

Western Cape Government Department of Local Government

The forensic investigation into serious allegations concerning Bitou Municipality, pursuant to section 106(1)(b) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), read with the relevant provisions of the Western Cape Monitoring and Support of Municipalities Act, 2014 (Act 4 of 2014)

Forensic Report

Prepared for the Provincial
Minister of Local Government,
Environmental Affairs and
Development Planning

Issued by
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Designated Investigators

17 March 2019

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1. ABBREVIATIONS

ABBREVIATED NAME USED IN THE REPORT	FULL DESCRIPTION OF THE ABBREVIATION
AUF	Active United Front
CC	Close Corporation
CFO	Chief Financial Officer
Grant-in-Aid Policy	Policy for the allocation of Section 67 of the MFMA Grants-in-Aid
MFMA	Municipal Finance Management Act
MOA	Memorandum of Agreement
NPC	Non-Profit Company
SALGBC	South African Local Government Bargaining Council
SAPS	South African Police Service
SARS	South African Revenue Services
SCM	Supply Chain Management

2. ENTITIES

ABBREVIATED NAME USED IN THE REPORT	FULL NAME OF ABBREVIATED ENTITY
Avile General Trading	Avile General Trading CC with registration number: 2011/062386/23 - Service provider, providing catering services
Avis Car Hire	AVIS a division of BARLOWORLD SOUTH AFRICA (BMI) with registration number: 1946/021661/07 - Service provider, providing vehicles
Avusiwe Projects	Avusiwe Projects CC with registration number: 2008/234123/23 - Service provider, providing catering services
Baby Eagles Educare Centre	Non-profit Organisation with registration number: 168-909 NPO
Bidvest	Bidvest Car Rental (Pty) Ltd with registration number: 2011/010516/07 - Service provider, providing vehicles
Biso	Biso (Pty) Ltd with registration number: 2018/036845/07 – Service provider, providing catering services
Bitou 10 Educational and Development Foundation	Non-profit Organisation with registration number: 050-207 NPO
Bitou Civils	Bitou Civils CC with registration number: 2006/079/796/23 - Service provider, providing civil engineering services
Bitou Early Childhood Development Forum	Non-profit Organisation with registration number: 069-626 NPO
Bitou Masakhane	Non-profit Organisation with registration number: 186-301 NPO
Bitou Municipality	Bitou Local Municipality, located in the Western Cape

ABBREVIATED NAME USED IN THE REPORT	FULL NAME OF ABBREVIATED ENTITY
Bitou Sohluma Organisation	Non-profit Organisation with registration number: 170-211 NPO
Blue Bay Guards	Black Moon Investments 56 CC t/a Blue Bay Guards with registration number: 2010/142159/23 - Service provider, providing security services
Buchumile General Trading	Buchumile General Trading CC with registration number: 2011/092374/23 - Service provider, providing catering and related services
Department of Local Government	Department of Local Government in the Western Cape Government
Department of Social Development	The National Department of Social Development
Drive South Africa	Drive South Africa (Pty) Ltd with registration number: 2008/029265/07 - Service provider, providing vehicles
Dunes	The restaurant at the Dunes Hotel, Resort and Chalets, situated in Plettenberg Bay
Echo Car & Van Hire	Echo Car Hire CC with registration number: 2006/204304/23 - Service provider, providing vehicles
Eden Social Networks	Non-profit Organisation with registration number: 170-280 NPO
Groupepex Funeral Services	Groupepex Funeral Services (Pty) Ltd with registration number: 2015/370161/07- Service provider, providing funeral services
Hluma Enterprises	Southern Ambitions 1660 CC with registration number: 2009/025610/23 t/a Hluma Enterprises

ABBREVIATED NAME USED IN THE REPORT	FULL NAME OF ABBREVIATED ENTITY
Horizon Forensics	Horizon Forensics (Pty) Ltd with registration number: 2013/027060/07 - Service provider, providing forensic services
Isolomzi Security Services	Isolomzi Security Services (Pty) Ltd with registration number: 2015/270360/07 - Service provider, providing security services
Iqabaka Trading	Iqabaka Trading Enterprise CC with registration number: 2010/048363/23 – Service provider, providing catering services
Kamvalethu Development Project	Non-profit Organisation with registration number: 186-693 NPO
Kukokonke Trading	Kukokonke Trading (Pty) Ltd with registration number: 2016/497344/07 - Service provider, decorative services
Kurlandbrik	Kurlandbrik (Pty) Ltd with registration number: 1994/009700/07 - Service provider, providing clay bricks
Kwanokuthula Community Policing Forum	Non-profit Organisation with registration number: 170-284 NPO
Lihluma Business Project	Lihluma Business Project (Pty) Ltd with registration number: 2015/315620/07 - Service provider, providing catering and related services
MJ Melane Transport	Service provider, providing transport services
Makana Municipality	Makana Local Municipality, located in the Eastern Cape
Morester Funeral Service	Morester Begrafnisdiens CC with registration number: 2002/052615/23 - Service provider, providing funeral services
MS Gosani	Service provider, providing transport services

ABBREVIATED NAME USED IN THE REPORT	FULL NAME OF ABBREVIATED ENTITY
Neighbourhood Watch	Organisation managed by Kwanokuthula Community Policing Forum
Ngqushwa Municipality	Ngqushwa Local Municipality, located in the Eastern Cape
Nocezo ME	Melikhaya Elvis Nocezo with identity number: [REDACTED] Service provider, providing transport services
Plettenberg Bay Secondary School	Public School, located in Plettenberg Bay
Plett Tourism	Plettenberg Bay Tourism
PNA Plettenberg Bay	Service provider, providing stationary services
Protea Service Centre	Non-profit Organisation with registration number: 069-513 NPO
SA Landu	Service provider, providing transport services
Shekyna Projects	Shekyna Projects CC with registration number: 2007/077744/23 - Service provider, providing catering services
Sibahle Construction	Sibahle Construction CC with registration number: 1998/004436/23 - Construction company of Vusumzi Cagwe
Sidonela Trading	Service provider, providing catering services
Sokhuluwa Youth Future Organisation	Non-profit Organisation with registration number: 044-056 NPO
S'phethezona Trading and Investments	S'phethezona Trading and Investments CC with registration number: 2007/203281/23 - Service provider, providing catering and related services

ABBREVIATED NAME USED IN THE REPORT	FULL NAME OF ABBREVIATED ENTITY
Swelindawo Catering	Service provider, providing catering and related services
Umnombo Consulting	Umnombo Consulting (Pty) Ltd with registration number: 2003/023158/07 - Independent forensic investigators
Vuyo-Lekhaya Trading	Service provider, providing catering services
VW Singata	Service provider, providing transport services
Wash 4 Joy	Wash 4 Joy (Pty) Ltd with registration number: 2015/078171/07 - Service provider, providing catering services
Xolani Selanto	Xolani Eric Selanto with identity number: [REDACTED] - Service provider, providing transport services

3. INDIVIDUALS

ABBREVIATED NAME USED IN THE REPORT	POSITION OF THE INDIVIDUAL OR RELATIONSHIP TO OTHER INDIVIDUALS
Alan Croutz	Manager: Legal Services at Bitou Municipality
Alma Greyling	Manager: Administration at Bitou Municipality
Amandla Ncwana	Credit Control Clerk at Bitou Municipality
Anna Hoffman	Former Chairperson: Protea Service Centre
Andile Sakati	Senior Manager: Public Safety at Bitou Municipality
Andiswa Kuwane	Secretary: Bitou Sohluma Organisation Treasurer: Kwanokuthula Community Policing Forum
Athol Morris	Bookkeeper for Kurlandbrik
Bulelwa Shey	Vice Chairperson of Bitou Masakhane
Bulelwa Veronica Ncame	Co-owner of Biso
Carlos Koeberg	Acting Manager: Supply Chain Management at Bitou Municipality
Carol van Staden	Chief Accountant: Expenditure at Bitou Municipality
Chris Stroebel	Owner/ Proprietor at The Lookout Restaurant
Cingisisa Ngemntu-Sonjani	Special Programmes Coordinator in the Office of the Executive Mayor of Bitou Municipality
Daluxolo Ncame	Manager: Office of the Executive Mayor of Bitou Municipality

ABBREVIATED NAME USED IN THE REPORT	POSITION OF THE INDIVIDUAL OR RELATIONSHIP TO OTHER INDIVIDUALS
David Friedman	Head of Department: Strategic Services at Bitou Municipality
Denise Makhetha	Contact person: Sokhuluwa Youth Future Organisation Contact person and/or Chairperson: Bitou Sohluma Organisation Former Chairperson: Kwanokuthula Community Policing Forum
Diane Visser	Proprietor at Moby's
Doreen Krige	Deceased public individual
Dumisani Mnweba	Senior Administrative Officer in the Office of the Executive Mayor of Bitou Municipality
Duncan Meyer	Youth Development Officer at Bitou Municipality
Elizabeth Jacobs	Administration representative at Kurlandbrik
Emile Kramer	Small Machine Operator at Bitou Municipality (he previously worked
Emrauld Saayman	Accountant: Rates, in the Revenue Department
Euan Wildeman	Speaker of the Municipal Council of Bitou Municipality
Gavin Gresse	Manager: Information Technology at Bitou Municipality
Gavin John Dick	Deceased public individual
Gavin John Dick Family	Family of the late Gavin John Dick
Gerrie Groenewald	Strategic Manager: Office of the Municipal Manager at Bitou Municipality

ABBREVIATED NAME USED IN THE REPORT	POSITION OF THE INDIVIDUAL OR RELATIONSHIP TO OTHER INDIVIDUALS
Graham Black	Managing Director of Kurlandbrik
Hedley Venter	Chief Fire Services at Bitou Municipality
Henk Visser	Proprietor at Moby's
Hesmarie Bester	Chief Audit Executive at Bitou Municipality
Inus Bester	Manager at the Dunes Restaurant
Jean Labuschagne	Proprietor at the Dunes Restaurant
Jeremy Basson	Head: Parks and Recreation at Bitou Municipality
John Merwin Wildman	Deceased public individual
Katie Aaron	Cashier at Protea Service Centre
LeighéAnne Kramer (Kayster)	The spouse of Emile Kramer and former Secretary of Baby Eagles Educare Centre
Lesley Jacobs	Manager: Local Economic Development at Bitou Municipality
Lindelwa Mtila	Lindelwa Mtila (now Zweni), Chairperson: Kamvalethu Development Project
Lindinceba Nkentsha	Senior HR Officer: Occupational Health and Safety at Bitou Municipality
Lokose Mrubata	Ntomboxolo Thelma Mrubata (known as Lokose), Project Co-ordinator: Kwanokuthula Community Policing Forum
Louise Harker	Secretary: Bitou Early Childhood Development Forum

