant amended and re-sent the correspondence as requested, attached hereto as annexure "CW 4".
- 49 On 16 April 2014 the Applicant received correspondence from the Principal directing it to send all queries in respect of the School and the forensic investigation to the Chief Director of Media Liaison at the Department, Ms. Phumla Sekhonyane ("Ms Sekhonyane"). I attach this correspondence hereto as "CW 5".
- 50 On 8 May 2014, the Applicant sent Ms Sekhonyane correspondence informing her of the allegations of financial maladministration at the School. The Applicant informed Ms Sekhonyane that it had been alerted to the fact that the Department was aware of the allegations, and enquired as to what steps were being taken by the Department to investigate the allegations. I attached this correspondence as annexure "CW 6" hereto. Ms Sekhonyane telephonically acknowledged receipt of the Applicant's correspondence but did not ever provide any response to the correspondence.
- 51 During the course of May 2014, the Applicant was informed that an audit company, the Sixth Respondent or Nexia, was contracted to conduct a forensic investigation at the school.
- 52 On 9 May 2014, the Applicant contacted the lead investigator at Nexia, Ms Jana Marais ("Ms Marais"), who was in charge of the above forensic investigation. Ms Marais verbally confirmed that she was conducting an

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investigation into the finances of the School. Ms Marais then requested the Applicant to send in writing, a list of all allegations that were brought to the Applicant's attention.

- 53 As the Applicant failed to receive a response from Ms Marais, a follow up email was sent on 5 June 2014, attached hereto as annexure **"CW 7"**.
- 54 On 5 June 2014 the Applicant also sent Ms Sekhonyane a follow up email, as she failed to respond to its initial query. I attach the Applicant's correspondence in this regard as annexure **"CW 8"**. No response to the Applicant's enquiries have ever been received from Ms Sekhonyane or anyone else at the Department.
- 55 On 10 June 2014 Ms Marais responded to the Applicant's follow up email confirming that they [Nexia] *"...are in the process of finalising the audit"*. Ms Marais also assured the Applicant that she would communicate the findings of the audit as soon as it was finalised. Ms Marais' correspondence is attached as annexure **"CW 9"** hereto.
- 56 Again, seeing that no update was forthcoming from Ms Marais, the Applicant sent Ms Marais another follow up email on 17 July 2014 requesting an update on the audit. I attach this correspondence as annexure **"CW 10"** hereto.
- 57 On 17 July 2014, the Applicant received a response from the Chief Executive Officer of Nexia, Mr Bashier Adam ("Mr Adam"). Mr Adam confirmed that Nexia presented a draft report to the management of the School and was awaiting their response. Mr Adam further informed the Applicant that Nexia was *"not at liberty to divulge any of the findings and/or matters which have come to light during [their] audit"* and that the Applicant would have to obtain this information directly from the School. I attach Mr Adam's correspondence as annexure **"CW 11"** hereto.

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On 28 July 2014, the Applicant contacted the Principal informing him that Mr Adam had indicated that the audit report was handed over to the School. The Applicant requested that the School share the findings of the audit report. This correspondence is attached as annexure "CW 12" hereto. The Principal replied to the Applicant on 29 July 2014, again requesting that all correspondence be directed to Ms Sekhonyane. This correspondence is attached as annexure "CW 13".

The PAIA Request

- 58 Given the Applicant's various unsuccessful efforts to engage both the School via its Principal and the Department, on 13 August 2014, the Applicant lodged a PAIA request with the Second Respondent in his capacity as the Department's Information Officer for access to the audit report stemming from the audit conducted into the School.
- 59 The request was made in the manner and form prescribed by the relevant sections of PAIA. A signed copy of the request was sent electronically to the Second Respondent's personal assistant Ms Sylvia Steytler, as well as to Ms Sekhonyane. A copy of the signed request is attached as annexure "CW 14" hereto.

The Second Respondent's Failure to Respond

- 60 In terms of Section 25(1) of PAIA, the Second Respondent was required to decide whether or not to grant the request and to notify the Applicant of its decision as soon as reasonably possible, but by no later than 30 days after the request was lodged.
- 61 Section 27 of PAIA provides that where an Information Officer fails to give a decision within the requisite 30 day period, he or she is deemed to have refused the request.

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- 62 In the present case, the Second Respondent failed to respond to the request timeously. The request was thus deemed to have been refused.

The Internal Appeal

- 63 On 17 September 2014, after no response had been received to the PAIA request, the Applicant lodged an internal appeal against the Second Respondent's deemed refusal of the request. The internal appeal was in the manner and form prescribed by section 75 of PAIA.
- 64 A signed copy of the internal appeal was sent to *inter alia* Ms Sylvia Steytler, the Second Respondent's personal assistant as well as Advocate Ntini Mtshizana, the Department's Deputy Information Officer (the Third Respondent). A copy of the duly lodged internal appeal is attached as annexure "**CW 15**" hereto.

The Third Respondent's Response to the Internal Appeal

- 65 On 2 October 2014 the Applicant received correspondence from Vuledzani Musetsho of the Legal Services Department at the Department attaching a letter from the Third Respondent. The correspondence is attached hereto marked annexure "**CW 16**". The Third Respondent acknowledged receipt of the Applicant's request and informed the Applicant that in respect of the request "*...The Department does not have the requested records as such investigation was not conducted by the department.*" It is unclear to the Applicant whether the reference to "*your request*" in the Third Respondent's response was a reference to the initial PAIA request or the internal appeal. For purposes of this application, in light of the chronological sequence of events and time frames imposed in PAIA, the Applicant

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can only assume that the Third Respondent was referring to the internal appeal and was purporting to refuse the said internal appeal. Even assuming he was not, the appeal must in accordance with section 77(7) of PAIA be deemed to have been refused because no other response has been received by the Applicant from either the Second or Third Respondent (or anyone else at the Department) pursuant to its internal appeal.

THE THIRD RESPONDENT'S REFUSAL OF THE REQUEST IS WITHOUT MERIT AND NOT IN COMPLIANCE WITH THE PROVISIONS OF PAIA

66 The Third Respondent's sole justification for refusing the Applicant's appeal was as follows:

"... we would like to advise that the Department does not have the requested records as such investigation was not conducted by the department."

67 I submit that this response is without merit and does not constitute a lawful response in terms of PAIA for the reasons that follow.

68 The Third Respondent does not deny that an investigation was conducted and that a report was compiled pursuant to this investigation. Indeed it is implicit from the response that an investigation was conducted and that a report pursuant to the relevant investigation was compiled and furnished to the School.

69 Given the oversight role played by the First and Second Respondents (as is dealt with below) in respect of public schools a copy of the report must in all probability have been furnished by the School to the First and / or Second Respondent or someone else in the Department. The Department should therefore be in

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possession of a copy of the report even though it did not conduct the investigation.

