

Basic Education

Selling of Educator Posts by Union Members/Provincial Department Officials: Ministerial Task Team Report

Chairperson: Ms N Gina (ANC)

Date of Meeting: 27 May 2016

Summary

The Department of Basic Education (DBE) presented the Ministerial Task Team (MTT) Report on the allegations of the selling of teacher posts. Of the approximately 120 matters that were brought to their attention, the MTT investigated 81 cases. Of these, 38 cases provided grounds for either reasonable suspicion requiring further investigation or pointed directly to wrongdoing amounting to criminal conduct.

The cases reported to the task team constitute samples of irregularities but they nevertheless point to widespread practices of improper and unfair influence. In only a minority of cases are there claims of money paid to influence the outcomes but there are findings of improper influence of many different kinds. Some cases suggest that there is collusion within the line of command, and in some cases, there appears to be collusion between union officials and district managers, and sometimes with provincial HR officials. It became evident that the process of selecting candidates for appointment in the Education sector is riddled with inconsistencies. There needs to be a review of the process. The weaknesses within certain districts were noted. Where authority is weak and inefficient, teacher unions move into the available spaces. Weak authorities, aggressive unions, compliant principals and teachers eager to benefit from union membership and advancement create a combination of factors that defeat the achievement of quality education by attacking the values of professionalism.

The recommendations included:

- That the illegal action by educators identified by the MTT be reported to SAPS for further action.
- That disciplinary action is taken against officials who failed to check acts of corruption.
- That whistle-blowers be protected and DBE set up a dedicated unit for complaints on selling of posts.
- That DBE regain control of administering the provincial education system and clear distinctions be made between DBE roles and functions of the DBE and the concerns of teacher unions.
- That the Minister requires all Provinces to complete and implement their delegations frameworks.
- That SGB powers to make recommendations for the appointment of post level 2 and above be taken away.
- It should not be possible for a person to be promoted to principal from a post-level 1 position.
- That the observer status of unions be renegotiated with respect to the recruitment process.
- Principals should be selected by means of experienced panels and a DBE representative present.
- That educators cease to be office-bearers of political parties and those in management posts be prohibited from occupying leadership positions in teacher unions.

- That it seems desirable that separate and distinct unions be established for office-based educators.
- That the practice of cadre deployment into DBE offices and schools ceases entirely.
- Those who are appointed to districts and provincial offices demonstrate their capacity for the post.
- That the South African Council of Educators be freed from union and political domination.
- That SACE releases to the Minister its full Report on the buying and selling of posts when completed.

The Basic Education sector responded to the following recommendations: General employment context; Importance of short term measures; Standards for principals: Performance Management; Focus of the Ministerial Task Team; Proposed legislative amendments and reforms.

Members highlighted the need for the prosecution of those individuals that have been implicated in the report, specifically members of the South African Democratic Teacher Union (SADTU). The discussion also spoke about the North West Education Department's own report that dealt with the selling and purchasing of posts in that province and that the North West HOD is held accountable for the findings. The Chairperson explained that the Minister's absence was due to another engagement but the Committee had decided to press ahead and there would be future engagement on the matter.

Minutes

Opening Remarks

The Chairperson mentioned how the Committee and the general public have been looking forward to the release of the report. This meeting was an opportunity for the members to get an understanding of the report and not misinterpret it and to hear from the Department as they will be the ones dealing with the findings of the report. She said that all people present have a common objective of ensuring that the education system is one that they can all be proud of. The members are here to help build each other and to ensure that learners receive the quality education they deserve. Together they will try by all means to uproot all negative things and bad elements that might persist in the education sector. Ultimately they need to look at all stakeholders and the roles they play in ensuring that the system is being enhanced and delivering quality education. She asked that all members be objective when listening to the report and not biased.

Ministerial Task Team Report: introduction by DBE Director General

Mr Hubert Mathanzima Mwel, DBE Director General, introduced Prof Volmink who chaired the Ministerial Task Team (MTT). He conveyed the Minister and Deputy Minister's apologies. He highlighted the importance of the work done by the MTT. This was the first time in South Africa's democratic history that the Department has had to handle an assignment of this nature and magnitude. The Minister had asked him to convey her appreciation and thanks to the media and members of the civil society who supported the Department in doing this work. The lead for this investigation came from City Press. He explained the reasons behind the delay in releasing the MTT Report. This was the first time the Department has ever had to deal with something of this nature. They had to work very closely with their lawyers and received advice every step of the way. They had been cautious during the process to ensure that the product of an exercise of this nature had no mistakes. The report is available to the public and is on the DBE website. They have also made available the responses of all key stakeholders; teacher unions

and associations of school governing bodies. The Minister had dedicated a week in meeting with each of these groupings, making them aware of the importance of responding to the report given the fact that they are cited in the report. They met with all five teacher unions and all associations of school governing bodies which were advised to respond to the report.