ABBREVIATED NAME USED IN THE REPORT	POSITION OF THE INDIVIDUAL OR RELATIONSHIP TO OTHER INDIVIDUALS
Luiz Da Fonseca	Proprietor at LM in Plett
Lundi Gcanga	Chairperson: Sokhuluwa Youth Future Organisation
Luvuyo Loliwe	Acting Manager: Legal Services at Bitou Municipality
Makhaya Mana	Officer: Political Advisor at the Bitou Municipality (also known as "Smuts Mana", "S Mahana", "Smuts Mahana")
Manfred van Rooyen	Senior Manager: Communications at Bitou Municipality
Marc De Gouveia	Member of Bitou Civics
Marietta van Rooyen	Chairperson: Bitou 10 Educational and Development Foundation
Maria Johnson	Chairperson: Protea Service Centre
Marian Whitehead	Events manager/coordinator for the Dunes Restaurant
Mark Fourie	Manager: Human Settlements at Bitou Municipality
Matthew Scholtz	Forensic Lawyer assisting Peter Allwright
Mavis Busakwe	Personal Assistant: Executive Mayor of Bitou Municipality
Mbambeleli Khephe	Chairperson / Treasurer: Bitou Masakhane
Mbele Jane Family	Family of the late Zibonele Manzi
Mnerah Siko	Administrative Officer: Property Management Section
Mziwandile Gqodwana	Traffic Officer at Bitou Municipality

ABBREVIATED NAME USED IN THE REPORT	POSITION OF THE INDIVIDUAL OR RELATIONSHIP TO OTHER INDIVIDUALS
Mzoxolo Eric Dlongwana	Co-owner of Iqabaka Trading
Nandipa Macala	Co-owner of Biso
Natasha Dianne Jantjies	Co-owner of Iqabaka Trading
Ncedo Mantyi	Chairperson: Eden Social Networks
Nokwezi Mdatyulwa	Chairperson: Bitou Early Childhood Development Forum
Nomsa Mahamba	(Deceased Public Individual) and former Treasurer of the Bitou Local Aids Council
Ntomboxolo Williams	Chairperson: Bitou Sohluma Organisation
Ntho Maredi	Manager: Expenditure Management at Bitou Municipality
Palesa Mashiloane	Assistant Internal Auditor at Bitou Municipality
Pedro Peters	Manager: Supply Chain Management / Acting Accountant: Services in Revenue Section at Bitou Municipality
Peter Lobese	Executive Mayor of Bitou Municipality
Phakamile Sebezo	Senior Human Resource Officer at Bitou Municipality and Son of Sylvia Sebezo
Phumzile Sonjani	Phumzile Donald Sonjani, spouse of Cingisisa Ngemntu-Sonjani
Pippa Stroebe	Owner/ Proprietor at The Lookout Restaurant
Richard Jardine	An attorney at Drake Flemmer and Orsmond Incorporated

ABBREVIATED NAME USED IN THE REPORT	POSITION OF THE INDIVIDUAL OR RELATIONSHIP TO OTHER INDIVIDUALS
Samantha Kopkae	Manager at The Lookout Restaurant
Sean Ganga	Chief Traffic Services at Bitou Municipality
Shane Heath	Principal Clerk: Assets & Liability Management
Shiela Philander	Deceased public individual
Sithembiso Mqongwana	Driver of the Executive Mayor of Bitou Municipality (Also known as "Stera")
Siyabulela Fumbalele	Traffic Officer at Bitou Municipality
Siyasanga Vandala	Chief Law Enforcement at Bitou Municipality
Sooneela Naina	Manager of Bitou 10 Educational and Development Foundation
Stanley Juries	Special Programmes Clerk in the Office of the Executive Mayor of Bitou Municipality
Sujeeth Sunkar	Manager: Fleet Management at Bitou Municipality
Sylvia Sebezo	Owner of property located at [REDACTED] [REDACTED]
Tami Hurford	Sales representative at Kurlandbrik
Tanya Wildeman	Senior Manager: Human Resources at Bitou Municipality
Thabo Ndlovu	Municipal Manager of Bitou Municipality
Thandokazi Siphungu	Administration Officer in the Office of the Executive Mayor of Bitou Municipality

ABBREVIATED NAME USED IN THE REPORT	POSITION OF THE INDIVIDUAL OR RELATIONSHIP TO OTHER INDIVIDUALS
Ursula Adams	Principal of Baby Eagles Educare Centre
Venus Cunningham	Manager: Human Resource Administration at Bitou Municipality
Vincent Mkhafa	Chief Financial Officer of Bitou Municipality
Vusumzi Cagwe	Previous employee at Bitou Municipality, representative of Sibahle Construction and sub-contractor to Bitou Civils
Vuyo Matsola	Owner of property located at [REDACTED] [REDACTED]
Vuyokazi Deborah Matsolo	Owner of S'phethezona Trading and Investments
Vuyokazi Mbelani	Head: Corporate Services at Bitou Municipality
Vuyokazi Wakeni	Accountant: Creditors at Bitou Municipality
William Cloete	Labour Relations Officer at Bitou Municipality
Zibonele Manzi	Deceased public individual
Zukiswa Maboza	Deceased public individual

4. ANNEXURES

ANNEXURE	DESCRIPTION OF THE ANNEXURE
Scope of the investigation	
8.1	Terms of reference
8.2	Legislative framework
Probity checks on selected individuals and entities	
9.1	Strategic intelligence reports on selected individuals
9.2	Hesmarie Bester declaration of business interests forms dated 2 May 2018 and 2 November 2018
9.3	William Cloete declaration of business interests form dated 6 May 2016
9.4	Gavin Gresse declaration of business interests form dated 2 February 2015
9.5	Lesley Jacobs declaration of business interests form dated 11 August 2016
9.6	Peter Lobese Letter of Oath
9.7	Luvuyo Loliwe declaration of business interests form dated 5 April 2016
9.8	Ntho Maredi declaration of business interests form undated
9.9	Ntho Maredi declaration of interest letter dated 20 February 2017
9.10	Vuyokazi Mbelani declaration of business interests form dated 2 May 2017
9.11	Vincent Mkhefa declaration of business interests form dated 1 May 2017
9.12	Dumisani Mnweba declaration of business interests form dated 6 September 2018

ANNEXURE	DESCRIPTION OF THE ANNEXURE
9.13	Daluxolo Ncame declaration of business interests form dated 3 October 2016
9.14	Thabo Ndlovu declaration of business interests form dated 6 February 2017
9.15	Cingisisa Ngemntu-Sonjani declaration of business interests form dated 20 August 2015
9.16	Sujeeth Sunkar declaration of business interests form dated 5 January 2015
9.17	Euan Wildeman declaration of business interests forms dated 25 October 2018 and 30 August 2018
9.18	Euan Wildeman Letter of Oath
9.19	Supply Chain Management Policies for 2016-2017, 2017-2018 and 2018-2019
Dismissal of Vuyokazi Mbelani at Ngqushwa Municipality and her subsequent appointment at the Bitou Municipality	
10.1	Vuyokazi Mbelani's CV
10.2	Vuyokazi Mbelani's application form
10.3	Reference checks for Head: Corporate Services
10.4	Interview questions – Director Corporate Services (panellists for Vuyokazi Mbelani)
10.5	Selection report – Head: Corporate Services
10.6	Letter from Richard Jardine
10.7	Vuyokazi Mbelani's employment contract
10.8	Letter to Peter Allwright from the Municipal Manager of Ngqushwa Municipality

ANNEXURE	DESCRIPTION OF THE ANNEXURE
	dated 30 August 2018
10.9	Letter to MEC from the Acting Municipal Manager of Ngqushwa Municipality
10.10	Disciplinary hearing sentence dated 27 January 2015
10.11	Notice of disciplinary hearing and charge sheet
10.12	Notice of termination
10.13	Settlement Agreement concluded between Vuyokazi Mbelani and Ngqushwa Municipality
10.14	Excerpt from Ngqushwa Council meeting
10.15	Outcome of the disciplinary hearing held between Ngqushwa Municipality and Vuyokazi Mbelani
10.16	Arbitration award handed down on 20 January 2015
10.17	Condonation application ruling handed down on 24 February 2015
10.18	Notice of Motion for review application
10.19	Notice of Withdrawal
Possible mismanagement of the grant-in-aid discretionary fund	
11.1	Grant-in-Aid Policy
11.2	Expenditure voucher: 117749 – Payment to Baby Eagles Educare Centre
11.3	Sworn statement of Ursula Adams

ANNEXURE	DESCRIPTION OF THE ANNEXURE
11.4	Written statement of Emile Kramer
11.5	Expenditure voucher: 119228 - Payment to Bitou 10 Educational and Development Foundation
11.6	Expenditure voucher: 118424 - Payment to Bitou Early Childhood Development Forum
11.7	Bitou Early Childhood Development Forum's bank statement for the period 10 August 2017 to 6 February 2018
11.8	Expenditure voucher: 117750 - Payment to Sokhuluwa Youth Future Organisation
11.9	Expenditure voucher: 117747 - Payment to Bitou Sohluma Organisation
11.10	Expenditure voucher: 117748 - Payment to Kwanokuthula Community Policing Forum
11.11	Expenditure voucher: 117764 - Payment to Eden Social Networks
11.12	Expenditure voucher: 120464 - Payment to Kamvalethu Development Project
11.13	Expenditure voucher: 117752 - Payment to Protea Service Centre
11.14	Expenditure voucher: 118978 - Payment to Bitou Masakhane
11.15	Municipal Notice No: 293/2016
11.16	Memorandum from Daluxolo Ncame to the Municipal Manager, dated 4 April 2017
11.17	Memorandum from Daluxolo Ncame to the Municipal Manager, dated 28 August 2017
11.18	Memorandum from Daluxolo Ncame to the Municipal Manager, dated 4 April 2017

ANNEXURE	DESCRIPTION OF THE ANNEXURE
	with amended list
11.19	E-mail from Alan Croutz to Carol van Staden, dated 28 April 2017
11.20	Example of Grant-in-Aid agreement
Donation of 36,000 bricks towards the 100-day programme	
12.1	Request for assistance by Bitou Municipality to Kurlandbrik
12.2	Request for assistance by Bitou Municipality to Kurlandbrik
12.3	Email train between Urs Jacobs and Jeremy Basson between 4 September and 12 October 2017
12.4	Aerial view of Thomas Street with perimeter lines
12.5	Email and letter from Elizabeth Jacobs to Makhaya Mana
12.6	Email from Tami Hurford regarding delivery notes
12.7	Delivery notes regarding bricks delivered to Thomas Street
12.8	Invoice from Bitou Civils
12.9	Invoice from Sibahle Construction
12.10	Email from Marc de Gouveia to Mark Fourie
Donation of R10,000 towards the workshop for mayoral staff	
13.1	Expenditure pack for conference organised by Makhaya Mana
13.2	Creditors statement reconciliation and statement from the Dunes dated 7 March