The first and **Second Respondents** are invited to clarify whether or not this is so.

- 70 Even if not physically in the Department's possession I am advised that any report compiled by Nexia on behalf of the School and / or the Department pursuant to the forensic investigation is a record over which the Department exercises control for the purposes of section 4 of PAIA. It is accordingly a record which the Second and Third Respondents are obliged to provide the Applicant access to in terms of section 11 of PAIA.
- 71 This is so for two reasons. First because as appears from above, a record in the possession or under the control of an independent contractor engaged by a public body in the capacity as such contractor is in terms of section 4 of PAIA regarded as being a record of the public body concerned. In the instant case it would appear that Nexia who was contracted by either the School or the Department to perform the forensic investigation, was an independent contractor for the purposes of section 4. The report which must be in its possession is accordingly regarded by PAIA as a record of the School and, so I submit, a record of the Department.
- 72 Second, because of the important oversight function vested in both the First and Second Respondents over public schools, in particular in relation to the management and use of funds by public schools, not only in terms of the Constitution, but in terms of the Schools Act and the Gauteng Schools Act, the report furnished to the School is a record over which the First and Second Respondents (and the Department which they head), exercises control.
- 73 The oversight function appears from various provisions of these Acts, including sections 16A and 37 - 43 of the Schools Act, read with sections 9 and 10 of the Gauteng Schools Act the substance of which I deal with below.

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- 74 Section 37 of the Schools Act provides that the SGB of a public school must establish a school fund and administer it in accordance with directions issued by the Head of Department. All moneys received by a public school are required to be paid into the school fund and may only be utilized for specific purposes outlined in section 37.
- 75 In terms of section 42 of the Schools Act the SGB must keep records of funds received and spent by the school and is required to draw up financial statements in accordance with guidelines determined by the MEC.
- 76 According to section 43 of the Schools Act the SGB is required to appoint a registered auditor to audit the financial records and financial statements and is required to submit a copy of the audited financial statements to the HOD within six months after the end of the financial year. Section 43 also provides the MEC with the power to request the Auditor General to undertake an audit of the records and financial statements of a public school if he or she deems it necessary.
- 77 Section 16A of the Schools Act provides, inter – alia, that the principal of a public school represents the HOD when acting in an official capacity and must prepare and submit an annual report in respect of not only the academic performance of his or her school, but also the effective use of available resources. He or she is also obliged to provide accurate data to the HOD when requested to do so, to take all reasonable steps to prevent any financial maladministration or mismanagement by any staff member or the governing body of the School and most importantly to report any maladministration or mismanagement of financial matters to the SGB and to the HOD.
- 78 Finally, the First and Second Respondents are afforded significant powers under sections 9 and 10 of the Gauteng Schools Act to appoint persons to conduct

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enquiries into the affairs of a public school and/ or to direct that persons employed at a public school furnish them with information.

- 79 From the above provisions it is clear that both the First and Second Respondents exercise ultimate statutory responsibility for the financial affairs of public schools and in the ordinary exercise of their oversight powers, are empowered to receive and request information regarding the financial affairs of public schools and any maladministration or mismanagement of the finances of a public school.
- 80 In the instant case the Principal would have been obliged in terms of section 16A to report the allegations of financial mismanagement at the School to the Second Respondent. Had there been a proper exercise of the relevant statutory powers, the Second Respondent would no doubt have received a copy of the report, or was alternatively empowered to require that he be furnished a copy.
- 81 Accordingly, the Applicant submits that by virtue of the constitutional and statutory powers and mandate of the First and Second Respondents and the Department that they head, the record is clearly one over which both the First and Second exercise legal control and accordingly is one which properly construed falls within the control of the Department for the purposes of PAIA.
- 82 The Second and Third Respondents have not sought to invoke any exemption and accordingly are in terms of section 11 of PAIA, obliged to grant the Applicant access to the report.
- 83 In conclusion the Applicant submits that the Third Respondent's argument that the Department has no obligation to provide the Applicant access to the report because the investigation was not conducted by it is accordingly without merit.

KTS BA

84 To the extent that the report is not in the Department's possession or cannot be construed as a record falling under the Department's control in accordance with section 4 of PAIA (which is not admitted), but falls under the control of another public entity, the Second and / or Third Respondent had a duty in terms of section 19(4) of PAIA read with section 20 to transfer the request to the Information Officer of such other relevant public body. Section 20 provides as follows:

- (1) If a request for access is made to the information officer of a public body in respect of which:*
 - (a) the record is not in the possession or under the control of that body but is in the possession of another public body;*
 - (b) the record's subject matter is more closely connected with the functions of another public body than those of the public body of the information officer to whom the request is made; or*
 - (c) the record contains commercial information contemplated in section 42 in which any other public body has a greater commercial interest, the information officer to whom the request is made must as soon as reasonably possible, but in any event within 14 days after the request is received:*
 - (i) transfer the request to the information officer of the other public body or, if there is in the case of paragraph (c) more than one other public body having a commercial interest, the other public body with the greatest commercial interest; and*
 - (ii) if the public body of the information officer to whom the request is made is in possession of the record and considers it helpful to do so to enable the information officer of the other public body to deal with the request, send the record or a copy of the record to that information officer.*

K.F.S. B.A.

(2) If a request for access is made to the information officer of a public body in respect of which:

- (a) the record is not in the possession or under the control of the public body of that information officer and the information officer does not know which public body possession or control of the record;*
- (b) the record's subject matter is not closely connected to the functions of the public body of that information officer and the information officer does not know whether the record is more closely connected with the functions of another public body than those of the public body of the information officer to whom the request is made; and*
- (c) the record:*
 - (i) was created by or for another public body; or*
 - (ii) was not so created by or for any public body, but was received first by another public body,*

The information officer to whom the request is made, must as soon as reasonably possible, but in any event within 14 days after the request is received, transfer the request to the information officer of the public body by or for which the record was created or which received it first, as the case may be.

(3) Subject to subsection (4), the information officer to whom a request for access is transferred, must give priority to that request in relation to other requests as if it were received by him or her on the date it was received by the information officer who transferred the request.

(4) If a request for access is transferred, any period referred to in section 25(1) must be computed from the date the request is received by the information officer to whom the request is transferred.

K.F.S. BA

(5) Upon the transfer of a request for access, the information officer making the transfer must immediately notify the requester of:

- (a) The transfer;*
- (b) The reason for the transfer; and*
- (c) The period within which the request must be dealt with.*

85 In so far as these provisions were applicable, the Second and Third Respondents have manifestly failed to comply with section 19(4) read with section 20 of the PAIA.