When the MTT Report was presented to Cabinet, they advised the Minister to also include as part of the report the response of the basic education sector. Therefore the second part of the presentation will be the response of the sector. The team was constituted by people coming from different areas of expertise. Prof Volmink and the other members have a rich background of knowledge and experience in education both internationally and nationally. The MTT also included experts from the Department of Justice and Correctional Services because some of the cases would lead to criminal charges, so from the word go it was seen as advantageous to have people who have that expertise and knowledge as part of the team. The team also had people from the Department of Public Service and Administration (DPSA) which is the organ of state entrusted with regulating the public service, whose expertise was crucial. They had external forensic auditors from Deloitte. Sixteen of the cases have been concluded. There are 22 cases that require further investigation.

Mr G Davis (DA) raised two problematic issues about Committee procedure. Firstly, he noted how unfortunate it is that Minister Motshekga could not be present as this is a MTT Report, commissioned by the Minister and she should be there to present it. A lot of the recommendations and findings in the report are very political in nature and they will require political will if they are to be carried out. It is therefore difficult to talk to officials about recommendations which are political in nature and will require political will. He wanted to state the DA's objection to the Minister not being present. He added that he wrote to the Chairperson to request that the South African Democratic Teachers Union (SADTU) be present as they are the main union targeted in the report. The Chairperson wrote back to him in agreement about there being a representative of organized labour present to discuss the report. He had read a media report that SADTU is refusing to come before the Committee and he would like to clear that up. Had she requested that SADTU come before the Committee and are they refusing her request? If SADTU is refusing to come before the Committee the union is in contravention of the Rules of Parliament which say that they can summon any person and organization to appear before the Committee.

The Chairperson replied that Mr Davis did write to her requesting her to summon SADTU. Her response is that today's meeting is about the report. Then after that, if there is a need for the Committee to engage with all the stakeholders, including labour unions, then they will do so. She added that after the report has been engaged with, they will then look at the implicated bodies and take it from there. There are many implicated bodies in the report and she will not ask why he only highlighted and targeted SADTU. To her all teacher unions are implicated, there are also school governing bodies mentioned. The Committee will therefore deal with all these stakeholders. For him to target one union is not proper and that all mentioned stakeholders will be called before the Committee if needed. She added that the Minister did apologise for not being present and they felt that it was not ideal to cancel the meeting because they wanted to hear what is happening with the report. The Minister had another engagement that she had to attend. She added that there will be other engagements on the report and the Minister is still going to appear before the Committee.

Mr D Mnguni (ANC) said that the Committee is a collective and that if there are people to be summoned before them it has to be a collective decision. It is not proper to mention just one union as the report is

speaking about different stakeholders and unions. When the decision to summon comes; all mentioned unions and other bodies will have to come before the Committee. All members of the Committee need to agree about who needs to be called before them.

Mr Davis said that this is not a work in progress, this is the final report and the Minister should have been here as this would have been her opportunity to table the final report and to discuss it with her and also the political ramifications of the report. He added that it is not appropriate to discuss a political report with officials. On SADTU, he was struggling to see evidence of any other union that is involved. The Chairperson asked him to stop and voice his points during the discussion. She handed over the DG who reiterated the Minister's apology. He then handed over to Mr Kojana.

DBE briefing on Ministerial Task Team Report on allegations of selling of teacher posts

Mr Themba Kojana, DBE Acting Deputy Director General: Teachers, Human Resources and Institutional Development, went through the report. When the department received media reports about the selling of teacher posts, the Minister of Basic Education was up front and proactive in convening meetings which included teacher unions as well as associations of school governing bodies to discuss the approach to resolving the allegations in the media report. Consensus was reached on the need to investigate the allegations speedily, and it was agreed that a Ministerial Task Team be established, instead of a commission of enquiry to probe the allegations. The process started in earnest in September 2014 and the MTT was initially given 120 days to complete its work, but the Minister decided that due to the complexities of the investigation itself and whilst the Department was on the verge of releasing the report, there were other cases reported by City Press. The Minister had decided to release the Ministerial Task Team Report on the "post for sale" investigation on 15 April 2016, after consulting teacher unions and school governing body associations. However, the Minister received requests to delay the release of the MTT Report to allow teacher unions and individuals implicated in the report to rebut and/or make formal representations to the MTT. The Minister obtained legal advice about allowing such processes to take place.