ANNEXURE	DESCRIPTION OF THE ANNEXURE
	2017
13.3	Extract from the expenditure pack for the Dunes
13.4	Emails sent between Marian Whitehead and Athol Morris
13.5	Invoice sent to Kurlandbrik and proof of payment
13.6	Invoices marked for attention of Kurlandbrik (Bitou Municipality) between September 2017 and February 2018
Possible misrepresentation of expenditure at restaurants	
14.1	R10,000 donation related invoices
14.2	Altered slip
14.3	LM in Plett slips
14.4	Mayoral street function statement and slips
14.5	Slips related to Makhaya Mana
14.6	Letter from Thabo Ndlovu to Makhaya Mana re The Lookout
14.7	Letter from Thabo Ndlovu to Daluxolo Ncame re The Lookout
14.8	Moby's quote & payment
14.9	Moby's record of credit for Makhaya Mana
14.10	Extract of expenditure pack for the Dunes

ANNEXURE	DESCRIPTION OF THE ANNEXURE
Requests for bribes to secure the award of a tender	
15.1	A handwritten note via an independent third-party recording the sequence of events between the male individual and the representative of Dumbe Civils
15.2	Tender Notice and Invitation to Tender for notice number 25/2018 and tender number SCM/2018/79/ENG
15.3	Tender Opening Results – Published in terms of Section 23(d)(iii) of the Bitou Municipality Supply Chain Management Policy
15.4	Minutes of the Bid Evaluation Committee Meeting for tender SCM/2018/79/ENG
15.5	Minutes for the Bid Adjudication Committee Meeting for tender SCM/2018/79/ENG
15.6	Tenders Awarded to the Bidder Scoring the Highest Preferential Procurement Points for the 4th Quarter of the 2017/18 Financial Year
15.7	Result of the search on the Central Reference Database of the Number Portability Company (Proprietary) Limited
15.8	Result of the Telephone Trace search
15.9	Result of the Banking Enquiry-Account Validation search
15.10	Result of the Easy Trace search
15.11	Result of the Banking Enquiry-Account Validation search
Certain ghost companies which allegedly do not provide goods or services	
16.1	List of payments made to the alleged “ghost companies” for the period 1 July 2016 to 10 December 2018

ANNEXURE	DESCRIPTION OF THE ANNEXURE
16.2	Declaration of business interest - Cingi Sonjani's (Cingisisa Ngemntu-Sonjani)
16.3	Expenditure voucher 122058 - Payment to Hluma Enterprises
16.4	Memorandum from Daluxolo Ncame to the Municipal Manager on 26 July 2017
16.5	Expenditure voucher 121319 - Payment to Morester Funeral Service
16.6	Expenditure voucher 120361 - Payment to Morester Funeral Service
16.7	Expenditure voucher 120360 - Payment to Morester Funeral Service
16.8	Expenditure voucher 122158 - Payment to Xolani Selanto
16.9	Expenditure Voucher 122266 - Payment to S'phethezona Trading and Investments
16.10	Expenditure Voucher 120248 - Payment to S'phethezona Trading and Investments
16.11	Expenditure Voucher 120472 - Payment to S'phethezona Trading and Investments
16.12	Expenditure Voucher 120358 - Payment to S'phethezona Trading and Investments
16.13	Expenditure Voucher 123327 - Payment to S'phethezona Trading and Investments
16.14	Expenditure Voucher 121634 - Payment to S'phethezona Trading and Investments
16.15	Expenditure voucher 123071 - Payment to Kukokonke Trading
16.16	Expenditure voucher 124112 - Payment to Iqabaka Trading
16.17	Expenditure voucher 123841 - Payment to Biso
16.18	Expenditure voucher 124061 - Payment to Grouper Funeral Services

ANNEXURE	DESCRIPTION OF THE ANNEXURE
16.19	Expenditure voucher 124058 - Payment to Nocezo ME
16.20	Expenditure voucher 124900 - Payment to Wash 4 Joy
Human resource mismanagement	
17.1	Revised Recruitment and Selection Policy for Bitou Municipality
17.2	Memorandum re permanent appointments of temporary employees
17.3	Memorandum re appointments to the office of the Executive Mayor
17.4	Memorandum re temporary appointments to the office of the Executive Mayor
17.5	Mavis Busakwe's ID, CV and matric certificate
17.6	Email train between V Mbelani, T Wildeman and V Cunningham
17.7	Contract of temporary employment for V Cagwe from 6 Sep 2017 to 30 Nov 2017
17.8	Contract of temporary employment for V Cagwe from 11 Dec 2017 to 28 Feb 2018
17.9	Memorandum re employees seconded without due process
17.10	Letter from M Mana to the Municipal Manager re changes to appointment
17.11	Comments made by V Cunningham regarding request and T Ndlovu's recommendation
17.12	Contract of temporary employment for M Mana from 1 Mach to 31 March 2017
17.13	Letter of appointment for M Mana dated 4 April 2017 (revised)
17.14	Interview outcome report for Political Advisor.

ANNEXURE	DESCRIPTION OF THE ANNEXURE
17.15	Memorandum re temporary appointments dated 2 August 2016
17.16	Memorandum re temporary appointment of Maseti and Ntileka dated 30 November 2015
17.17	Interview outcome report for EPWP Data Capturer
17.18	Contract of temporary employment for Y Mayila from 6 Sep 2017 to 30 Nov 2017
17.19	Contract of temporary employment for Y Mayila from 5 June 2017 to 5 September 2017
17.20	Forensic Consumer Report requested by T Wildeman
17.21	Advertisement for the position of Chief Financial Officer
17.22	Dumisani Mnweba's certificates
17.23	Letter of appointment S Mqongwana dated 1 March 2008
17.24	Letter of appointment S Mqongwana dated 1 July 2009
17.25	Memorandum re desertion of duties by S Mqongwana dated 25 November 2015
17.26	Memorandum re temporary appointment of a Labour Relations Officer
17.27	Certified qualifications of O Ngqele
17.28	Memorandum re permanent appointments of employees acting longer than 9 months
17.29	Letter of appointment for L Nkentsha (General Worker) dated 1 November 2005
17.30	Memorandum re secondment of L Nkentsha

ANNEXURE	DESCRIPTION OF THE ANNEXURE
17.31	Memorandum re temporary employment contracts dated 21 August 2017
17.32	Letter of appointment for N Nozulu dated 1 November 2016
17.33	Memorandum re extension of temporary appointment of X Nqotho
17.34	Memorandum re further extension of temporary appointment of X Nqotho
17.35	Memorandum re permanent appointment of A Sishuba dated 10 March 2017
17.36	Email from H Van Rooyen to D Ncame re temporary appointment of B Skosana
17.37	Selection report by ODS consultants and advertisement Manager Fleet Management
Absa Loan Agreement for R25 million	
18.1	Absa Loan Agreement
18.2	Council resolution C.3.62.05.13
18.3	Council resolution C.3.50.08.17
18.4	Memorandum regarding Acting Municipal Manager between 22 June and 27 June 2017
18.5	Leave record of Vincent Mkhafa
18.6	Leave record of Pumla Ngqumshe
18.7	Leave record of David Friedman

ANNEXURE	DESCRIPTION OF THE ANNEXURE
Purchase of stationery from a store without authorisation and without the store being a designated supplier	
19.1	Slips signed by Makhaya Mana
19.2	Email train between David Wilms, Dave Swart, Vincent Mkhafa and Makhaya Mana
19.3	Quotation from PNA Plettenberg Bay
19.4	Quotation from The Village Bookshop
19.5	Quotation from Park Avenue Stationers
19.6	Email train between David Wilms, Andisiwe Nonkosana, Liz Phillips and Cindy Wilson-Trollip with scanned slips attached
19.7	Donation request from Kwanokuthula Community Policing Forum
19.8	Memorandum of Agreement between Bitou Municipality and Plett Tourism
19.9	Confirmation of CSD registration (PNA Plettenberg Bay)
19.10	Slip
Unresolved forensic investigation into a whistle-blower complaint that Peter Lobese received concurrent salaries	
20.1	Emails between Venus Cunningham and Ntombizanele Siqwede on 20 June 2018
20.2	Confirmation from R Meiring
20.3	Request sent to Makana Municipality

ANNEXURE	DESCRIPTION OF THE ANNEXURE
Rental of mayoral vehicle costing R60,000 per month	
21.1	Email communication between Sujeeth Sunkar, Thabo Ndlovu, Lizane Nkoko and Eco Car and Van Hire dated 7 to 8 August 2017
21.2	Memorandum from Pedro Peters to Thabo Ndlovu dated 23 August 2017
21.3	Email from Vincent Mkhefa to Sujeeth Sunkar and Daluxolo Ncame, dated 1 September 2017 at 12:03 pm
21.4	Email from Sujeeth Sunkar to Vincent Mkhefa and Daluxolo Ncame, dated 1 September 2017 at 12:11 pm
21.5	Expenditure voucher 120881 - Payment to Eco Car & Van Hire
21.6	Expenditure voucher 120791 - Payment to Eco Car & Van Hire
21.7	Expenditure voucher 120865 - Payment to Eco Car & Van Hire
21.8	Expenditure voucher 121269 - Payment to Eco Car & Van Hire
21.9	Expenditure voucher 121983 - Payment to Eco Car & Van Hire
Procurement of personal security and protection services for the Executive Mayor	
22.1	Andile Sakati's Request for a Security Threat Analysis dated 12 September 2016
22.2	SAPS Response to Andile Sakati's request for a security threat analysis dated 19 October 2016
22.3	Email from Thabo Ndlovu to Andile Sakati and Mark Fourie with instructions to implement measures to "beef up" the security around Peter Lobese
22.4	Memorandum from Andile Sakati to Thabo Ndlovu dated 7 April 2017

ANNEXURE	DESCRIPTION OF THE ANNEXURE
22.5	Memorandum from Andile Sakati responding to Thabo Ndlovu dated 7 April 2017
22.6	Letter from Thabo Ndlovu to the Eden Cluster Commander of SAPS dated 26 June 2017
22.7	Memorandum from Pedro Peters to Thabo Ndlovu dated 9 July 2017
22.8	Letter from the Provincial Head of Crime Intelligence of SAPS in the Western Cape to Thabo Ndlovu dated 2 November 2017
22.9	Email communication between Thabo Ndlovu, Peter Lobese, Andile Sakati and Siyasanga Vandala dated 4 to 5 December 2017
22.10	Expenditure voucher 120773 - Payment to Blue Bay Guards
22.11	Expenditure voucher 121956 - Payment to Blue Bay Guards
22.12	Expenditure voucher 121957 - Payment to Blue Bay Guards

THE INVESTIGATION

5. INTRODUCTION

- 5.1 On 20 July 2018, The Provincial Minister of Local Government, Environmental Affairs and Development Planning appointed Peter Allwright and Josias Strydom as designated investigators to conduct an investigation into serious allegations concerning Bitou Municipality, pursuant to section 106(1)(b) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), read with the relevant provisions of the Western Cape Monitoring and Support of Municipalities Act, 2014 (Act 4 of 2014).