CONCLUSION

86 The Applicant submits that the Third Respondent's response to the Applicant's internal appeal constitutes an unlawful and constructive refusal of the Applicant's request contrary not only to section 11 read with section 4 of PAIA, but also to the object of PAIA which is to give effect to the constitutional right of access to any information held by the State.

87 The audit report is a report which for all the reasons explained above is a record of the Department for the purposes of PAIA. In the absence of the Department having relied on any exemption provided for in PAIA, it was obliged to provide the Applicant access to the report. Its failure to do so constitutes a breach of section 11 of PAIA and an unjustifiable limitation of the Applicant's section 32(1) right to access to information. It also undermines the principles of openness, responsiveness and accountability upon which our constitutional state is founded as expounded in section 1(d) of the Constitution.

88 To the extent that this Honourable Court finds that the report is not within the control of the Department but is in the control of the School or any other public body, the Second and/ or Third Respondent was obliged to either render such assistance as was necessary to enable the Applicant to make the request to the Information

KTS BA

Officer of the appropriate public body or to refer the Applicant's request to the relevant Information Officer of any other such public body in accordance with section 20 to be dealt with as provided for in section 20 by such other applicable Information Officer. The Second and Third Respondents' failed to do either and this failure constitutes an unconstitutional and unlawful contravention of PAIA.

THE RELIEF SOUGHT

89 In light of the submissions made in this affidavit and in terms of section 82 of PAIA, the Applicant accordingly seeks *inter alia* an order from this Court:

89.1 Declaring that the Third Respondent's decision to refuse the Applicant access to the record requested is unlawful and in conflict with the PAIA;

89.2 Directing the Second and / or Third Respondent to supply the Applicant with a copy of the requested record within 15 days of the granting of the order sought.

89.3 Alternatively to paragraph 89.2 above directing the Second and/ or Third Respondent to refer the request to the appropriate Information Officer in terms of section 20 to be dealt with by any such information officer in accordance with the provisions of section 20.

89.4 Costs in the event of opposition to this application.

90 In the circumstances, I ask this Honourable Court for an order in terms of the Notice of Motion.



KABELO TUMISANG SEDUPANE

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of her knowledge both true and correct. The deponent does not have any objection to taking the prescribed oath and has informed me that she considers the prescribed oath to be binding on her conscious. This affidavit was signed and sworn before me at **JOHANNESBURG** on this 25th day of **March 2015**.



COMMISSIONER OF OATHS

Full name: **Bongani Abram Nkabinde**
Commissioner of Oaths
Reference: 27/11/2012 Randburg
Business address: 165 West Street, Sandton

Designation:

KTS

**CERTIFIED TO BE
A TRUE COPY
OF THE ORIGINAL**

Anjuli Leila Maistry
BA LLB (UCT)
Ex-officio Commissioner Of Oaths
Lawyers for Human Rights
4th Floor Heerengracht Building
87 De Korte Street, Braamfontein
Johannesburg 2001
Tel: 011 339 1960 Fax: 011 339 2665

28 Jan 2015



CW1

RESOLUTION OF THE BOARD OF DIRECTORS OF CORRUPTION WATCH (RF)

NPC

Registration No: K2011/118829/08

Resolution No:

The Board resolved that:

1. Corruption Watch will launch an application in the relevant High Court with regard to the denial of a request for information in terms of the Promotion of Access to Information Act 2 of 2000 ("PAIA") to the Gauteng Provincial Department of Education. The requested information pertains to a forensic audit report compiled for the Department of Education, Gauteng into suspected financial irregularities at Halfway House Primary School in Midrand Gauteng.
2. Attorneys Cliffe Dekker Hofmeyr be appointed to represent Corruption Watch in the abovementioned proceedings in the relevant High Court and that the said attorneys do all things necessary in the application on behalf of Corruption Watch.
3. That Leanne Govindsamy and/or Kabelo Sedupane be authorised to depose to such affidavits in the said proceedings on behalf of Corruption Watch, as may be required and further that they be authorised to give instructions from time to time as they may deem necessary to the said attorneys in relation to the proceedings.

THUS DONE AND SIGNED at **BRAAMFONTEIN** on **27 November 2014**.

ALICE LYNN BROWN

ADILA HASSIM

TANDI EMMA MASHININI

MAVUSO MSIMANG

CATHERINE MARY ELIZABETH O'REGAN

VUYISEKA DUBULA

DAVID HARRIS LEWIS

MARY ELLEN METCALFE

WINSTON NJONGONDUNGANE

VUSUMUZI PATRICK PIKOLI
VUSUMUZI

K.F.S. B.A.

ZWELINZIMA JOSEPH VAVI

K.T.S Bk

CW2

Kabelo Sedupane

Subject: FW: Allegation of Financial Irregularities and Maladministration HALFWAYHOUSE PRIMARY SCHOOL

From: Bigboy Maubane <BigboyM@corruptionwatch.org.za>

Date: Tuesday 08 April 2014 at 12:19 PM

To: Silas Pillay <s.pillay@hhpschool.co.za>

Cc: "legalschool@mweb.co.za" <legalschool@mweb.co.za>

Subject: Allegation of Financial Irregularities and Maladministration HALFWAYHOUSE PRIMARY SCHOOL

Dear Mr S Pillay

1. Corruption Watch [CW] is a civil society organisation that opened its doors to the public in January 2012. We are a registered non-profit company in terms of the Companies Act.
2. Corruption Watch seeks to expose corruption and the abuse of public funds. We aim to ensure that those who engage in corrupt activities and the abuse of public funds in both the public and private sector be held accountable.
3. As part of our mandate we, we investigate selected cases of alleged corruption and financial misconduct. We also monitor forensic investigations that are conducted by state Departments and other agencies.
4. In this regards, Corruption Watch has been alerted to allegations of financial irregularities and maladministration at Halfway House Primary School in Halfway House Gauteng.
5. The allegations alerted to us includes the following:
 - 5.1 Payments made to "fictitious companies that did not supply the services".
 - 5.2 Questionable transfer of funds by school to other schools.
 - 5.3 Deliveries made to the school not corresponding with payments made.
 - 5.4 There is currently a software change that will be installed that might erase the current financial system which "has the evidence/ records to all the allegations tabled".
6. In light of the allegations of financial irregularities and maladministration at Halfway House Primary School, which we understand have been brought to your attention, what steps, if any, are being taken by the school either to action the investigation or if the investigation is on-going, to protect the interests, assets and learners of Halfway House Primary School.
7. We kindly request that you respond to us in writing regarding the above by no later than Wednesday, 16 March 2014. If it is possible and at all to halt or suspend the changing of the software that has the financial records of the school as we were advised by our reporter that it holds all the evidence into the allegations.
8. Please note that in the interest of transparency we will be conducting our own investigations into the matter and may publish this correspondence and any response hereto on our communications platforms.