After noting the composition of the MTT and commending the support of the Department of Justice and Correctional Services, he spoke about the MTT process. The MTT had to conduct interviews with the heads of department in provinces, Members of the Executive Council and other provincial officials; district managers and human resources practitioners. The interviews took place in provinces across South Africa. Organised teacher unions were also interviewed and bodies such as the South African Council of Educators (SACE), the Education Labour Relations Council (ELRC), and the school governing body associations. The task team heard testimonies from a number of aggrieved individuals who were allegedly implicated in the selling of teacher posts. For the purposes of strengthening the education system, the Task Team extended its scope to interview individual educational experts and academics. To establish the validity of the media allegations, meetings were held with the City Press journalists who revealed further details of the allegations. The MTT used media allegations about the buying and selling of posts as a focus for discussions with district managers and teacher unions in each province, asking them for their responses to general and specific instances which the City Press and other sources had provided. Individual allegations were followed up, individuals interviewed, and follow-up meetings were held with informants. Then the forensic members of the Task Team, drawn from Deloitte as well as the Department of Justice, investigated those instances which are contained in this Report. The cases reported to the panel came from six provinces: Eastern Cape, KwaZulu Natal, Limpopo, Mpumalanga, Gauteng, North West. The

number of schools, finalised cases and cases still needing investigation per province were noted. In total there were 81 cases the MTT dealt with.

Findings of the MTT

As anticipated, many disgruntled individuals saw an opportunity to use the investigation to voice their grievances, not always on factual grounds. Of the approximately 120 matters that were brought to their attention, the MTT found, after initial investigation, that several of the allegations were unfounded, based on rumours, malice, or hearsay. In a variety of the cases, the pervasive culture of fear and concerns about safety negatively impacted on the co-operation of the potential witnesses, resulting in their being reluctant or unwilling to commit themselves to statements / affidavits to assist the Task Team in its investigation. These challenges resulted in a situation where no further steps could be taken or contemplated. In these cases, they had no choice but to regard them as finalised. The MTT soon became aware that there are many forms of irregularities in appointments.

In many ways the cases reported to the task team constituted indicative samples of irregularities but they nevertheless point to widespread practices of improper and unfair influence. In only a minority of cases are claims of money being paid to influence the outcomes but there are claims and findings of improper influence of many different kinds. Some cases suggest that there is collusion within the line of command, and in some cases, there appears to be collusion between union officials and district managers, and sometimes with provincial HR officials. There is a clear basis in such cases for further investigation by a competent authority. It became evident that the process of selecting candidates for appointment in the Education sector is riddled with inconsistencies. As a result, the process is subject to all forms of litigation. There needs to be a review of the process assigned to general human resource practitioners to look into the principles and procedures that need to be followed in the appointments within the Education sector. Given the historical legacy, policy and practice, the education sector has features that are different from other public service sectors.

Another inconsistency is the weaknesses within certain districts. Some districts work strictly according to regulated procedures and their managerial and administrative staff members are persistent and consistent in carrying out their duties in accordance with a coherent system. The teacher unions in those areas are held in check and procedures and decisions are led by the Department. Where authority is weak, inefficient and dilatory, teacher unions move into the available spaces. Weak authorities, aggressive unions, compliant principals and teachers eager to benefit from union membership and advancement create a combination of factors that defeat the achievement of quality education by attacking the values of professionalism. Of the 81 cases that were investigated, 38 cases provided grounds for either reasonable suspicion requiring further investigation or pointed directly to wrongdoing amounting to criminal conduct. In order to make these judgements, the MTT was guided by the Prevention and Combating of Corrupt Activities Act.

Recommendations of the MTT

- That the illegal action by educators identified by the MTT be reported to SAPS for further action and that the Minister engages her counterpart in the police to dedicate resources to this category of cases to ensure fair and expeditious resolution.