6. EVENTS LEADING TO THE INVESTIGATION

- 6.1 On 8 December 2017, the Bitou Municipality appointed Horizon Forensics to conduct a forensic investigation into allegations of misconduct against Thabo Ndlovu and Vuyokazi Mbelani. The appointment was made in terms of Regulation 5(3)(a) of the Local Government: Disciplinary Regulations for Senior Managers.
- 6.2 During the course of the forensic investigation the forensic investigators identified further and serious issues of maladministration and mismanagement that warranted further investigation. These issues were identified during the assessment and interpretation of evidence regarding the allegations against Thabo Ndlovu and Vuyokazi Mbelani and by officials of the Bitou Municipality and third-parties.
- 6.3 In early April 2018, the forensic investigators were instructed to prepare a memorandum on the further and serious issues of maladministration and mismanagement and to present the memorandum to Johnny Douglas and the Department of Local Government.

7. TERMS OF REFERENCE AND METHODOLOGY OF THE INVESTIGATION

7.1 Terms of Reference

- 7.1.1 The investigation focused on the Terms of Reference as set out by the Department of Local Government (See Annexure 8.1) considering the applicable legislative framework (See Annexure 8.2).
- 7.1.2 We performed our functions as the designated investigators impartially, without fear, favour or prejudice.

7.1.3 The designated investigators were mandated to investigate the following matters:

- (a) Phase 1: Planning and preparation
- (b) Phase 2: Probity checks on selected individuals and entities
- (c) Phase 3: Dismissal of Vuyokazi Mbelani at Ngqushwa Municipality and her subsequent appointment at the Bitou Municipality
- (d) Phase 4: Possible Mismanagement of the Grant-In-Aid Discretionary Fund
- (e) Phase 5: Donation of 36,000 Bricks towards the 100-day Programme
- (f) Phase 6: Donation of R10,000 towards the Workshop for Mayoral Staff
- (g) Phase 7: Possible Misrepresentation of Expenditure at Restaurants
- (h) Phase 8: Requests for Bribes to secure the Award of a Tender
- (i) Phase 9: Certain Ghost Companies which allegedly do not provide Goods or Services
- (j) Phase 10: Human Resource Mismanagement
- (k) Phase 11: ABSA Loan Agreement for R25 Million
- (l) Phase 12: Purchase of Stationery from a store without authorisation and without the store being a designated supplier
- (m) Phase 13: Unresolved Forensic Investigation into a whistle-blower complaint that Peter Lobese received concurrent salaries
- (n) Phase 14: Rental of Mayoral Vehicle costing R60,000 per month
- (o) Phase 15: Procurement of Personal Security and Protection Services for the Executive Mayor
- (p) Phase 16: Reporting on the findings

7.1.4 Phase 1 focused on the planning and preparation for the investigation and was not reported on in this report.

7.1.5 We set out below our findings that are based on the brief and scope provided to us by the Department of Local Government.

7.2 Methodology

7.2.1 In conducting the investigation, we applied the following methodology:

- (a) We requested, collected and examined the relevant policies, procedures and documents from the Bitou Municipality.
- (b) We researched and considered the relevant legislation and prescripts relating to the issues being investigated.
- (c) We conducted interviews with municipal officials and persons of interest to the investigation.
- (d) We ran background checks and lifestyle audits on selected municipal officials.

8. DISCLAIMERS

8.1 Limitation of Scope

8.1.1 The investigation was conducted in terms of best practice standards of examination. The designated investigators planned and conducted appropriate lines of inquiry to obtain the evidence required to objectively determine the factual basis of allegations. This included interviewing people with relevant information and recording their testimony, obtaining documents and other evidence, evaluating information and evidence and reporting and making recommendations.

8.1.2 Although we endeavour to be as comprehensive as possible in gathering information, we cannot guarantee the accuracy or completeness of information obtained from external sources.

8.1.3 Although we have taken reasonable steps to ensure that the information obtained is authentic, we cannot guarantee the authenticity of the information. Our findings are based on information at hand to date of the report; as such we cannot conclude that we have had sight of all relevant information.

8.1.4 From the inception of our investigation, we experienced various delays and challenges, which might have resulted in evidence at the Bitou Municipality being destroyed, manipulated and/or concealed during this time. Our report is based on the facts established from documentation and information made available to us during the investigation. Should we receive any additional information after date of issuing this report, our findings and recommendations may change.

8.2 Disclosure and Distribution of Report

8.2.1 This report and supporting annexure(s) of evidence have been prepared for the Department of Local Government in the Western Cape Government. This report includes information that is of a confidential and sensitive nature. Therefore the contents of this report is only to be used by Department of Local Government for the purposes relating to the investigation. The disclosure and distribution of the report to third parties should take cognisance of the confidential and sensitive information.

8.3 Legal Advice

8.3.1 The findings and recommendations may not be interpreted to be legal advice. Professional advice should be obtained from a legal practitioner before any action is taken.

THE FINDINGS

9. PHASE 2: INTELLIGENCE ON INDIVIDUALS AND ENTITIES

9.1 Introduction

- 9.1.1 We conducted probity searches using a comprehensive range of sources that provide current information available, as well as social media, open source intelligence, public records and municipal documentation.
- 9.1.2 The probity searches were conducted to identify possible conflicts of interest and to assess whether the lifestyle of employees was commensurate with their income stream.

9.2 Procedures followed

- 9.2.1 We secured and reviewed relevant policies, procedures, memorandums, legislation and minutes of meetings pertaining to the Human Resource function at Bitou Municipality.
- 9.2.2 We secured a random sample of 38 human resource files for employees across the various categories to assess information in their human resource files.
- 9.2.3 We interviewed Venus Cunningham, Manager: Human Resource Administration, regarding assistance with information in the human resource files.

9.3 Documents obtained

- 9.3.1 We obtained the policies, procedures, memorandums, legislation and minutes of meetings relevant to the assessment of the employees.
- 9.3.2 We obtained the human resource files for the following individuals from officials in the Human Resources section:

NO	NAME	POSITION
1.	Jeremy Basson	Head: Parks and Recreation at Bitou Municipality
2.	Hesmarie Bester	Chief Audit Executive at Bitou Municipality
3.	Mavis Busakwe	Personal Assistant: Executive Mayor of Bitou Municipality
4.	William Cloete	Labour Relations Officer at Bitou Municipality

NO	NAME	POSITION
5.	Venus Cunningham	Manager: Human Resource Administration at Bitou Municipality
6.	Mark Fourie	Manager: Human Settlements at Bitou Municipality
7.	David Friedman	Head of Department: Strategic Services at Bitou Municipality
8.	Siyabulela Fumbalele	Traffic Officer at Bitou Municipality
9.	Sean Ganga	Chief Traffic Services at Bitou Municipality
10.	Mziwandile Gqodwana	Traffic Officer at Bitou Municipality
11.	Gavin Gresse	Manager: Information Technology at Bitou Municipality
12.	Alma Greyling	Manager: Administration at Bitou Municipality
13.	Shane Heath	Principal Clerk: Assets & Liability Management at Bitou Municipality
14.	Lesley Jacobs	Manager: Local Economic Development at Bitou Municipality
15.	Stanley Juries	Special Programmes Clerk in the Office of the Executive Mayor of Bitou Municipality
16.	Carlos Koeberg	Acting Manager: Supply Chain Management at Bitou Municipality
17.	Emile Kramer	Small Machine Operator at Bitou Municipality
18.	Peter Lobese	Executive Mayor of Bitou Municipality
19.	Luvuyo Loliwe	Acting Manager: Legal Services at Bitou Municipality
20.	Makhaya Mana	Officer: Political Advisor at Bitou Municipality
21.	Ntho Maredi	Manager: Expenditure Management at Bitou Municipality
22.	Palesa Mashiloane	Assistant Internal Auditor at Bitou Municipality

NO	NAME	POSITION
23.	Vuyokazi Mbelani	Head: Corporate Services at Bitou Municipality
24.	Duncan Meyer	Youth Development Officer at Bitou Municipality
25.	Vincent Mkhefa	Chief Financial Officer of Bitou Municipality
26.	Dumisani Mnweba	Senior Administrative Officer in the Office of the Executive Mayor of Bitou Municipality
27.	Daluxolo Ncame	Manager: Office of the Executive Mayor of Bitou Municipality
28	Thabo Ndlovu	Municipal Manager of Bitou Municipality
29.	Cingisisa Ngemntu-Sonjani	Special Programmes Coordinator in the Office of the Executive Mayor of Bitou Municipality
30.	Lindinceba Nkentsha	Senior HR Officer: Occupational Health and Safety at Bitou Municipality
31.	Pedro Peters	Manager: Supply Chain Management / Acting Accountant: Services in Revenue Section at Bitou Municipality
32.	Andile Sakati	Senior Manager: Public Safety at Bitou Municipality
33.	Sujeeth Sunkar	Manager: Fleet Management at Bitou Municipality
34.	Carol van Staden	Chief Accountant: Expenditure at Bitou Municipality
35.	Siyasanga Vandala	Chief Law Enforcement at Bitou Municipality
36.	Hedley Venter	Chief Fire Services at Bitou Municipality
37.	Euan Wildeman	Speaker of the Municipal Council of Bitou Municipality
38.	Tanya Wildeman	Senior Manager: Human Resources at Bitou Municipality

9.4 Findings

9.4.1 The detailed probity reports have been attached as Annexure 9.1.

9.4.2 We reviewed all the available documents of all the employees listed above to determine whether they disclosed their business interests to the Bitou Municipality, and noted the following concerns:

9.4.3 Hesmarie Bester

- (a) On the Declaration of Business Interests form contained in Hesmarie Bester's Human Resources file (dated 2 May 2018), she indicated that she does not have any business interests (see Annexure 9.2).
- (b) She is currently a member of Heckle Property CC (registration number 2004/090145/23).
- (c) She was previously a member of Intimidating Manufacturing CC (registration number 2005/183744/23); Ladysmith Nursing School (registration number 2005/183744/23); Codie Manufacturing CC (registration number 2005/183721/23); Subsequent trading CC (registration number 2005/183724/23); Honey Tree Trading CC (registration number 2005/183746/23); Retro Manufacturing CC (registration number 2005/183735/23); Lorna's Littlees CC (registration number 2005/183728/23); Heffalump Trading CC (registration number 2005/183737/23); and Daybreak Aviation CC (registration number 2005/179194/23). She resigned from all of the above entities prior to entering the employment of Bitou Municipality

9.4.4 William Cloete

- (a) On the Declaration of Business Interests form contained in William Cloete's Human Resources file (dated 6 May 2016), he indicated that he does not have any business interests (see Annexure 9.3).
- (b) He is currently a member of William Cloete Employment Solutions CC (registration number 2008/149794/23); Seismic Technology and Solutions CC (registration number 2004/012356/23); and Golden Rewards 1236 CC (registration number 2006/196727/23).

9.4.5 Gavin Gresse

- (a) On the Declaration of Business Interests form contained in Gavin Gresse's Human Resources file (dated 2 February 2015), he indicated that he does not have any business interests (see Annexure 9.4).
- (b) He is currently a director of Dagadash (Proprietary) Limited (registration number 2013/180549/07).