We look forward to hearing from you on this matter.

Yours faithfully,

"A nation's greatness is measured by how it treats its weakest members." Mahatma Gandhi



Bigboy Maubane

Manager| Forensic Reports

T +27 (0)11 447 1472

F +27 (0)11 447 2696

M +27 (0)82 508 8461

bigboym@corruptionwatch.org.za

www.corruptionwatch.org.za

Corruption Watch (RF) NPC
4th Floor Rosebank Corner

K.T.S
D.A

CW3

Kabelo Sedupane

Subject: FW: Allegation of Financial Irregularities and Maladministration HALFWAYHOUSE PRIMARY SCHOOL

From: S Pillay [mailto:s.pillay@hhpschool.co.za]

Sent: 08 April 2014 12:54 PM

To: Bigboy Maubane

Cc: legalschool@mweb.co.za

Subject: Re: Allegation of Financial Irregularities and Maladministration HALFWAYHOUSE PRIMARY SCHOOL

Dear Mr Maubane

I acknowledge receipt of your letter dated 08 April 2014 , and would like to alert you to point 7 . " We kindly request that you respond to us in writing regarding the above by no later than Wednesday , 16th March 2014 " .

I assume you meant Wednesday , 16th April 2014 instead .

Kindly resend me the communicate with the date amendment , so that I can forward your official request to the relevant parties concerned .

Kind Regards

Mr Silas Pillay (Principal)

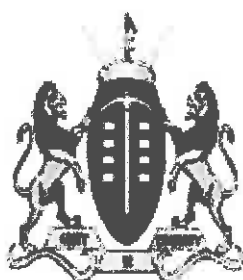
Cell: 082 7717 386

082 5524 396

Fax : 086 4250 185

E-mail : s.pillay@hhpschool.co.za

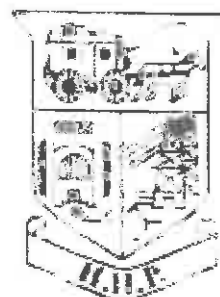
silas.pillay@gauteng.gov.za



education

Department: Education

GAUTENG PROVINCE



K.T-S
B.B

Subject: FW: Allegation of Financial Irregularities and Maladministration HALFWAYHOUSE PRIMARY SCHOOL

From: Bigboy Maubane <BigboyM@corruptionwatch.org.za>

Date: Wednesday 09 April 2014 at 8:04 AM

To: Silas Pillay <s.pillay@hhpschool.co.za>

Subject: FW: Allegation of Financial Irregularities and Maladministration HALFWAYHOUSE PRIMARY SCHOOL

Morning Mr Pillay

Thank you for outlining that error for me, I rectified the date and will await your response in great anticipation.

Thank you
Bigboy Maubane

From: Bigboy Maubane

Sent: 08 April 2014 12:21 PM

To: 'S.pillay@hhpschool.co.za'

Cc: 'legalschool@mweb.co.za'

Subject: Allegation of Financial Irregularities and Maladministration HALFWAYHOUSE PRIMARY SCHOOL

Dear Mr S Pillay

1. Corruption Watch [CW] is a civil society organisation that opened its doors to the public in January 2012. We are a registered non-profit company in terms of the Companies Act.
2. Corruption Watch seeks to expose corruption and the abuse of public funds. We aim to ensure that those who engage in corrupt activities and the abuse of public funds in both the public and private sector be held accountable.
3. As part of our mandate we, we investigate selected cases of alleged corruption and financial misconduct. We also monitor forensic investigations that are conducted by state Departments and other agencies.
4. In this regards, Corruption Watch has been alerted to allegations of financial irregularities and maladministration at Halfway House Primary School in Halfway House Gauteng.
5. The allegations alerted to us includes the following:
 - 5.1 Payments made to "fictitious companies that did not supply the services".
 - 5.2 Questionable transfer of funds by school to other schools.
 - 5.3 Deliveries made to the school not corresponding with payments made.
 - 5.4 There is currently a software change that will be installed that might erase the current financial system which "has the evidence/ records to all the allegations tabled".
6. In light of the allegations of financial irregularities and maladministration at Halfway House Primary School, which we understand have been brought to your attention, what steps, if any, are being taken by the school either to action the investigation or if the investigation is on-going, to protect the interests, assets and learners of Halfway House Primary School.
7. We kindly request that you respond to us in writing regarding the above by no later than **Wednesday, 16 APRIL 2014**. If it is possible and at all to halt or suspend the changing of the software that has the financial records of the school as we were advised by our reporter that it holds all the evidence into the allegations.
8. Please note that in the interest of transparency we will be conducting our own investigations into the matter and may publish this correspondence and any response hereto on our communications platforms.

We look forward to hearing from you on this matter.

Yours faithfully,

Kabelo Sedupane

CWS

From: Bigboy Maubane
Sent: Wednesday, October 22, 2014 1:37 PM
To: Kabelo Sedupane
Subject: FW: Allegation of Financial Irregularities and Maladministration HALFWAYHOUSE PRIMARY SCHOOL

From: S Pillay [mailto:s.pillay@hhpschool.co.za]
Sent: 16 April 2014 04:18 PM
To: Bigboy Maubane
Subject: Re: Allegation of Financial Irregularities and Maladministration HALFWAYHOUSE PRIMARY SCHOOL

Good Day Mr Maubane

In response to your e-mail dated 08th April 2014 , please note that the contact person representing the Department of Education and Halfway House Primary School in respect of this matter is Phumla Sekhonyane (Chief Director : Media Liaison Officer) . Her contact number is as follows : 071 860 4496

Please accordingly direct all future queries / correspondence to her as per the Department's procedure .

Kind Regards

Mr Silas Pillay (Principal)

Cell: 082 7717 386

082 5524 396

Fax : 086 4250 185

E-mail : s.pillay@hhpschool.co.za
silas.pillay@gauteng.gov.za

K.T.S
P.A

CW 6

Kabelo Sedupane

From: Bigboy Maubane
Sent: Tuesday, October 21, 2014 3:17 PM
To: Kabelo Sedupane
Subject: FW: Halfway House Primary School Midrand

From: Bigboy Maubane
Sent: 08 May 2014 10:51 AM
To: 'phumla.sekhonyane@gauteng.gov.za'
Subject: Halfway House Primary School Midrand

Dear Phumla Sekhonyane

1. Corruption Watch [CW] is a civil society organisation that opened its doors to the public in January 2012. We are a registered non-profit company in terms of the Companies Act.

2. Corruption Watch seeks to expose corruption and the abuse of public funds. We aim to ensure that those who engage in corrupt activities and the abuse of public funds in both the public and private sector be held accountable.

