**DA CALLS FOR INVESTIGATION INTO LARGE-SCALE IRREGULARITIES IN THE NORTH WEST PROVINCIAL LEGISLATURE

BY DA NORTH WEST CAUCUS**21 MAY 2020

*Note to editors: This is a speech delivered by DA Members of the Provincial Legislature during a virtual press briefing today.*

**INTRODUCTION**

Thank you all for joining us today as we uncover the North West Provincial Legislature’s (NWPL) alleged gross mismanagement of public funds, irregular appointment of key personnel, contracts awarded to politically connected companies and irregular procurement processes.

It is unfortunate that we have to be the bearers of such gloomy news at a time when the country is battling the Covid-19 pandemic, but, as an opposition party in the province, it is our duty to expose corruption and fraud in all its shapes and forms.

The aim of this meeting is to ensure that investigations are launched and that those found guilty are brought to book.

**IRREGULAR APPOINTMENT OF MANAGER OF TREASURY**
Mr Edwin Chaane, who is a former Member of Parliament and a close confidant of the North West Speaker, Sussana Dantjie, was appointed Manager of Treasury in the Office of the Speaker in May 2018.

The nature of this position requires a background in the financial sector, as it entails advising the Speaker on Treasury duties as per the Financial Management of Parliament and Provincial Legislatures Act (FMPPLA).

The vacancy was advertised with diluted requirements, which would at a later stage suit Mr Chaane’s academic profile. Mr Chaane, who possesses a diploma in governance and leadership, was preferred over candidates with BCom Degrees and MBAs and was appointed to the position with effect from 1 May 2018.

Our research has revealed that this position requires an individual with extensive experience in the finance sector. Even corporate institutions like Eskom and other large companies where such a position exists, has a minimum requirement of a BCom Degree.

All indicators point to the irregular appointment of Mr Chaane and we will be lodging a complaint with the Public Protector to investigate the matter and recommend the necessary remedial actions.

We are further concerned with Mr Chaane’s appointment as Acting Executive Manager in the Speaker’s office. The terms of his appointment included the condition that his contract ends when the Speaker’s term in office comes to an end. It was with effect from 1 May 2018, thus allocating him two critical positions effective on the same day and a renumeration package that includes a role play allowance for the acting position.

The Speaker’s term in the 5th Parliament ended with the General Elections in 2019, which gives rise to the following questions:

- Was due process followed to re-appoint him to an acting position at the beginning of the 6th Parliament?

-What are the implications in terms of the responsibilities and workload of the two critical job titles?

-In light of the high unemployment rate in the country and the province per se, how is one individual holding two positions justified?

-Does labour legislation, regulations and policies allow for an individual to act in a position for such an extended period of time?

We will request the Public Protector to unravel these concerns and disclose the findings to the public.

**IRREGULAR APPOINTMENT OF CFO**

From the events surrounding the appointment of Mr Lehutso as Chief Financial Officer (CFO) in 2017 and the subsequent irregularities within the finance section of the Legislature, it is clear that hiring the most competent candidate with the relevant qualifications was not the objective.

After the position was advertised, interviews were conducted and, from the top three candidates, not one seemed suitable for the position.

Although the top two candidates from the interviews both had the relevant BCom Degree as required, neither were deemed fit. The management team regarded them as unsuitable, citing the fact that they were previously employed by the Legislature as the reason.

Interestingly, their former place of employment was overlooked when they were shortlisted for the interviews in the first place. The entire interview process came to be a fruitless exercise and this feeble excuse seemingly served as a smokescreen to headhunt Mr Lehutso, who only has a national diploma in cost and management accounting.

Even the headhunting process raises suspicions of irregularity, as a number of departments in the province that holds a financial section were requested to submit names to assist the process.

Three candidates were recommended to the Secretary of the Legislature, Mr Mosiane and he appointed Mr Lehutso, overlooking the other two candidates who possessed the requirements as stipulated in the advertisement.

As we continue down this endless pit of financial misconduct, it becomes apparent why it was imperative that the person of their choice gets appointed.

We will also be lodging this irregular process to the Public Protector to investigate and make recommendations.

It is important to point out that, in appointing Mr Chaane, the post requirements were altered to favour him, but Mr Lehutso did not meet the minimum requirements for the position, which makes his appointment fraudulent. Accordingly, we will lay criminal charges with the South African Police Service.

**SPEAKER SUSSANA DANTJIE**

In her Budget Speech of 11 May 2017, Mrs Dantjie, the Speaker of the Legislature, boldly stated that, and I quote, “As part of our resolution to recruit people with skills and who better understand the Legislative Sector, we have appointed the new Chief Financial Officer and Accountant in Finance Branch and the Executive Manager for Legislature Operations Branch. The appointment and filling of these key positions will create stability and strengthen our administration team. We are gradually building capacity so that we ultimately achieve our dream of operating without consultants.” Unquote.

When looking at the statement in light of the irregularities surrounding the appointment of the CFO, the Auditor General findings, as well as the continued use of consultants - all under her watch as the Executive Authority in terms of FMPPLA who is accountable for sound financial management, calls for a probe.

It can also be deduced from the above stated information that the Speaker might have misled the Members of the Legislature, which is deemed a criminal offence in terms of Section 27(1) of the Powers, Privileges and Immunities Act.

We will therefore lay criminal charges with the SAPS under the Powers, Privileges and Immunities Act and also report her perceived misconduct to the Integrity Commissioner for further recourse.

**IRREGULAR AWARDING OF CONTRACTS**
A company by the name of Kutame Konsult was appointed in 2013 to conduct a forensic investigation into the finance division of the Legislature in preparation for the annual audit that was to take place in 2015.