9.4.6 Lesley Jacobs

- (a) On the Declaration of Business Interests form contained in Lesley Jacobs' Human Resources file (dated 11 August 2016), he indicated that he does not have any business interests (see Annexure 9.5).
- (b) He is currently a director/member of Divine Footprints Foundation (NPC) (registration number 2010/018525/08); Innovative Fundraising and Training CC (registration number 2005/163392/23); and Inyameko Trading 830 CC (registration number 2006/196698/23).

9.4.7 Peter Lobese

- (a) There is no Declaration of Business Interests form contained in Peter Lobese's human resources file.
- (b) He is currently a director of Lobese Burial Services (Proprietary) Limited (registration number 2018/057148/07).
- (c) He was previously a member of Britten Corners Construction and Cleaning Services CC (registration number 2009/173284/23) - resigned as of 18 August 2016. We note that during this period he was employed by Bitou Municipality as Manager: Property in the Strategic Services Department according to Alan Croutz (Manager: Legal Services) and Dupree Lombard (former Head: Strategic Services of Bitou Municipality). His resignation from this entity was recorded six days after he signed his letter of Oath as a Councillor for Bitou Municipality on 12 August 2016 (see Annexure 9.6).

9.4.8 Luvuyo Loliwe

- (a) On the Declaration of Business Interests form contained in Luvuyo Loliwe's Human Resources file (dated 5 April 2016), he disclosed his directorship of one entity: Coastal Events & Talent Trading (see Annexure 9.7).
- (b) He is currently a director/member of Coastal Talent and Events (Proprietary) Limited (registration number 2015/264490/07); and Intlalo Yabantu Property Development CC (registration number 2010/034113/23).

9.4.9 Makhaya Mana

- (a) There is no business interest disclosure form contained in Makhaya Mana's Human Resources file.
- (b) He is currently a director of Thando and Smuts Consortium (Proprietary) Limited (registration number 2015/180462/07); Corner Pocket Whatsup General Trading (Proprietary) Limited (registration number 2012/009477/07); and Nxuba Community Centre (NPC) (registration number 2011/103299/08).
- (c) He was previously a director of Amathole Economic Development Agency (SOC) Limited (registration number 2005/030812/30) – resigned as of 31 December 2015.

9.4.10 Ntho Maredi

- (a) On the Declaration of Business Interests form contained in Ntho Maredi's Human Resources file (the page containing the date was not included in the file), he indicated that he does not have any business interests (see Annexure 9.8). In a letter to the Bitou Municipality dated 20 February 2017, he declared that he was an office-bearer of Brighter Nation Foundation, a non profit organisation (see Annexure 9.9).
- (b) He is currently a director/member of Ikhabeni (Proprietary) Limited (registration number 2009/016663/07); Phaswa-Ramaite (Proprietary) Limited (registration number 2012/166235/07); Hunadi Travel and Tours CC (registration number 2007/177883/23); and Maredi Hiring CC (registration number 1999/018843/23).

9.4.11

Vuyokazi Mbelani

- (a) On the Declaration of Business Interests form contained in Vuyokazi Mbelani's Human Resources file (dated 2 May 2012), she disclosed her directorship of one entity: Prospero Consulting (Proprietary) Limited (see annexure 9.10).
- (b) She is currently the director/member of Prospero Consulting (Proprietary) Limited (registration number 2015/384562/07); Tolutobs Consultancy and Trading CC (registration number 2009/168422/23); First Ready Development 398 (NPC) (registration number 2002/004721/08); Inkonzo Zoluntu CC (registration number 2001/012348/23); and Masante Management Consultants (registration number 2000/063386/23).
- (c) She was previously a director of Osher Global Manufacturers (Proprietary) Limited (registration number 2014/055672/07) - resigned as of 6 July 2016.

9.4.12

Vincent Mkhefa

- (a) On the Declaration of Business Interests form contained in Vincent Mkhefa's Human Resources file (dated 1 May 2017), he disclosed that his wife, Matshidiso Mkhefa, was a director of one entity: Vuyikam Trading Enterprise. He did not disclose any of his own business interests (see annexure 9.11).
- (b) He is currently a director of Sakhingomso Protective Clothing (Proprietary) Limited (registration number 2015/246327/07).

9.4.13

Dumisani Mnweba

- (a) On the Declaration of Business Interests form contained in Dumisani Mnweba's Human Resources file (dated 6 September 2018), he disclosed that his wife, Lindelwa Mnweba, was the director of two entities: Green Pledge and Mnweba Transport, Construction (see Annexure 9.12). He did not disclose any of his own business interests.
- (b) He is currently a director of Mnweba Security and Training Academy (Proprietary) Limited (registration number 2013/069705/07); Mnweba Transport Construction and Road-works (Proprietary) Limited (registration number 2012/142167/07); and Mnweba Consulting and Training Services (registration number 2008/102957/23).

9.4.14 Daluxolo Ncame

- (a) On the Declaration of Business Interests form contained in Daluxolo Ncame's Human Resources file (dated 3 October 2016), he did not respond to the question regarding whether he has any business interests (see Annexure 9.13).
- (b) He is currently a member of Imvusa Trading 1800 CC (registration number 2007/196135/23).

9.4.15 Thabo Ndlovu

- (a) On the Declaration of Business Interests form contained in Thabo Ndlovu's Human Resources file (dated 6 February 2017), he did not respond to the question regarding whether he has any business interests (see Annexure 9.14).
- (b) He is currently a member of Campus Life Creations CC (registration number 2009/133079/23); Lenong Chem CC (registration number 2005/109531/23); Kwamagxaki Guesthouse CC (registration number B2005/082684/23); and Sithule Trading CC (registration number 2003/050905/23).

9.4.16 Cingisisa Ngemntu-Sonjani

- (a) On the Declaration of Business Interests form contained in Cingisisa Ngemntu-Sonjani's Human Resources file (dated 20 August 2015), she disclosed the following: *"Laundry, Trading in all aspects, Teambuilding, capacity Builing. I am a acredited assessor, SDFand trainer. (Holiday camp outdoor Tr." (sic)*. She also disclosed that her husband, Phumzile Sonjani, is involved in "Support for All", "Southern Ambition 1660CC T/A Hluma Enterprises", "Green 'n Fresh Laundry" and "Hope Fountain Leadership & Dev. Academy". She did not disclose any of her own business interests in the entities detailed in paragraph (b) below (see Annexure 9.15).
- (b) She is currently a director/member of CCDE Development (Proprietary) Limited (registration number 2017/398098/07); Hope Fountain Investments 297 CC (registration number 2008/239926/23); Southern Ambition 1660 CC (registration number 2009/025610/23); and Youth Futures Data Development and Training Applications (NPC) (registration number 2001/004646/08).

9.4.17 Sujeeth Sunkar

- (a) On the Declaration of Business Interests form contained in Sujeeth Sunkar's Human Resources file (dated 5 January 2015), he indicated that he does not have any business interests (see Annexure 9.16).
- (b) He is currently a director of Yokoten Auto Shield (Proprietary) Limited (registration number 2014/206776/07); and Suntek Management Consulting (Proprietary) Limited (registration number 2013/012590/07).

9.4.18 Euan Wildeman

- (a) On the Declaration of Business Interests form contained in Euan Wildeman's Human Resources file (dated 25 October 2018), he indicated that he does not have any business interests (see Annexure 9.17). We note that a SearchWorks (CIPC Director search) report was generated for Euan Wildeman and placed in his Human Resources file which outlines all of the entities that he is and was a member of.
- (b) He is currently a director of Tswelopele Development Foundation (NPC) (registration number 2015/406687/08); Its About Time Investments (Proprietary) Limited (registration number 2003/023904/07); and Fish Leaders Investments Limited (registration number 1999/009322/06).
- (c) He was previously a director/member of De Wildevogel General Trading (Proprietary) Limited (registration number 2011/119706/07) - resigned as of 12 September 2016; Born in Africa Social Upliftment Programme (NPC) (registration number 2003/004484/08) - resigned as of 26 February 2003; and Gravy Train Meats CC (registration number 1996/052880/23) - no information available on resignation date. His resignation from De Wildevogel General Trading was recorded 31 days after he signed his letter of Oath as a Councillor for Bitou Municipality on 12 August 2016 (see Annexure 9.18).

9.5 Conclusion

- 9.5.1 We have found numerous Human Resources files where employees have failed to declare business interests in the "Declaration of Business Interests in terms of section 46(3)(e) of the Supply Chain Management Policy" (see Annexure 9.19) form or alternatively the "Disclosure of Business Interests in terms of section 44, 45 & 46(3)(e) of the Supply Chain Management Policy" form ("Declaration of Business Interests form"). The form requires an employee to indicate either that *"I hereby declare that neither me, nor any family member have any*

business interests" (item 5) or alternatively to set out details of these business interest(s) (item 6).

9.5.2 During our investigation, we could not find any evidence (either from the assessment of human resource files or from the assessment of municipal documentation) that certain Councillors have declared their business interests to the Municipal Manager in terms of section 7 of Schedule 1 (Code of Conduct of Councillors) of the Municipal Systems Act 32 of 2000.

9.5.3 During our investigation, we could not find any evidence (either from the assessment of human resource files or from the assessment of municipal documentation) that certain Senior Managers and the Municipal Manager of Bitou Municipality have declared all of their business interests to the Chairperson of the Municipal Council in terms of section 5A of Schedule 2 (Code of Conduct of Councillors) of the Municipal Systems Act 32 of 2000.

9.6 Recommendations

9.6.1 We recommend the following action:

(a) That the following Councillors be reported to the Chairperson of the Municipal Council in terms of section 13 and 14 of Schedule 1 (Code of Conduct for Councillors) of the Municipal Systems Act 32 of 2000 for breaching section 7 of the same Schedule of the Municipal Systems Act) in that they did not declare certain financial interests held by them in writing to the municipal manager within 60 days of being elected/appointed or annually where the nature or detail of those financial interests have changed:

(i) Peter Lobese

(ii) Euan Wildeman

(b) That disciplinary action be taken against the following municipal officials for breaching section 5A of Schedule 2 (Code of Conduct for Municipal Staff Members) of the Municipal Systems Act 32 of 2000 in that they did not declare certain financial interests held by them in writing to the Chairperson of the Municipal Council within 60 days of being appointed or quarterly thereafter where the nature or detail of those financial interests have changed:

(i) Vuyokazi Mbelani

(ii) Vincent Mkhefa

- (iii) Thabo Ndlovu [now resigned/departed from the Bitou Municipality]

Note: Thabo Ndlovu resigned from the Bitou Municipality with effect from 30 January 2019. The Bitou Municipality should place a note in the human resource file of Thabo Ndlovu indicating that he would have been subjected to disciplinary proceedings and direct any individuals making reference checks to the forensic report.