- That disciplinary action be taken against those officials who had the responsibility to check acts of corruption but failed to do so.
- That action be taken quickly to protect whistle-blowers. It is recommended that the Education Department establish a dedicated unit to receive complaints about the selling of posts and to direct such reports to competent authorities and follow up those reports.
- That the Department of Basic Education regain control of administering the education system in all Provinces so that clear distinctions are established between the roles and functions of the DBE and the concerns of Teacher Unions.
- That the Minister requires all Provinces to complete and implement their delegations frameworks in line with the Cabinet approved 2013 Public Administrations delegations framework and that the Minister adjust the Education sector legislation accordingly.
- That the powers of School Governing Bodies to make recommendations for the appointment of post level 2 and above be taken away and that the South African Schools Act and the Employment of Educators Act be amended to reflect this.
- It should not be possible for a person to be promoted to principal from a post-level 1 position. Insofar as this happens at present, regulations should prohibit it.
- That the observer status of Unions be renegotiated with respect to the recruitment process.
- Principals should be selected by means of panels which have the resources to evaluate the competence and suitability of the candidates for their leadership, management as well as their academic, experiential and professional abilities. The panels should include educators of suitable rank and experience. The pre-interviewing testing of candidates should occur and the results should be available to the panel members. The interviewing panels should be convened by the District Managers and a Departmental representative should be present as a suitably prepared Resources Person, having, for example, full details of the schools for which the interviews are being held.
- That both school- and office-based educators cease to be office-bearers of political parties and that educators in management posts (including school principals) be prohibited from occupying leadership positions in Teacher unions.
- That it seems desirable that separate and distinct Unions be established for office-based educators.
- That measures be put in place to ensure that the practice of cadre deployment into DBE offices and schools ceases entirely.
- Those who are appointed to Districts and provincial offices should be required to demonstrate their capacity to carry out the job for which they have applied. There should be no political appointments nor cadre deployments. People in these posts must be accountable to their employer and be assessed regularly. Furthermore the role of Circuit offices need to be redefined in a way that eases pressure on the District office in terms of managing employment relations closer to institutions/schools.
- That the DBE and the DHET, with universities and other stakeholders, including the unions, lead discussion aimed at developing a broad-based philosophy of education, consistent with our history and Constitution, which will underpin the education and training of educators and shape the practice of

education in schools throughout South Africa. This is not intended to mean that appointees should not have their own political affiliations. But they should not be placed into a position by a political organisation and should not hold office in a political party.

- That the South African Council of Educators (SACE) be reconceptualised and freed from union and political domination.
- That SACE releases to the Minister its full Report on the buying and selling of posts when completed.

Cabinet had indicated that there needs to be a response to the MTT Report from the DBE which looks at the employment into posts, the trends around the number of new principals, and the appointment of middle-management at school level.

Basic Education sector response

On the employment context: There is statistical evidence that shows that there is a surge in the number of retiring principals. Whilst in 2008 approximately 400 school principals were retiring, the figure for 2017 is expected to be 1 500, implying a fourfold growth in appointments. If one adds to this the fact that school principals have in the past tended to stay longer in one school, on average ten years, it becomes clear that currently the schooling system is at a critical juncture. If the administration ensures that good people enter principal posts, this can put schools on a 'winning trajectory'. However, if the administration allows the wrong people to fill principal posts, because nepotistic or corrupt practices are not stopped, or because appointment processes fail to identify who would make a good principal, educational transformation will be tragically delayed. Similar things can be said about other management posts in schools, specifically those of deputy principals and heads of department.

On the importance of short term measures: There is a need to strengthen accountability in education, with a special emphasis on short-term measures, by ensuring that:

- the employer taking control of the appointment of the most suitable teachers in terms of qualifications, skills, attributes, and ability. This must be done by establishing interviewing and appointment panels that are independent, that would be vetted regularly, and that would undergo training on appointment procedures and requirements for posts in education.
- the changes to appointment procedures require large-scale advocacy of parent and school communities, so that everyone is informed of the changes.
- The integrity of appointment procedures must be protected by setting up a dedicated call centre, at which irregular activities can be reported and be dealt within a short space of time.

Standards for principals: A national policy on standards for principal has been gazetted. It provides a framework of processes and programmes for developing the leadership and management skills of principals by acknowledging the need for principals to be professional, prudent, innovative and resourceful in managing their schools. The policy is underpinned and supported by the South African Schools Act (SASA) as well as Chapter A of the Personnel Administrative Measures (PAM). The standards provide clear roles and description for school leaders and set out what is required of the principal. The Department, with the help of Provinces, has identified differentiated developmental needs for professionalising principals and for the development of their roles. These are:

- enhancement of the skills and proficiency levels of principals;
- improvement of the procedures for recruiting and selecting principals;
- induction and mentoring of principals; and
- professional preparation of principals.