3. As part of our mandate we, we investigate selected cases of alleged corruption and financial misconduct. We also monitor forensic investigations that are conducted by state Departments and other agencies.

In this regards, Corruption Watch has been alerted to allegations of financial irregularities and maladministration at Halfway House Primary School in Halfway House Gauteng.

5. The allegations alerted to us includes the following:

- 5.1 Payments made to "fictitious companies that did not supply the services".
- 5.2 Questionable transfer of funds by school to other schools.
- 5.3 Deliveries made to the school not corresponding with payments made.
- 5.4 There is currently a software change that will be installed that might erase the current financial system which "has the evidence/ records to all the allegations tabled".

6. In light of the allegations of financial irregularities and maladministration at Halfway House Primary School, which we understand have been brought to your attention, what steps, if any, are being taken by the school either to action the investigation or if the investigation is on-going, to protect the interests, assets and learners of Halfway House Primary School.

7. We kindly request that you respond to us in writing regarding the above by no later than Wednesday, 14 May 2014. If it is possible and at all to halt or suspend the changing of the software that has the financial records of the school as we were advised by our reporter that it holds all the evidence into the allegations.

8. Please note that in the interest of transparency we will be conducting our own investigations into the matter and may publish this correspondence and any response hereto on our communications platforms.

We look forward to hearing from you on this matter.

Yours faithfully,

"A nation's greatness is measured by how it treats its weakest members." Mahatma Gandhi



Bigboy Maubane
Manager | Forensic Reports
T +27 (0)11 242 3900
F +27 (0)11 403 2392
M +27 (0)82 508 8461
bigboym@corruptionwatch.org.za

K.T.S
JA

CW7

Kabelo Sedupane

From: Bigboy Maubane
Sent: Tuesday, October 21, 2014 3:27 PM
To: Kabelo Sedupane
Subject: FW: Halfway House School

From: Bigboy Maubane
Sent: 05 June 2014 09:40 AM
To: jana@nexia-sabt.co.za
Subject: Halfway House School

Morning Jana,

I am looking for any update you might have regarding the allegations we highlighted regarding Halfway House School in Midrand.

Regards,

"A nation's greatness is measured by how it treats its weakest members." Mahatma Gandhi



Bigboy Maubane
Manager | Forensic Reports
T +27 (0)11 242 3900
F +27 (0)11 403 2392
M +27 (0)82 508 8461
bigboym@corruptionwatch.org.za
www.corruptionwatch.org.za

Corruption Watch (RF) NPC
8th Floor Heerengracht Building
87 De Korte Street
Braamfontein 2001 Johannesburg
PO Box 30630 Braamfontein 2017

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K.F.S
B.A

Kabelo Sedupane

CW8

From: Bigboy Maubane
Sent: Tuesday, October 21, 2014 3:19 PM
To: Kabelo Sedupane
Subject: FW: Halfway House School

From: Bigboy Maubane
Sent: 05 June 2014 10:04 AM
To: phumla.sekhonyane@gauteng.gov.za
Subject: Halfway House School

Dear Phumla,

I am looking for any update/ response to the enquiry we made regarding Halfway House Primary School on 2014/05/08.

Regards,

"A nation's greatness is measured by how it treats its weakest members." Mahatma Gandhi

corruption
watch



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87 De Korte Street
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PO Box 30630 Braamfontein 2017

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K.T.S
BA

Kabelo Sedupane

CW9

From: Bigboy Maubane
Sent: Thursday, June 19, 2014 2:13 PM
To: Nicola Whittaker; Kabelo Sedupane; Pule Zwane
Subject: FW: Halfway House School

From: Jana Marais [<mailto:jana@nexia-sabt.co.za>]
Sent: 10 June 2014 04:48 PM
To: Bigboy Maubane
Cc: Bashier Adam
Subject: Re: Halfway House School

Hi Bigboy

We are in the process of finalising the audit.

We will communicate our findings to you as soon as we have finalised the audit.

Kind regards

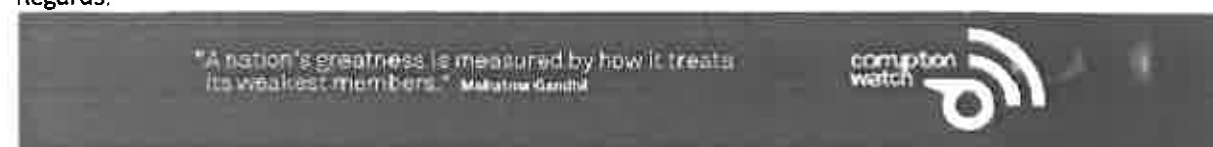
Jana Marais	
	
Tel +27 12 682 8800 Fax 086 510 4672 Mobile +27 82 907 6261 Email jana@nexia-sabt.co.za www.nexia-sabt.co.za	

From: Bigboy Maubane <BigboyM@corruptionwatch.org.za>
To: "jana@nexia-sabt.co.za" <jana@nexia-sabt.co.za>
Date: 2014/06/05 09:40 AM
Subject: Halfway House School

Morning Jana,

I am looking for any update you might have regarding the allegations we highlighted regarding Halfway House School in Midrand.

Regards,



Bigboy Maubane

K.T'S
B.A

Kabelo Sedupane

CW 10

From: Bigboy Maubane
Sent: Tuesday, October 21, 2014 3:28 PM
To: Kabelo Sedupane
Subject: FW: Halfway House School

From: Bigboy Maubane
Sent: 17 July 2014 10:43 AM
To: 'Jana Marais'
Subject: RE: Halfway House School

Hi Jana

Do you have any update for me regarding the findings of an audit?

From: Jana Marais [<mailto:jana@nexia-sabt.co.za>]
Sent: 10 June 2014 04:48 PM
To: Bigboy Maubane
Cc: Bashier Adam
Subject: Re: Halfway House School

Hi Bigboy

We are in the process of finalising the audit.

We will communicate our findings to you as soon as we have finalised the audit.