- (c) That disciplinary action be taken against or alternatively warnings be issued to the following municipal officials for dishonesty in not disclosing business interests when they were requested to do so in terms of the Declaration of Business Interests form:

- (i) Hesmarie Bester

- (ii) William Cloete

- (iii) Gavin Gresse

- (iv) Lesley Jacobs

- (v) Luvuyo Loliwe

- (vi) Makhaya Mana

- (vii) Ntho Maredi

- (viii) Vuyokazi Mbelani

- (ix) Vincent Mkhafa

- (x) Dumisani Mnweba

- (xi) Daluxolo Ncame [now resigned/departed from the Bitou Municipality]

Note: Daluxolo Ncame resigned from the Bitou Municipality with effect from 31 January 2019. The Bitou Municipality should place a note in the human resource file of Daluxolo Ncame indicating that he would have been subjected to disciplinary proceedings and direct any individuals making reference checks to the forensic report.

- (xii) Thabo Ndlovu [now resigned/departed from the Bitou Municipality]

Note: Thabo Ndlovu resigned from the Bitou Municipality with effect from 30

January 2019. The Bitou Municipality should place a note in the human resource file of Thabo Ndlovu indicating that he would have been subjected to disciplinary proceedings and direct any individuals making reference checks to the forensic report.

(xiii) Cingisisa Ngemntu-Sonjani

(xiv) Sujeeth Sunkar

(xv) Euan Wildeman

- (d) That the process for disclosing business interests in terms of the Declaration of Business Interests form annually be addressed and enforced. Venus Cunningham stated to us that municipal officials sign Declaration of Business Interests form as part of their induction pack when they are appointed. She stated that a notification email requesting that municipal officials disclose their business interests is thereafter sent out annually to all the municipal officials with the Declaration of Business Interests form attached but that most officials do not respond to this email or return a signed Declaration of Business Interests form.

10. PHASE 3: DISMISSAL OF VUYOKAZI MBELANI AT NGQUSHWA MUNICIPALITY AND HER SUBSEQUENT APPOINTMENT AT BITOU MUNICIPALITY

10.1 Introduction

10.1.1 Vuyokazi Mbelani is the current Head: Corporate Services at Bitou Municipality and was the previous Municipal Manager of the Ngqushwa Municipality. Vuyokazi Mbelani has been on suspension since 6 December 2017.

10.1.2 Vuyokazi Mbelani's human resource file was reviewed and it was found that an incomplete and misleading statement had been made regarding her departure from the Ngqushwa Municipality. The "*application form for employment for senior managers*" completed by Vuyokazi Mbelani stated that her reason for leaving her position of Municipal Manager at Ngqushwa Municipality was "[d]isciplinary + mutually agreed to end contract". During the abovementioned independent forensic investigation, the forensic investigators interacted with the SALGBC, the Port Elizabeth Labour Court and previous officials of the Ngqushwa Municipality and discovered that Vuyokazi Mbelani had been charged and found guilty of 14 charges of misconduct and had been dismissed with effect from the date of sentence of 9 December 2014.

10.1.3 We were mandated to investigate the alleged dismissal of Vuyokazi Mbelani from the Ngqushwa Municipality and her subsequent appointment at Bitou Municipality.

10.2 Procedures followed

10.2.1 We inspected the human resource file of Vuyokazi Mbelani and retrieved documentation pertaining to the recruitment and selection process for the position of Head: Corporate Services.

10.2.2 We contacted officials from Ngqushwa Municipality in order to obtain a statement from them regarding whether Vuyokazi Mbelani had been dismissed or whether it had been agreed to mutually end her contract.

10.2.3 We received and analysed copies of the contents of the Labour Court file in the matter of Vuyokazi Mbelani v SALGBC & 2 Others (PR33/15/ECD011520) from the Port Elizabeth Labour Court.

10.2.4 We interviewed Venus Cunningham, Manager: Human Resources Administration, regarding the reference checking undertaken by her in respect of Vuyokazi Mbelani.

10.3 Documents obtained

10.3.1 We obtained the following documentation from Vuyokazi Mbelani's human resource file:

- (a) Vuyokazi Mbelani's curriculum vitae (see Annexure 10.1).
- (b) Vuyokazi Mbelani's application form for the position of Head: Corporate Services at Bitou Municipality (see Annexure 10.2).
- (c) The completed reference check forms for Vuyokazi Mbelani as an applicant for the position of Head: Corporate Services at Bitou Municipality (see Annexure 10.3).
- (d) The interview question forms for the structured interview of Vuyokazi Mbelani (as completed by the panellists) (see Annexure 10.4).
- (e) The selection report for the appointment of Head: Corporate Services at Bitou Municipality (see Annexure 10.5).
- (f) A letter from Richard Jardine regarding the labour dispute between Vuyokazi Mbelani and Ngqushwa Municipality sent to Bitou Municipality dated 1 March 2017 (see Annexure 10.6).
- (g) Vuyokazi Mbelani's employment contract with Bitou Municipality (see Annexure 10.7).

10.3.2 Misiwe Mpahlwa, the current Municipal Manager of Ngqushwa Municipality, provided us with written confirmation regarding the departure of Vuyokazi Mbelani (see Annexure 10.8) and provided the following additional documentation:

- (a) A Letter from the Acting Municipal Manager of Ngqushwa Municipality, Nomthandazo Mazwayi to the MEC for the Department of Local Government and Traditional Affairs for the Eastern Cape Government, Fikile Xasa, dated 27 January 2015 (see Annexure 10.9).
- (b) The sentence handed down by the Chairperson of the disciplinary hearing between the Ngqushwa Municipality and Vuyokazi Mbelani, NP Jaji (see Annexure 10.10).
- (c) The notice of disciplinary hearing and attached charge sheet sent to Vuyokazi Mbelani by the Ngqushwa Municipality and signed by the evidence leader of the disciplinary hearing, Mvuzo Notyesi, dated 3 October 2014 (see Annexure 10.11).
- (d) A notice of termination of employment signed by the Acting Municipal Manager of Ngqushwa Municipality, Nomthandazo Mazwayi, and sent to Vuyokazi Mbelani and her

attorney Richard Jardine, dated 9 December 2014 (see Annexure 10.12).

- (e) The settlement agreement entered into between Ngqushwa Municipality and Vuyokazi Mbelani in respect of the review application signed by both parties on 5 April 2016 and 11 April 2016 respectively (see Annexure 10.13).

10.3.3 We obtained the following documentation from the contents of the Labour Court file in the matter of Vuyokazi Mbelani v SALGBC & 2 Others (PR33/15/ECD011520):

- (a) The minutes of the special council meeting for Ngqushwa Municipality held on 19 September 2017 (see Annexure 10.14).
- (b) The outcome of the disciplinary hearing held between Ngqushwa Municipality and Vuyokazi Mbelani (see Annexure 10.15).
- (c) The arbitration award handed down by the arbitrator, Martin Koorts, in the matter between Vuyokazi Mbelani and Ngqushwa Municipality at the SALGBC (Case no: ECD081409) (see Annexure 10.16).
- (d) The ruling in respect of the application for condonation handed down by the commissioner, Martin Koorts, in the matter between Vuyokazi Mbelani and the Ngqushwa Municipality at the SALGBC (see Annexure 10.17).
- (e) The notice of motion filed with the Labour Court (Port Elizabeth) in the matter between Vuyokazi Mbelani, SALGBC, Commissioner Martin Koorts, and Ngqushwa Municipality (Case no: PR-33/15) (see Annexure 10.18).
- (f) The notice of withdrawal filed with the Labour Court (Port Elizabeth) in the matter between Vuyokazi Mbelani, SALGBC, Commissioner Martin Koorts, and Ngqushwa Municipality (Case no: PR-33/15) (see Annexure 10.19).

10.4 Findings

10.4.1 We established the following facts from our review of the documentation received from Misiwe Mpahlwa, the current Municipal Manager of Ngqushwa Municipality, as well as from the contents of the Labour Court file in the matter of Vuyokazi Mbelani v SALGBC & 2 Others (PR33/15/ECD011520):

- (a) The Council of Ngqushwa Municipality decided to institute disciplinary proceedings against Vuyokazi Mbelani (see Annexure 10.14) based on a forensic report prepared by independent forensic investigators appointed to investigate the conduct of Vuyokazi

Mbelani (as the Municipal Manager of Ngqushwa Municipality).

- (b) Charges were drawn up against Vuyokazi Mbelani by Mvuzo Notyesi (the evidence leader) and a "Notice of Disciplinary Hearing" was issued by Ngqushwa Municipality to Vuyokazi Mbelani. The notice stipulated that the disciplinary hearing would take place on 21 October 2014. The charges against Vuyokazi Mbelani were as follows (see Annexure 10.11):
- (i) Charge 1: Gross dishonesty, in that she failed to resign from the Department of Local Government and Traditional Affairs and continued to be employed by that Department after accepting and signing her contract as the Municipal Manager of Ngqushwa Municipality.
 - (ii) Charge 2: Receiving two salaries simultaneously, in that she intentionally and wrongfully received two salaries from both the aforementioned employers for a period of time.
 - (iii) Charge 3: Misrepresentation, in that she misrepresented facts to the Department of Local Government and Traditional Affairs in her resignation letter.
 - (iv) Charge 4: Fraud, in that she fraudulently received a salary which was frozen by the Department of Local Government and Traditional Affairs. She received a gross salary of R101,568.58 in January 2014 from Ngqushwa Municipality and a further sum of R52,587.85 from the Department of Local Government and Traditional Affairs on 24 February 2014 when she informed the Department that she had not received full payment from the Ngqushwa Municipality, when she had in fact.
 - (v) Charge 5: Financial misconduct, in that she had manipulated the payroll system during the period of 11 September 2013 to 31 March 2014, to cause her to be paid top up salaries instead of a full municipal manager salary in accordance with her letter of appointment.
 - (vi) Charge 6: Tax avoidance, in that she created a scheme of splitting her salaries during the period of 11 September 2013 to 31 March 2014 in order to receive tax relief benefits.
 - (vii) Charge 7: Contravening section 2(b) of the code of staff for Ngqushwa Municipality, in that she used her influence as the municipal manager to not load the correct payroll system in order to ensure she was paid a top-up salary and

thus failed to *"at all times loyally execute the lawful policies of the municipal council"*.

- (viii) Charge 8: Failure to table audit report and audit action plan to Council, in that she failed to include an audit report and audit action plan in her draft annual report submitted to the Ngqushwa Municipality's Council.
- (ix) Charge 9: Failure to inform Council regarding procurement of goods exceeding R10 million in accordance with the Ngqushwa Municipality's procurement policy, in that she entered into a credit agreement exceeding R10 million on behalf of the Ngqushwa Municipality without informing Council or following procurement policy.
- (x) Charge 10: Unauthorised absence from Council meetings, in that she was absent from six Council meetings between February 2014 and June 2014 without Council approval.
- (xi) Charge 11: Failure to implement council resolutions, in that she intentionally or wilfully failed to implement lawful Council resolutions, including failure to prepare and maintain a secured Council resolution register, failure to prepare a strike report, failure to furnish a detailed report on job evaluation and a 2.5% notch increase, and failure to develop and sign a specific employment and performance contract.
- (xii) Charge 12: Irregular and unauthorised expenditure, in that she appointed eight service providers without following proper procurement processes, with the amount of R17,441,818 being spent on said service providers up to the date of the disciplinary notice.
- (xiii) Charge 13: Breach of good faith, in that she breached the clause in her contract of employment relating to observing good faith in dealing with the parties to the contract and that the parties will refrain from doing anything that might prejudice or detract from the rights, assets or interests of the parties.
- (xiv) Charge 14: Failure to declare financial interests, in that she failed to declare her financial interests with the Department of Local Government and Traditional Affairs while she was employed by the Ngqushwa Municipality and created a conflict of interest situation by remaining employed by both organs of the state during the period of 11 September 2013 to 14 April 2014.