Performance Management: The NDP states that –

“introduce performance contracts for principals and deputy principals, in line with Department of Basic Education policy. Use these contracts to help principals find ways to improve their performance every year, including identifying their training needs. Over time performance contracts should also be introduced for other members of school senior management teams (SMTs);

“replace principals who repeatedly fail to meet performance targets, based on monitoring information and interviews with school stakeholders; and

“use data from performance management systems to identify areas where principals need more training.”

To enhance accountability of educators, the Quality Management System (QMS) for assessing performance of school-based educators was adopted at Education Labour Relations Council (ELRC) in November 2014.

Focus of the Ministerial Task Team: Firstly, there are recommendations on the conduct of unions and officials in relation to their lack of adherence to their roles and responsibilities as prescribed in the applicable laws and procedures. The MTT Report highlights a lack of consistency and understanding of School Governing Body (SGB) members regarding appointment systems and procedures. These challenges require the Department to reform laws and regulations regarding appointments in the basic education sector.

Secondly, there are allegations and specific recommendations about a number of identified individuals, who it is alleged, participated in one or other form of corruption or selling of posts. Investigations into most of these have not been concluded and an extension of the forensic part of this report has been granted. The forensic part of the whole investigation will be completed in August 2016, after which, the necessary remedial action will be instituted.

Proposed legislative amendments and reforms: A proposed legislative amendment, which is still in the process of being finalised, deals with a number of issues emanating from the MTT Report to review education legislation. With regard to the amendment will contain a proposal that any appointment or promotion or transfer will be the responsibility of the HOD at Provincial level, with an initial focus on promotional posts on post levels 2 to post level 4.

The amendment will propose that the Minister be empowered to make regulations to prescribe the manner in which this and employment practices in general will be carried out. This may include the composition of interviewing panels, vetting of panel members, and a number of other matters which could prevent the practices of the selling of posts.

Mr Kojana said that the DBE recommended that the Portfolio Committee should note and discuss the MTT Report as well as the Basic Education sector response.

Discussion

The Chairperson thanked them for the presentation and especially the DBE's response to the Report as the Committee was interested in hear what they had to say.

Mr Davis (DA) started with a general comment on the presentation which he found deeply unsatisfactory and did not take them much closer to understanding exactly what the response of the Department is to the report. He said that there are 16 recommendations contained in the report and they expected the Minister to tell the Committee what the position is of her Department to each of the 16 recommendations. He asked the Department to go through the 16 recommendations and to give them their response to each one, for the Department to indicate if they are for or against them. He asked how many cases of corruption and bribery uncovered in the report have been reported to the police for further investigation. Also, has Minister Motshekga engaged with her counterpart in the Minister of Police to ensure the expeditious finalisation of these cases? Have the officials and teachers who have been implicated in the 38 cases been suspended pending the outcome of criminal investigations? The MTT Report is quite clear that SADTU is the main perpetrator of bribery and corruption in these 38 cases, it also makes it quite clear that SADTU has captured six of the nine provinces and the DBE remained silent on that in their presentation. What steps are being taken to ensure that the SADTU leadership is held to account for the activities of its members? What steps are being taken to ensure that the SADTU leadership cleans up its own union so that this systemic problem within its ranks does not happen again? He mentioned the Nexus forensic report which was commissioned by the North West Education Department on the buying and selling of teacher's posts, which was finalised two years ago, with nothing happening. He asked why nothing had happened in that case. What action will be taken in the North West to officials and the HOD who knew about the corruption?

Ms J Basson (ANC) thanked the presenter and wanted clarity if the report is telling them that the investigation is completed. This is because slide 10 mentions that there are still 22 cases to be further investigated. Why were 8 and not 9 provinces interviewed? Six provinces were implicated, with the Western Cape not being interviewed. Why were no Western Cape District Managers investigated?

Mr Mnguni (ANC) also had an issue with the Western Cape being omitted from the investigation. He asked if there is any proof of money having been deposited for the selling of posts into the bank accounts of unions. Are there any gaps in the processes and procedures in the recruitment system, as it has been indicated that under qualified teachers are being promoted from level 1 to principal posts. There should be a vacancy list that is controlled by the Department, is there any oversight and are any irregularities taking place? Are there any measures that can be taken against those officials identified as weak at the district levels?