Kind regards

Jana Marais	
	
Tel +27 12 682 8800 Fax 086 510 4672 Mobile +27 82 907 6261 Email jana@nexia-sabt.co.za www.nexia-sabt.co.za	

From: Bigboy Maubane <BigboyM@corruptionwatch.org.za>
To: "jana@nexia-sabt.co.za" <jana@nexia-sabt.co.za>
Date: 2014/06/05 09:40 AM
Subject: Halfway House School

Morning Jana,

K.T.S
\$B

Subject: FW: Halfway House School

From: Bashier Adam [mailto:bashier@nexia-sabt.co.za]
Sent: 17 July 2014 12:21 PM
To: Bigboy Maubane
Cc: Jana Marais
Subject: Fw: Halfway House School

Dear Bigboy

I refer to your various e-mails to out Jana Marais and confirm that we have presented our draft reports to school management and are awaiting their response to same

Please note that we are not at liberty to divulge any of our findings and /or matters which may have come to light during our audit - you would have to get this from the school if they are willing to divulge - I am sure you understand the confidentiality issues etc etc

Thanks and regards

Bashier Adam



Tel +27 12 682 8789 | **Fax**+27 12 682 8786 | **Mobile** +27823333381
Email: bashier@nexia-sabt.co.za | www.nexia-sabt.co.za

----- Forwarded by Bashier Adam/SAB&T on 17/07/2014 11:58 AM -----

From: Jana Marais/SAB&T
To: Bashier Adam/SAB&T@sabt
Date: 17/07/2014 11:54 AM
Subject: Fw: Halfway House School

FYI

Jana Marais	
Tel +27 12 682 8800 Fax 086 510 4672 Mobile +27 82 907 6261	
Email jana@nexia-sabt.co.za www.nexia-sabt.co.za	

----- Forwarded by Jana Marais/SAB&T on 2014/07/17 11:56 AM -----

K.T.S
B.A

Kabelo Sedupane

CW12

From: Bigboy Maubane
Sent: Tuesday, October 21, 2014 3:32 PM
To: Kabelo Sedupane
Subject: FW: Halfway House School

From: Bigboy Maubane
Sent: 28 July 2014 09:50 AM
To: 'S.pillay@hhpschool.co.za'
Subject: FW: Halfway House School

Morning Mr Pillay

Please note that we have been in contact with Mr Bashier below and has since highlighted to us that the forensic report was compiled and handed to the school. Can you please advise if it is possible to share the findings of the report with us or provide us with the contact person who has the report and can share it with us.

Regards,
MB Maubane
0825088461

From: Bashier Adam [<mailto:bashier@nexia-sabt.co.za>]
Sent: 17 July 2014 01:29 PM
To: Bigboy Maubane
Cc: Kabelo Sedupane; Nicola Whittaker
Subject: RE: Halfway House School

IT was sent to the principal

Bashier Adam



Tel +27 12 682 8789 | **Fax** +27 12 682 8786 | **Mobile** +27823333381
mail: bashier@nexia-sabt.co.za | www.nexia-sabt.co.za

From: Bigboy Maubane <BigboyM@corruptionwatch.org.za>
To: Bashier Adam <bashier@nexia-sabt.co.za>
Cc: Nicola Whittaker <NicolaW@corruptionwatch.org.za>, Kabelo Sedupane <KabeloS@corruptionwatch.org.za>
Date: 17/07/2014 01:11 PM
Subject: RE: Halfway House School

Dear Bashier

K.T.S
B.A

From: Bigboy Maubane
Sent: Tuesday, October 21, 2014 3:40 PM
To: Kabelo Sedupane
Subject: FW: Halfway House School

From: S Pillay [mailto:s.pillay@hhpschool.co.za]
Sent: 29 July 2014 11:55 AM
To: Bigboy Maubane
Cc: phumla.sekhonyane@gauteng.gov.za; Raymond.Martin@gauteng.gov.za
Subject: Re: Halfway House School

Good Day Mr Maubane

In response to your e-mail below (as advised previously) please direct all future correspondence regarding this matter to Ms Phumla Sekhonyane , whom I have Cc'ed on this e-mail .

Kind Regards

Mr Silas Pillay (Principal)

Cell: 082 7717 386

082 5524 396

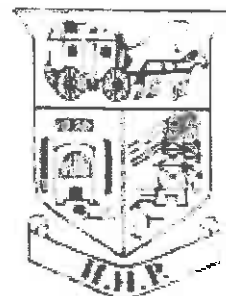
Fax : 086 4250 185

E-mail : s.pillay@hhpschool.co.za

silas.pillay@gauteng.gov.za



education
Department: Education
GAUTENG PROVINCE



K.T.S
B.A

From: Bigboy Maubane
Sent: Wednesday, August 13, 2014 8:16 AM
To: Sylvia.steytler@gauteng.gov.za; phumla.sekhonyane@gauteng.gov.za
Cc: Kabelo Sedupane
Subject: PAIA Request GDE
Attachments: PAIA REQUEST GDED Halfway House Primary.pdf

Dear Boy Ngobeni

RE: PAIA Request from Corruption Watch

Kindly find attached hereto correspondence and a request in terms of the Promotion of Access to Information Act (PAIA) from Corruption Watch.

Please advise us whether or not a fee is payable in order to process our request.

Kindly acknowledge receipt.

Sincerely,



Bigboy Maubane
Manager | Forensic Reports
T +27 (0)11 242 3900
F +27 (0)11 403 2392
M +27 (0)82 508 8461
bigboym@corruptionwatch.org.za
www.corruptionwatch.org.za

Corruption Watch (RF) NPC
8th Floor Heerengracht Building
87 De Korte Street
Braamfontein 2001 Johannesburg
PO Box 30630 Braamfontein 2017

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K.F.S
RA



Attention: THE GAUTENG PROVINCIAL DEPARTMENT OF EDUCATION

The Information Officer

Mr Boy Ngobeni

Per email: Sylvia.steytler@gauteng.gov.za

Per Tel: 011 843 6517

Per Fax: 033 355 8021

13 August 2014

Dear Sir,

RE: REQUEST FROM CORRUPTION WATCH FOR ACCESS TO INFORMATION IN TERMS OF THE PROMOTION OF ACCESS TO INFORMATION ACT (PAIA)

1. Please find attached hereto a request in terms of the Promotion of Access to Information Act from Corruption Watch.
2. Should part of the information in the records requested be subject to any ground of refusal under PAIA, kindly redact such information and allow us access to the remainder of the record requested.
3. In the event that you refuse our request to access the record sought in its entirety, kindly set out the reasons for refusal, as well as the statutory provision(s) relied upon for such refusal.
4. Please advise us if a fee is payable to process this request, and furnish us with the banking details.
5. We look forward to hearing from you.

K.T.S
BA

FORM A

REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY (Section 18(1) of the Promotion of Access to Information Act, 2000)

(Act No. 2 of 2000)

[Regulation 6]

FOR DEPARTMENTAL USE

Request received by

Reference number:

name and surname of information officer/deputy information officer on
(date) at (place)

Request fee (if any): R.....

Deposit (if any): R

Access fee: R.....