- (c) The Disciplinary hearing was held and the outcome was given by the Chairperson Mr NP Jaji on 4 November 2014. Mr Jaji found Vuyokazi Mbelani to be guilty of all charges based on the uncontested evidence of the employer's witness as well as the forensic report by Umnombo Consulting (Pty) Ltd which was accepted in full by Mr Jaji based on the testimony of the compiler of the report as an independent witness (see Annexure 10.15).
- (d) Vuyokazi Mbelani and her attorney, Richard Jardine of Drake Flemmer and Orsmond Inc, attended the first day of the hearing but on the following date (22 October 2014) Richard Jardine presented a medical certificate stating that Vuyokazi Mbelani had fallen ill and therefore the hearing was postponed to 3 November 2014. Vuyokazi Mbelani and her attorney did not attend the hearing on 3 November 2014, but instead sent a letter to the then acting Municipal Manager Nomthandazo Mazwayi advising, that Vuyokazi Mbelani was attending a course at the KwaZulu-Natal University and requesting a postponement until 18 November 2014. The Chairperson found that these requests were not addressed to the Chairperson or the Initiator and did not constitute a formal application for postponement, and he therefore took the view that the matter should proceed without the employee and her attorney in the absence of an application for postponement (See pages 9 to 13 of Annexure 10.15).
- (e) In the Sentence handed down on 9 December 2014 (see Annexure 10.10), the Chairperson found that Vuyokazi Mbelani was *"dismissed from the employment of Ngqushwa Municipality with effect from the date of the sentence (09/12/2014)"*. This dismissal he states is *"as a result of being found guilty of all charges preferred against her rendering continuation of normal trust employer/employee relationship impossible."*
- (f) We note that Vuyokazi Mbelani brought two related matters against Ngqushwa Municipality to the SALGBC.
 - (i) Vuyokazi Mbelani brought an arbitration application for unfair labour practice, in that she claimed to have been unfairly suspended by the Ngqushwa Municipality. Arbitration took place on 17 November 2014 and an award was handed down in favour of Vuyokazi Mbelani on 20 January 2015, which found that she had established the existence of an unfair labour practice in that she was unfairly suspended by the Ngqushwa Municipality. The Arbitrator, Martin Koorts, stated that the Ngqushwa Municipality was to pay Vuyokazi Mbelani the equivalent of two months pay, amounting to R203,137.16 (see Annexure 10.16).

- (ii) Vuyokazi Mbelani brought an application for condonation for the late referral of a dispute for an alleged unfair dismissal, which had been brought to the SALGBC outside the 30-day time limit specified by the Labour Relations Act. The ruling delivered by the Arbitrator, Martin Koorts, on 24 February 2015 was that the late referral of the dispute by Vuyokazi Mbelani was not condoned as good cause for the delay was not shown and the factors counting against condonation clearly outweighed the factors favouring condonation (see Annexure 10.17).
- (g) Vuyokazi Mbelani subsequently made an application to the Labour Court on 2 April 2015 to have the ruling/arbitration award (see Annexure 10.18) regarding the condonation for the later referral of the dispute for an alleged unfair dismissal reviewed, set aside and/or corrected (see Annexure 10.17). This review application reached the stage where it was ready for allocation for hearing before the Labour Court before Vuyokazi Mbelani withdrew the application on 11 April 2016 (see Annexure 10.19).
- (h) This withdrawal of the review application was done in terms of a settlement agreement entered into between Vuyokazi Mbelani and Ngqushwa Municipality (see Annexure 10.13) on 11 April 2016, whereby Vuyokazi Mbelani undertook to withdraw her review application in terms of which she sought reinstatement with the Ngqushwa Municipality, and Ngqushwa Municipality undertook to withdraw its review application regarding the finding of unfair labour practice for her unfair suspension. Additionally, Ngqushwa Municipality undertook to comply with the SALGBC arbitration award and effect the payment of R203,137.16 into the bank account of Vuyokazi Mbelani's attorneys. This settlement agreement has a confidentiality clause which states the following:
- "Apart from the parties being entitled to inform any third party that the matter has become resolved between them, the parties agree that the contents of this Agreement shall be kept confidential as between them unless either party is obliged in terms of law to discover the contents thereof."*
- (i) We note that the settlement agreement at no point stipulates that the dismissal of Vuyokazi Mbelani was reversed or that the circumstances for her disciplinary hearing and subsequent dismissal are covered by the aforementioned confidentiality clause. The settlement agreement merely stipulates that *"[t]he parties to this agreement entered into same without any admission of liability or of wrong doing on the part of either party"* and that *"[t]his Agreement constitutes the full and final settlement of any and all claims that the parties may have against each other arising out of the*

employment relationship between them and/or the termination of such employment relationship”.

- (j) We have received a letter from Ngqushwa Municipality signed by the Municipal Manager, Misiwe Mpahlwa, in which she confirms Vuyokazi Mbelani’s dismissal from the post of Municipal Manager of the Ngqushwa Municipality on 9 December 2014 after she was found guilty of gross misconduct at a disciplinary tribunal (see Annexure 10.8). We have also been provided with a letter addressed to the MEC of the Department of Local Government and Traditional Affairs in the Eastern Cape Government, Fikile Xasa, from Nomthandazo Mazwayi, the acting Municipal Manager of Ngqushwa Municipality and dated 27 January 2015, informing him that Vuyokazi Mbelani was dismissed after a disciplinary process in which the “charges were related to irregular, wasteful and unauthorised expenditure, failure to follow proper SCM procurement process, Fraud and misrepresentation, amongst other” (see Annexure 10.9). The letter of dismissal (see Annexure 10.12), charge sheet and chairperson’s sentence/sanction were included with the letter.

10.4.2

With regard to the subsequent selection of Vuyokazi Mbelani as the Head: Corporate Services by Bitou Municipality, we have established the following based on the contents of her human resource file:

- (a) Vuyokazi Mbelani states in her curriculum vitae under “*Work Experience*” and alongside “*Ngqushwa Municipality*” that her contract as the Municipal Manager and IEC Municipal Electoral Officer (September 2013 to December 2014) was “*terminated due to mutual agreement as a result of unfortunate irreparable relations*”. Under “*References*” she has put forward Councillor Solomzi Ndwanyana as the Mayor of the Ngqushwa Municipality together with his contact details as her reference (see Annexure 10.1).
- (b) Vuyokazi Mbelani stated in her application form for the position of Head: Corporate Services for Bitou Municipality, that she left Ngqushwa Municipality due to “[d]isciplinary + mutually agreed to end contract” (see Annexure 10.2). Furthermore, she stated under disciplinary records that she has not been dismissed for misconduct on or before 05 July 2011. She states next to this that she “*had a disciplinary case + resolved to mutually terminate/end contract*”. She also refers the reader to a letter from her attorney, Richard Jardine.

- (c) The letter from her attorney, Richard Jardine, stated the following (see Annexure 10.6):

"I confirm that there were two (2) disputes referred to the South African Local Bargaining Council (SALGBC). Two awards were issued, one of which was in favour of Ms Mbelani. Both awards were ultimately referred on review to the Labour Court in port Elizabeth. In the end the parties entered into a confidential Settlement Agreement which, inter alia, terminated the relationship between the parties.

I trust this may be of assistance to you. I am unfortunately precluded from disclosing the details of the Settlement Agreement due to the confidentiality clause contained in the Agreement."

- (d) Three sets of reference check forms were found in the human resource file (see Annexure 10.3). Two of the reference check forms were completed whilst the third reference check form reflected the details provided by Vuyokazi Mbelani in her curriculum vitae for Ngqushwa Municipality Mayor Solomzi Ndwanyana. The reference check however states that there was no answer and the call went to voicemail. The note written on the form seems to indicate that the reference was called on 4,5,6 and 7 April 2017. This form was signed by Venus Cunningham, the Manager: Human Resources Administration.
- (e) The interview question forms completed by the panellists do not reflect any discussion or questions raised regarding her employment with Ngqushwa Municipality (see Annexure 10.4).
- (f) The final selection report, which identified Vuyokazi Mbelani as the candidate recommended to fill the position of Director: Corporate Services to Council, does not make mention of her references or her employment with Ngqushwa Municipality (see Annexure 10.5).

10.4.3

Based on the above, we are of the view that the statements made by Vuyokazi Mbelani in her curriculum vitae and application concerning the circumstances under which she left her position as Municipal Manager at Ngqushwa Municipality are misleading and dishonest. Vuyokazi Mbelani was in fact found guilty of serious misconduct at a disciplinary hearing and dismissed from her position of Municipal Manager of Ngqushwa Municipality. The mutual agreement she refers to in her curriculum vitae and her application was the settlement agreement to end legal proceedings between Ngqushwa Municipality and herself in the Labour Court, and not her employment relationship with Ngqushwa Municipality. Vuyokazi Mbelani was not precluded from disclosing her dismissal from Ngqushwa Municipality based

on this settlement agreement. She had a duty to disclose her dismissal and the reasons prior to accepting and signing her employment contract with Bitou Municipality in order contract in good faith (see Annexure 10.7).

10.4.4 We conducted an interview with Venus Cunningham regarding the reference checking she conducted in respect of Vuyokazi Mbelani during the recruitment and selection process for the appointment. She provided the following information:

- (a) Venus Cunningham stated that both herself and Tanya Wildeman worked on the recruitment and selection process for the appointment of the Head: Corporate Services. She only conducted the reference checks and not the employment history checks. She attempted to contact Vuyokazi Mbelani's reference at Ngqushwa Municipality, but was unable to obtain a reference using the details provided by Vuyokazi Mbelani in her curriculum vitae.
- (b) She does not know how the Attorney's letter came to be in Vuyokazi Mbelani's human resource file and she did not call the attorney to follow up as a result.
- (c) She was aware that the Ngqushwa Municipality had ended the employment of Vuyokazi Mbelani through mutual agreement but that the reasons thereof were confidential.

10.5 Conclusions

10.5.1 In terms of section 18 of the Regulations on Appointment and Conditions of Employment of Senior Managers for the Municipal Systems Act (32 of 2000), a person who has been dismissed for misconduct in a municipality may not be employed as a senior manager in any municipality before the expiry of a certain period. As Vuyokazi Mbelani was dismissed for fraud, amongst other things, this period is ten years in terms of Schedule 2 of the Regulations. Bitou Municipality should therefore have not appointed Vuyokazi Mbelani as Head: Corporate Services and did not conduct the proper screening processes needed to prevent such a mistake.