Mr H Khosa (ANC) welcomed the report, but raised a few concerns. On slide 7 it indicates that all provinces were visited and interviewed, but on slide 10, it mentions six provinces. When looking at Limpopo, you find that wrongdoing is at zero, what about the other three provinces? If they are also at zero, why are they not mentioned on the slide? On slide 14, it speaks of weak authorities and abusive unions, are these weak authorities going to be held accountable? He added that unions have a high percentage of district staff members that belong to unions and that this may also influence the appointment of teachers. Did

union members act as individuals or was it a union initiative? If they acted as individuals, why are individuals not mentioned but unions are?

Ms N Mokoto (ANC) said that the Committee has been waiting for this report for some time especially after the media publicity. It is very worrying that it seems that the challenges seem to be growing especially with the burning of schools. This report shows just how prepared they are in correcting the system where there are weaknesses. This report needs to be taken as a self-inspection report, where they are able to do a SWOT analysis; to check their weaknesses, to test themselves. She commended the Department on how they have been proactive in this matter with the establishment of the task team. The task team was able to highlight the weaknesses of the Department across all levels; national, district and school level. There has been a reflection on the strengths and weaknesses of the labour unions. The Department should look at implementing most, if not all, the recommendations. There should be a symbiotic relationship that exists between the unions and officials as they are working for one purpose. The Committee needs to urge to DBE to foster unity between teacher unions. The training for SGBs and department officials has to be prioritised. There needs to be a strengthening of the capacity of those structures at a lower level. On prosecution and disciplinary action, she said that those recommendations must happen at all levels with no hesitation.

The Chairperson said that having looked at the report and the presentation, for her there is so much to learn from this. The Report looks at the legislation as there are many clauses that need to be revisited together with the Department. As the Portfolio Committee, they need to look at those legislative amendments to ensure that such matters are being tightened. She fully agrees with Members that those implicated have to be prosecuted. Are members of the SGB capacitated enough? Do they know their roles? There will need to be another meeting when all 22 cases have finalised in August.

The Director General said that he was happy that the report did not polarise the Committee in its engagement with the report. He agreed that there should be more than one follow-up meeting in engaging with the progress being made in implementing these recommendations. Section 19 of South African Schools Act (SASA) provides for the capacitation of SGBs, but provinces are responding to these legislative mandates differently. Provinces are also at different levels of compliance and in making an impact on the functioning of SGBs. He agreed that action must be taken speedily, but careful consideration needs to be followed. In dealing with each case, there must be no grey area, all blind spots checked with sound legal advice. It will be unfortunate if the report ends up nowhere in terms of turning the sector around. They have started on legislative amendments through the Basic Education Amendment Bill. Any system is as good as the people there. There may be great policies, but if people do not do what is expected of them it is lost. He said that policies and legislative interventions are minute when compared to the human factor which has taken the bulk of what emerged as wrongdoing in the findings of the MTT. They need to deal with the human element and engender a new culture of doing things right. He added that it would be unfortunate for them to target one organization or one group of people.

The Director General said that they are working with the Department of Justice and prosecution will be carried out. The relationship between unions and officials is defined in Section 23 of the South African Constitution and the Labour Relations Act is very clear that unions have to be observers. It is clear what the role is of those who are observers; no active role in the process. At the core of delivering quality education is recruiting competent teachers and staff who are able to do what is expected of them. This report will therefore stop what is potentially a cancerous tendency that can undermine the efforts and

gains made. Transparency and openness; he said that the truth is the easiest and quickest way to get things done. There was no way they could hide anything in the report which has not been sanitized, and the department has not added any of their own words. The report is as released by the MTT.

All organisations are saying that they do not deny that their members might have been involved, but nowhere have they been mandated by them, there is no policy position, no resolution and no decision anywhere. Including SGB associations, there is no SGB or member that can say they were given authority to carry out processes in an irregular manner. Gaps in policies and regulations have been covered, but for the Director General there are areas that need strengthening, but not many; if the Department gets the right individuals and people doing what is expected of them. The need to strengthen and amend policies and legislation is because of human behaviour which is a bit flawed. On the steps taken against those accused of wrongdoing, the report was released on 20 May, and as indicated in his opening remarks, they are still waiting for more information and evidence that will empower their teams at provincial and national level to start to take action against some of the individuals mentioned in the MTT Report. There are some cases they are still getting information from and the Department is in conversations with Prof Volmink. The new cases that are coming, some are old and some information is still coming in. The cutoff date the Minister is looking at is the end of August; all required information should be in. Lawyers have indicated that the information received is enough to go ahead with internal disciplinary actions and processes. Prof Volmink is best positioned to say whether there is proof of money being deposited into union bank accounts. The investigation is not complete, but the report is final. The completed report is saying that out of the 81 cases, 16 are complete and the Department is collating all other information so they can proceed; 22 cases require further investigation. This however is the final report.