The contract was signed for one year and an amount of R562 000 was agreed upon for the services to be rendered, but over R1 million was paid over to this company in the 2013/14 financial year.

Once the contract ended, Kutame entered into a Service Level Agreement (SLA) with the Legislature. This time as financial consultants.

The new contract stated that payments will be made for services rendered as determined by the South African Institute of Chartered Accountants (SAICA).

The amount is not quoted in the contract, but could be up to R3 000 per hour as per SAICA rates. This ambiguity is believed to be deliberate with the intention to rationalise overpayment to this consultant.

Kutame later changed its name to Nkonki and after that to Kreston. It is interesting to note that, despite the name changes, the board of directors, as well as the address of Kutame and Nkonki remained the same. This is nothing other than tender fraud and we will formally request the Public Protector to investigate.

Since its appointment in 2013 to date, over R100m has been paid to this company.

The terms of the initial contract stipulated that a skills transfer to the staff employed in the financial section is a priority, but this never materialised. Clearly, this is a breach of contract and also goes against the Speaker’s undertaking regarding consultants in her 2017 Budget Speech.

**ORACLE – THE BOTTOMLESS PIT**
Since the installation of this multi-model database management system, monthly payments are made to Sizavox, the implementing agent for Oracle, despite the fact that the system is not in use.

Instead, the Legislature makes use of Pastel, a program similar to Oracle, but implemented by the financial consultants that are now called Kreston.

Sizavox, as most members of the media already know, is a company that was owned by the husband of Minister of Tourism, Mmamaloko Kubayi-Ngubane, who happens to be a close friend of the Speaker.

The terms of the contract with Sizavox includes stabilization of the Oracle system. Despite the fact that Sizavox has been in contract with the Legislature since 2013, this has not materialized. Sizavox has, to date, claimed over R12 million from the Legislature.

The Auditor-General (AG) in its 2018/19 report found that the Oracle system was never adequately configured. This begs the questions as to why the Legislature continues to pay for a service that is not rendered over such an extended period of time.

In her Budget Speech in 2017, the Speaker conceded that the Oracle system is not operational, but claimed that the aim is to stabilise it. To this day, it has not materialised.

The Oracle system is used in Parliament, which is a clear indication that the problem lies with the implementation thereof and not the program itself.

We will therefore lodge this with the Public Protector to investigate this contract and its terms and conditions.

**MR MOSIANE**

Section 10 of the FMPPLA requires the Accounting Officer, who is the Secretary in this case, to develop a system of delegations in consultation with the Executive Authority, which is the Speaker. This has not been applied in the Legislature.

A number of delegations were made without an existing system in the form of a policy, which casts doubt on the legality of all those delegations.

Section 67(1)(b) of the FMPPLA declares failure to comply with a duty imposed by a provision of the Act by the Accounting Officer as financial misconduct and we will accordingly lodge a case against the Secretary of the Legislature to the Executive Authority in line with Section 67(2)(a).

It is concerning that, with all the above alleged irregularities, the Secretary has been alleged to receive his performance bonus approved by the Executive Authority.

**OVERSIGHT BODY**
Section 4 of the FMPPLA makes provision for the existence of an oversight mechanism of the Legislature that has all the powers that Committees of Parliament have. This has been the weakest area of performance in the Legislature.

The Executive Authority has been having her way with the oversight mechanism that is chaired by the FF Plus. The deafening silence indicates their complicity in all the above irregularities.

In the 5th Parliament, the Oversight Mechanism was chaired by former FF Plus Member of the Legislature, Mr Schutte, who never played any significant role in ensuring that the Legislature is held accountable.

It therefore came as no shock to learn that Mr Schutte and the Speaker were quite close and there were even business transactions that they concluded together.

The current Chairperson of the Oversight Committee, De Wet Nel, who is also a Member of the FF Plus and naturally follows in the footsteps of his predecessor.

Our suspicions were confirmed in a plenary sitting held on 12 November 2019, where Mr Nel admitted to having spent hours with the ANC Chair of Chairs, Mmoloki Cwaile, in preparation of his speech on the Legislature’s Affairs.

It perfectly explains why all these irregularities never saw the light in Committee deliberations.

**AG’S FINDINGS AND A TOXIC WORK ENVIRONMENT**

In its 2018/19 report, the AG found various irregularities concerning the financial management at the Legislature, which includes the lack of legislation and regulations to prevent the gross maladministration within this entity.

The excessive unauthorised, irregular, fruitless and wasteful expenditure accumulates every year and is never investigated. The escalation is attributed to the fact that no attempts are made for the prevention of such.

The AG identified inadequate procurement processes and lack of policies and procedures concerning procurement as reasons for the awarding of contracts to close to 100 politically connected companies.

The irregularities in procurement processes saw contracts worth more than R2 million procured without inviting the minimum prescribed number of written price quotations, applicants not meeting tax requirements and tenders simply not awarded to the lowest bidder.

It came to our attention that many who attempted to put a stop to this madness, were bullied into silence. There has been a trend of discrimination against women in senior contract positions, and, after failing to reach an agreement with the Speaker, one former employee took her matter to the Gender Commission.

Three women in senior positions did not get their contracts renewed after their 5-year terms ended. Their positions in the Legislature structure were subsequently shut down.

One employee described the Legislature as a toxic working environment. The Public Service Commission will be roped in to investigate these allegations in the same fashion that Parliament was investigated after the death of one of its employees, ensuring that employee wellness is prioritised.

From all of this information, it is clear that an independent investigation is needed to stop the blatant abuse of power and misappropriation of public funds by an institution which is an overseer of other institutions!