.....Signature of information officer/deputy Information Officer

- A** **Particulars of public body**
The Information Officer/Deputy Information Officer:

Attention: THE GAUTENG PROVINCIAL DEPARTMENT OF EDUCATION
The Information Officer
Mr. Boy Ngobeni
Per email: Sylvia.steytler@gauteng.gov.za
Per Tel: 011 843 6517
Per Fax: 011 333 5546

B Particulars of person requesting access to the record

- | | |
|-----|---|
| (a) | <i>The particulars of the person who requests access to the record must be given below.</i> |
| (b) | <i>The address and/or fax number in the Republic to which the information is to be sent, must be given.</i> |
| (c) | <i>Proof of the capacity in which the request is made, if applicable, must be attached.</i> |

Full names and surname: Corruption Watch (RF) NPC

Identity number: n/a

Postal address: PO Box 30630, Braamfontein, 2017

Fax number: (011) 403 2392

Telephone number: (011) 242 3900

E-mail address: Kabelos@corruptionwatch.org.za or bigboym@corruptionwatch.org.za

Capacity in which request is made, when made on behalf of another person:

n/a

C. Particulars of person on whose behalf request is made

<i>This section must be completed ONLY if a request for information is made on behalf of another person.</i>
--

Full names and surname: n/a

Identity number: n/a

D. Particulars of record

- | | |
|---|---|
| (a) | <i>Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.</i> |
| (b) | <i>If the provided space is inadequate, please continue on a separate folio and attach it to this form.</i> |
| The requester must sign all the additional folios. | |

Description of record/s or relevant part of the record:

1. A copy of the 2014 forensic audit report compiled by NEXIA SAB&T for the Department of Education, Gauteng, into suspected financial irregularities at Halfway House Primary School in Midrand Gauteng. The report is referenced on an attached copy of Email from NEXIA SAB&T marked "A".
- 2 Reference number, if available:
N/a
- 3 Any further particulars of record:

N/a

E. Fees

- (a) A request for access to a record, other than a record containing personal information about yourself, will be processed only after a request fee has been paid.
- (b) You will be notified of the amount required to be paid as the request fee.
- (c) The fee payable for access to a record depends on the form in which access is required and the reasonable time required to search for and prepare a record.
- (d) If you qualify for exemption of the payment of any fee, please state the reason for exemption.

Reason for exemption from payment of fees:

No exemption, please provide banking details and fee payable.

F. Form of access to record

If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 below, state your disability and indicate in which form the record is required.

Disability:		Form in which record is required:	
Mark the appropriate box with an X. NOTES: (a) Compliance with your request for access in the specified form may depend on the form in which the record is available. (b) Access in the form requested may be refused in certain circumstances. In such a case you will be informed if access will be granted in another form. (c) The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.			
1. If the record is in written or printed form:			
<input checked="" type="checkbox"/>	copy of record*	<input type="checkbox"/>	inspection of record
2. If record consists of visual images - (this includes photographs, slides, video recordings, computer-generated images, sketches, etc:			
<input type="checkbox"/>	view the images	<input checked="" type="checkbox"/>	copy of the images*
<input type="checkbox"/>		<input type="checkbox"/>	transcription of the images*
3. If record consists of recorded words or information which can be reproduced in sound:			
<input type="checkbox"/>	listen to the soundtrack (audio cassette)	<input checked="" type="checkbox"/>	transcription of soundtrack* (written or printed document)
4. If record is held on computer or in an electronic or machine-readable form:			
<input type="checkbox"/>	printed copy of record*	<input checked="" type="checkbox"/>	printed copy of information derived from the record*
<input type="checkbox"/>		<input type="checkbox"/>	copy in computer readable form* (stiffy or compact disc)
*If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? Postage is payable.			YES NO
Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available.			
In which language would you prefer the record? English			


G. Notice of decision regarding request for access

You will be notified whether your request has been approved/denied. If you wish to be informed in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

How would you prefer to be informed of the decision regarding your request for access to the record?

By Email: Kabelos@corruptionwatch.org.za or Bigboym@corruptionwatch.org.za

Signed at Braamfontein 13th day of August 2014


SIGNATURE OF REQUESTER 1 PERSON ON
WHOSE BEHALF REQUEST IS MADE

K.F.S
DA

Bigboy Maubane

From: S Pillay <s.pillay@hhpschool.co.za>
Sent: 29 July 2014 11:55 AM
To: Bigboy Maubane
Cc: phumla.sekhonyane@gauteng.gov.za; Raymond.Martin@gauteng.gov.za
Subject: Re: Halfway House School

Good Day Mr Maubane

In response to your e-mail below (as advised previously) please direct all future correspondence regarding this matter to Ms Phumla Sekhonyane , whom I have Cc'ed on this e-mail

Kind Regards

Mr Silas Pillay (Principal)

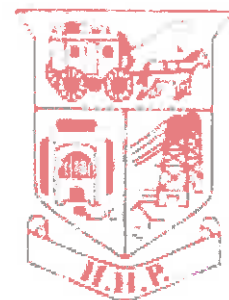
Cell: 082 7717 386

082 5524 396

Fax : 086 4250 185

E-mail : s.pillay@hhpschool.co.za

silas.pillay@gauteng.gov.za



" Work for a cause , not an applause . Live life to express , not to impress ."

HALFWAY HOUSE PRIMARY

P.O. Box 224
HALFWAY HOUSE
1685
Gauteng

Tel: 011 805-1919/21/26
Fax: 011 315-0261
Email: mwhhp@mweb.co.za
Web: www.hhpschool.co.za

291 VAN HEERDEN ROAD
HALFWAY GARDENS
MIDRAND
1685

A

From: Bigboy Maubane <BigboyM@corruptionwatch.org.za>
Date: Monday 28 July 2014 at 9:46 AM
To: Silas Pillay <s.pillay@hhpschool.co.za>
Subject: FW: Halfway House School

Morning Mr Pillay

Please note that we have been in contact with Mr Bashier below and has since highlighted to us that the forensic report was compiled and handed to the school. Can you please advise if it is possible to share the findings of the report with us or provide us with the contact person who has the report and can share it with us.

Regards,
MB Maubane
0825088461

From: Bashier Adam [<mailto:bashier@nexia-sabt.co.za>]
Sent: 17 July 2014 01:29 PM
To: Bigboy Maubane
Cc: Kabelo Sedupane; Nicola Whittaker
Subject: RE: Halfway House School

IT was sent to the principal

Bashier Adam



Tel +27 12 682 8789 | **Fax** +27 12 682 8786 | **Mobile** +27823333381
Email: bashier@nexia-sabt.co.za | www.nexia-sabt.co.za

From: Bigboy Maubane <BigboyM@corruptionwatch.org.za>
To: Bashier Adam <bashier@nexia-sabt.co.za>
Cc: Nicola Whittaker <NicolaW@corruptionwatch.org.za> Kabelo Sedupane <KabeloS@corruptionwatch.org.za>
Date: 17/07/2014 01:11 PM
Subject: RE: Halfway House School

A

Dear Bashier

Thank you for reverting back to me, please assist me with the detailed name of the report to assist me when requesting it from the school management and also the contact details of the person the report was sent to.