The Director General said the Department has responded comprehensively to each of the recommendations in the report. They have grouped their responses under the recommendations sections. The Committee is aware of how they have dealt with ministerial task teams before and how they have responded adequately to all recommendations. He added that they have no problem in responding to each recommendation and then forwarding them to the Committee. The North West report has been available for the past two years, but was only made available to them as part of the MTT Report. It was never with the DBE. He added that Chapter 3 of the South African Constitution is very clear on how to carry out concurrent functions between the national department and the provincial department. That report was the report of the North West Education Department. The national office only got sight of the North West report through the MTT Report.

They have not taken steps against SADTU; they will however take action against all implicated people, SGB, DBE or union members who might or might not belong to any union. In taking action against people, they are not interested in if they belong to any union, but if they did any wrong. He said that Prof Volmink will be better positioned to address the statement that SADTU has capture six out of nine provinces. Implicated people have not been suspended as yet; they are waiting on DBE lawyers to give them the go-ahead. They have not reported any cases to the police as yet.

Prof Volmink, Chairperson of the MTT, said that in Chapter 4 of their report, there is a silence regarding the district managers as they had engaged with the head of the province and were satisfied with the statement he had delivered as they were not available at the time of the interviews. In the table, only six provinces were implicated. He added that the task team was commissioned to investigate media allegations and not fabricate. They could only pursue those cases that formed part of the media

investigation and cases that came to them. In three provinces there were none: Free State, Northern Cape and the Western Cape. Limpopo has further investigations to be done and the zero figure under wrongdoings may change come August. The report is incomplete in the sense that there are cases that need to be investigated and those will be concluded by the forensics team coming from the DoJ, people who are trained as forensic investigators. The task team had approached its work with an open mind and the report is critical of all, including the department, provincial departments and SGBs. Nobody has been left out. It is important to note and point out that it is clear that the education system is in need of repair. The system as it stands at the moment is hurting our children because in view of the MTT, it is an attack on the quality of education. The report should be seen as a mirror. The MTT did not approach the work with a judgment in its back pocket, it was clear from the data that emerged, that SADTU has captured two thirds of the provinces. The MTT noted that SADTU is a powerful union. When dominance is used unlawfully, it becomes dangerous.

The Chairperson opened up for a second round of discussion and remarks.

Mr Davis said that on the role of the North West, he understands that the Department was only made aware of it now through the work of the MTT, the question is what will they do about it now? Will the HOD of North West be charged under the Combating and Preventing of Corruption Activities Act for failing to disclose the findings of that report? With SADTU, it is about a systemic problem relating to one union and not about individuals. SADTU's power comes from its status as an alliance with the African National Congress. With that, what will be done, what steps will be taken against the SADTU leadership who have allowed this to happen under their watch? He asked the DG to give a response on three recommendations, the Departments position on recommendation 10: "That both school- and office-based educators cease to be office-bearers of political parties and that educators in management posts (including school principals) be prohibited from occupying leadership positions in Teacher unions"; recommendation 11: "That it seems desirable that separate and distinct Unions be established for office-based educators"; and recommendation 12: "That measures be put in place to ensure that the practice of cadre deployment into DBE offices and schools ceases entirely".

Ms D van der Walt (DA) said that observer status in the appointment process should be scrapped and that it is not the job of a union to appoint and ensure that someone is employed. Unions should therefore only look after their members. This process is negatively affecting the children of South Africa. They are building a country and not an individualist world of richness. On the training of SGBs, she said that the Federation of Governing Bodies of South African Schools (FEDSAS) has offered to train rural SGBs but the offer has never been taken up and the system has got to train people. Unions have a right to exist as long as they stick to the rules. Everyone is implicated in this "Jobs for Cash" scandal. She added that they are just as guilty in giving unions too much power.

Ms Basson said that on page 10, the totals do not tally at the end and that she is looking forward to the finalisation of all cases. That to look at SADTU only is unfair and premature, and that all cases should be finalised and then a final position be made. She added that stripping the powers of the SGB who not be the best solution to solving this problem, but they need to be further empowered.

Ms Mokoto said that there an action plan needs to be made for the provincial departments: immediate, short-term and long-term plans and the timeframes for those to be established as well. There needs to

be assurance that the process does not drag on, but is fast-tracked to reach the end of all investigations. What steps are in place to protect all whistle-blowers?

Mr Khoza welcomed the report and the role it will play in strengthening standards and accountability. Principals have to be replaced if the schools they govern continue to underperform; even teachers must be looked at in the same regard. He asked the Department to strengthen QMS as a method or tool of assistance in terms of the system working effectively

Mr Mnguni said that there is no place in the report where the ANC is mentioned and that Members should not play politics, but look at the report as it is. Alliance with the ANC is not an issue. Unions are a constitutional right and people are not forced to join them, so a union's ability to dominate is not due to the ANC's influence. He added that the report states that members of SADTU, and not SADTU as a union, are under investigation. The capacity of the district managers needs to be looked at and there needs to be monitoring of recruitments. There will need to be a plan in place when teachers are suspended in order to not interfere with teaching and learning.

The Chairperson said that there are a lot of factors that are at play right now in the education system and that one 'event' cannot influence the changing of policies and laws, but a review and understanding may be needed. They need to review the Education Amendment Bill, and certain clauses that need reviewing and strengthening. She added that the discussions and remarks that have come forward have opened up the need for further discussions within the Committee.

Mr Kojana replied that the Department cannot just act on some of the recommendations as some of them require amendments to legislation, this is therefore why the sector response was structured in the way it was. The MTT has specific views around the role of the SGB and Members have voiced their own concerns and recommendations, but all those would need an amendment of SASA. All legislative issues must be taken through the necessary processes because it would become problematic for the Department to take certain steps without following due process. It is important to mention that in the MTT there were members from the DPSA as well as from the Justice and Correctional Services Department and so there could be a wide range of people that would make input to the process. Certain parts of the recommendation speak to addressing amendments, not just policies, but procedures and the practices that the Department has. The MTT Report talks about how the education sector is different to other sectors. It was then better to categorise certain elements that the report is talking to, to see which can be addressed and dealt with in a particular manner.

There are roles and responsibilities that need to be strengthened, these need to be addressed in a manner that does not influence or touch on policy. The report does touch on short term needs and how these will be dealt with. It is not that they have not responded to each recommendation, but that they have clustered them so they can be able to respond systematically. The Department has agreed that where there is wrongdoing, the law must take its own course, but the forensic outcomes and reports need to be brought in so they can start the process.

The Director General said that they fully agree with what the Committee has said and that there needs to be a follow-up meeting to look at all issues that have been raised and to provide the Committee with a progress report. The Department will ensure that where people are suspended, service delivery will not be negatively affected. The DBE is looking at establishing a central recruitment agency much like the one that was in Zimbabwe; established by the state that carried out recruitment of all employees, where they

send people to where the need is and not factor in area preferences. They are looking into these and other avenues of recruitment. He emphasised that this is not a policy position, but an observation that they are making about international best practice. The Department can provide an action plan to the Committee and can come periodically to report on progress. The current powers of SASA give the DBE authority to withdraw the powers of the SGB and therefore there is no need to amend the Act. It allows them to withdraw functions where there is non-compliance or underperformance.

The Director General said that they will return to give a report on the cases that still need finalising when they are concluded. They will look into the figures on slide 10. He said they would not agree that the sector is giving too much power to SADTU and other unions. There is only union dominance where there is weak leadership. On the North West report, the Minister will write to the MEC there and request action, as under Chapter 4 and Schedule 4 of the Constitution, only the MEC and Premier of a province have direct authority over the HOD of that province. DBE has no legal authority over SADTU; it only has authority over employees of the Department. With regards to the recommendations; some of them have implications beyond the Basic Education sector and they are limited in terms of pushing them through. Only those that fall under the sector are they able to do something about. For those that fall outside of the sector, there would need to be a review of the Constitution, specifically Section 23, which would include other bodies like Parliament as law makers. For recommendation 10, this would be infringing on the freedom of association, but if there is need to do so as law makers they must be willing to make the necessary changes to allow that to take place. Recommendation 11: that is desirable as it is very difficult to force principals to account for attendance when there is strike action. It would be a welcomed development to them, but it required law makers for the implementation. Recommendation 12: the way they understand it in the sector, people who are not competent to occupy certain positions should not be allowed to do so.

The Chairperson thanked the DBE and said that there are many big discussions still to be had. She thanked Prof Volmink on the work the MTT has done. If they follow the recommendations made, a real change can take place in the sector.

The meeting was adjourned.