Regards,
MB Maubane
0825088461

From: Bashier Adam [<mailto:bashier@nexia-sabt.co.za>]
Sent: 17 July 2014 12:21 PM
To: Bigboy Maubane
Cc: Jana Marais
Subject: Fw: Halfway House School

Dear Bigboy

I refer to your various e-mails to out Jana Marais and confirm that we have presented our draft reports to school management and are awaiting their response to same

Please note that we are not at liberty to divulge any of our findings and /or matters which may have come to light during our audit - you would have to get this from the school if they are willing to divulge - I am sure you understand the confidentiality issues etc etc

Thanks and regards

Bashier Adam




Tel +27 12 682 8789 | **Fax**+27 12 682 8786 | **Mobile** +27823333381
Email: bashier@nexia-sabt.co.za | www.nexia-sabt.co.za

----- Forwarded by Bashier Adam/SAB&T on 17/07/2014 11:58 AM -----

From: Jana Marais/SAB&T
To: Bashier Adam/SAB&T@sabt
Date: 17/07/2014 11:54 AM
Subject: Fw: Halfway House School

FYI

Jana Marais



Tel+27 12 682 8800 | **Fax** 086 510 4672 | **Mobile** +27 82 907 6261
Email jana@nexia-sabt.co.za | www.nexia-sabt.co.za

K.T.S B.A

A

----- Forwarded by Jana Marais/SAB&T on 2014/07/17 11:56 AM -----

From: Bigboy Maubane <BigboyM@corruptionwatch.org.za>
To: Jana Marais <jana@nexia-sabt.co.za>
Date: 2014/07/17 10:48 AM
Subject: RE: Halfway House School

Hi Jana

Do you have any update for me regarding the findings of an audit?

From: Jana Marais [<mailto:jana@nexia-sabt.co.za>]
Sent: 10 June 2014 04:48 PM
To: Bigboy Maubane
Cc: Bashier Adam
Subject: Re: Halfway House School

Hi Bigboy

We are in the process of finalising the audit.

We will communicate our findings to you as soon as we have finalised the audit.

Kind regards

Jana Marais



Tel +27 12 682 8800 | **Fax** 086 510 4672 | **Mobile** +27 82 907 6261
Email jana@nexia-sabt.co.za | www.nexia-sabt.co.za

From: Bigboy Maubane <BigboyM@corruptionwatch.org.za>
To: jana@nexia-sabt.co.za <jana@nexia-sabt.co.za>
Date: 2014/06/05 09:40 AM
Subject: Halfway House School

Morning Jana,

I am looking for any update you might have regarding the allegations we highlighted regarding Halfway House School in

K.T.S
BA

Midrand.

Regards,

"A nation's greatness is measured by how it treats
its weakest members." Mahatma Gandhi



Bigboy Maubane

Manager | Forensic Reports

T +27 (0)11 242 3900

F +27 (0)11 403 2392

M +27 (0)82 508 8461

bigboym@corruptionwatch.org.za

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87 De Korte Street

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From: Vuledzani Musetsho (GPEDU) <Vuledzani.Musetsho@gauteng.gov.za>
Sent: Thursday, October 2, 2014 8:35 AM
To: Kabelo Sedupane; Bigboy Maubane
Cc: David Maserumule (GPEDU)
Subject: HALFWAYHOUSE REQUEST FOR INFORMATION
Attachments: 20141001162859574.pdf

Good day

Please find the attached response.

Trusting that you will find the above in order.

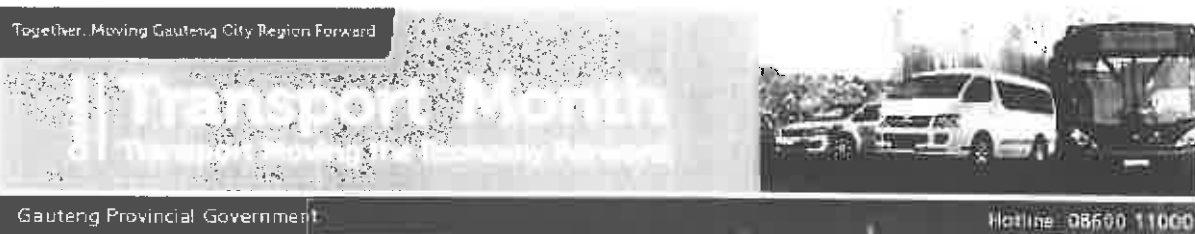
As Vuledzani (Vule) Musetsho
Legal Services
Gauteng Department of Education
Tel: 011 355 0965 Fax: 011 355 0042 Fax to Mail 086 662 3688
Email: vuledzani.Musetsho@gauteng.gov.za
Website: www.education.gpg.gov.za

-----Original Message-----

From: scanner@gauteng.gov.za [<mailto:scanner@gauteng.gov.za>]
Sent: Wednesday, October 01, 2014 4:29 PM
To: Vuledzani Musetsho (GPEDU)
Subject: Message from "RNP00267346C568"

This E-mail was sent from "RNP00267346C568" (Aficio MP 2352).

Scan Date: 01.10.2014 16:28:59 (+0200)
Queries to: scanner@gauteng.gov.za



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K.F.S. BA



GAUTENG PROVINCE
Department of Education
REPUBLIC OF SOUTH AFRICA

Enq: Vule Musetsho
Tel No: 011 355 0664

To: Bigboy Maubane
Manager: Forensic Reports
Corruption Watch
8th Floor, 87 De Korte Street
Braamfontein

01 OCTOBER 2014

Email address: Kabelos@corruptionwatch.org.za
Bigboym@corruptionwatch.org.za

Dear Sirs,

RE: REQUEST FOR INFORMATION IN TERMS OF PAIA: FORENSIC REPORT ON
HALFWAY HOUSE

We acknowledge receipt of your request addressed to the Information Officer for which we thank you.

Kindly be advised that this matter was referred to the Office of the Deputy Information Officer for further attention.

Further to your request we would like to advise that the Department does not have the requested records as such investigation was not conducted by the department.

We trust that you will find the above in order.

Regards,

Adv. Ntini Mtshizana
Deputy Information Officer
Gauteng Department of Education
Date: 1/10/2014

Making education a societal priority

Office Of The Deputy Information Officer
19 Floor, 111 Commissioner Street, Johannesburg 2001
P.O. Box 7710, Johannesburg, 2000 Tel: (011) 355 0147 Fax: (0 11) 843 0973
Email: Ntini.Mtshizana@gauteng.gov.za Website: www.education.gpg.gov.za

K.T.S.B.D