10.6 Recommendations

10.6.1 We recommend the following action:

- (a) That the Department of Local Government prepare and submit correspondence to the Bitou Municipality to commence legal action against Vuyokazi Mbelani to terminate her contract of employment with Bitou Municipality.

- (b) That the Department of Local Government lodges a criminal complaint of fraud against Vuyokazi Mbelani with the South African Police Service.
- (c) That the Bitou Municipality launches disciplinary proceedings against Tanya Wildeman and Venus Cunningham in the Human Resource Department for failing to properly assess the documentation provided by Vuyokazi Mbelani which subsequently led to her irregular appointment.

11. PHASE 4: POSSIBLE MISMANAGEMENT OF THE GRANT-IN-AID DISCRETIONARY FUND

11.1 Introduction

- 11.1.1 The purpose of grants-in-aid is to “*complement the goals, objectives, programs and actions of this Municipality in order to create a sustainable, credible and caring Municipality by empowering and building communities, and enhancing growth and sharing through partnerships*”.
- 11.1.2 The Council approved a policy (“Grant-in-Aid Policy”) for the allocation of section 67 grants-in-aid on 4 April 2012, as per Council resolution C/1/44/03/12, to comply with Section 67 of the Local Government: Municipal Finance Management Act, Act 56 of 2003 (see Annexure 11.1).
- 11.1.3 There has allegedly been and/or there is allegedly widespread mismanagement of Grant-in-Aid discretionary funding on the part of the previous Municipal Manager (Thabo Ndlovu), the officials within the Office of the Executive Mayor and the Executive Mayor (Peter Lobese).
- 11.1.4 The widespread mismanagement of Grant-in-Aid discretionary funding allegedly relates to the following specific allegations:
- (a) Beneficiaries were not properly registered;
 - (b) Beneficiaries presented cancelled/invalid registrations;
 - (c) Registrations presented were allocated to other beneficiaries;
 - (d) Payments were made to beneficiaries without them submitting applications for funding to Bitou Municipality;
 - (e) Payments were made to beneficiaries without business plans or which included prohibited expenditure items;
 - (f) No financial reporting or auditing on the recipient beneficiaries or the funded projects has been undertaken;
 - (g) Significant discrepancies exist between the amounts of funding applied for in funding applications and the actual payments made to the beneficiaries concerned; and
 - (h) Officials within the Office of the Executive Mayor and the Executive Mayor have implemented a money laundering scheme utilising the Grant-in-Aid discretionary

funding programme to syphon money out of the Bitou Municipality. This scheme allegedly involves funding being provided to beneficiaries despite no request for such funding being submitted or funding being provided in excess of the relevant applications. In turn, money is then paid to officials within the Office of the Executive Mayor and/or the Executive Mayor. This scheme allegedly allows for money to flow from the Bitou Municipality to the officials concerned and/or the Executive Mayor via beneficiaries.

- 11.1.5 The Municipality annually issues a formal notice, inviting organisations and/or bodies who qualify for financial assistance in terms of the criteria and prescriptions contained in the Grant-in-Aid Policy, to submit proposals for programs they endeavour to undertake during a specific calendar year. The Office of the Executive Mayor is responsible to make provision in their annual budget for Grants-in-Aid and to allocated funding to organisations and/or bodies which qualify.

11.2 Procedures followed

- 11.2.1 In order to determine whether there is any merit to these allegations, we have:

- (a) Reviewed a random sample of ten beneficiaries from a total of thirty-eight beneficiaries, who allegedly qualified, and who applied in terms of the Grant-in-Aid Discretionary Fund during the 2016/2017 and 2017/2018 financial years:

- (i) Baby Eagles Educare Centre;
- (ii) Bitou 10 Educational and Development Foundation;
- (iii) Bitou Early Childhood Development Forum;
- (iv) Sokhuluwa Youth Future Organisation;
- (v) Bitou Sohluma Organisation;
- (vi) Eden Social Networks;
- (vii) Kamvalethu Development Project;
- (viii) Kwanokuthula Community Policing Forum;
- (ix) Protea Service Centre; and
- (x) Bitou Masakhane.

- (b) Investigated the registration of the beneficiary entities.
- (c) Determined whether the applications have a business plan and budget for the expenditure items.
- (d) Reviewed, where possible, the financial reports prepared on a monthly basis by the beneficiary entities.
- (e) Determined whether the Bitou Municipality prepared audit reports on the beneficiary entities.
- (f) Reviewed, where possible, financial statements and bank account statements from the beneficiary entities.
- (g) Reviewed, where possible, supporting documentation from the beneficiary entities on the expenditure of the funds.
- (h) Compared the application for funding to the payments made to the beneficiary entities to identify discrepancies and anomalies.
- (i) Consulted and/or interviewed the following individuals, which have knowledge of the allegation:
 - (i) Peter Lobese – Executive Mayor;
 - (ii) Stanley Juries - Special Programmes Clerk (Office of the Executive Mayor);
 - (iii) Cingisisa Ngemntu-Sonjani - Special Programmes Coordinator (Office of the Executive Mayor);
 - (iv) Emile Kramer – Small Machine Operator at the Bitou Municipality and spouse of LeighéAnne Kramer;
 - (v) Alan Croutz – Manager: Legal Services;
 - (vi) Carol van Staden – Chief Accountant: Expenditure;
 - (vii) David Friedman – Head of Department: Strategic Services;
 - (viii) Ntho Maredi – Manager: Expenditure Management;
 - (ix) Ursula Adams – Principal of Baby Eagles Educare Centre;

- (x) LeighéAnne Kramer – Former secretary of Baby Eagles Educare Centre and spouse of Emile Kramer;
- (xi) Marietta van Rooyen – Chairperson of Bitou 10 Educational and Development Foundation;
- (xii) Sooneela Naina – Manager of Bitou 10 Educational and Development Foundation;
- (xiii) Nokwezi Mdatyulwa - Chairperson of Bitou Early Childhood Development Forum;
- (xiv) Lundi Gcanga – Chairperson of Sokhuluwa Youth Future Organisation;
- (xv) Denise Makhetha – Contact person of Sokhuluwa Youth Future Organisation, Contact and/or Chairperson of Bitou Sohluma Organisation and former Chairperson of Kwanokuthula Community Policing Forum;
- (xvi) Lindelwa Mtila – Chairperson of Kamvalethu Development Project;
- (xvii) Anna Hoffman – Former Chairperson of Protea Service Centre;
- (xviii) Maria Johnson - Chairperson of Protea Service Centre;
- (xix) Katie Aaron – Cashier at Protea Service Centre;
- (xx) Mbambeleli Khephe – Treasurer of Bitou Masakhane;
- (xxi) Bulelwa Shey– Vice Chairperson of Bitou Masakhane.
- (xxii) Andiswa Kuwane – Secretary of Bitou Sohluma Organisation and Treasurer of Kwanokuthula Community Policing Forum; and
- (xxiii) Lokose Mrubata – Project Co-ordinator at Kwanokuthula Community Policing Forum.

11.3 Documentation obtained

11.3.1 During our investigation we:

- (a) Secured expenditure vouchers containing applications with supporting documentation as well as agreements pertaining to ten beneficiaries who applied in terms of the Grant-in-Aid Discretionary Fund during the 2016/2017 financial year. These documents were obtained from the Bitou Municipality's expenditure section and included:

- (i) Baby Eagles Educare Centre;
 - (ii) Bitou 10 Educational and Development Foundation;
 - (iii) Bitou Early Childhood Development Forum;
 - (iv) Sokhuluwa Youth Future Organisation;
 - (v) Bitou Sohluma Organisation;
 - (vi) Eden Social Networks;
 - (vii) Kamvalethu Development Project;
 - (viii) Kwanokuthula Community Policing Forum;
 - (ix) Protea Service Centre; and
 - (x) Bitou Masakhane.
- (b) Secured, where possible, the financial reports prepared on a monthly basis by the beneficiary entities.
 - (c) Secured, where possible, financial statements and bank account statements from the beneficiary entities.
 - (d) Secured, where possible, supporting documentation from the beneficiary entities on the expenditure of the funds.

11.4 Findings

11.4.1 Grant-in Aid Process and Payments in general:

Notice to Apply for Grant-in-Aid

- (a) The Municipality issued notice number: 293/2016 on 17 November 2016 (see Annexure 11.15), inviting organisations and/or bodies who qualify for financial assistance in terms of the criteria and prescriptions contained in the Grant-in-Aid Policy, to submit proposals for programs they endeavour to undertake during the 2017 calendar year.
- (b) The notice stated that only applications submitted on the prescribed application form and accompanied by all the required information, documentation, financial statements,

covering letter, etc. and received by the Office of the Mayor by Friday, 13:00 on 30 December 2016 shall be considered.

- (c) We noted that the Municipality did not issue a similar notice in 2017 for the 2018 calendar year.

Allocation and Payment of Grant-in-Aid

- (d) According to Emile Kramer and Cingisisa Ngemntu-Sonjani, the Manager in the office off the Executive Mayor, Daluxolo Ncame, was responsible to oversee and manage the applications received from the organisations and/or bodies, which applied for financial assistance. The allocation of funds to these organisations and/or bodies were made by Daluxolo Ncame in conjunction with the Executive Mayor, Peter Lobese.
- (e) We noted that Daluxolo Ncame, submitted an internal memorandum to the Municipal Manager, dated 4 April 2017 (see Annexure 11.16), providing motivation for the payment of Grant-in-Aid to selected beneficiaries in the 2016/2017 financial year. In this memorandum, Daluxolo Ncame explained that a shortlist of 38 beneficiaries were made from a list of 68 applications and that the financial implication was R1,305,000. The Municipal Manager (Thabo Ndlovu) approved this on 24 April 2017.
- (f) The list attached to the memorandum, includes 29 beneficiaries with the amounts allocated to them for 2017. We noted that the total of the allocations on this list amounts to R1,590,000, which is more than the financial implication mentioned in the memorandum.
- (g) During our review of the expenditure vouchers supporting the payments made to the selected beneficiaries, we noted that this memorandum and list of beneficiaries was used to support most payments made to these beneficiaries in the 2016/2017 financial year. We elaborate on our review of the expenditure vouchers further down in this report.
- (h) During our review of expenditure vouchers, we identified a second internal memorandum submitted by Daluxolo Ncame to the Municipal Manager, dated 28 August 2017 (see Annexure 11.17), providing motivation for the payment of Grant-in-Aid to certain beneficiaries selected in the 2016/2017 financial year who did not have the required registrations in place at the time. The Municipal Manager (Thabo Ndlovu), approved the payment of beneficiaries listed in the second memorandum on 29 August 2017 and indicated that the transfers will be made from the 2017/2018 budget.

- (i) It therefore appears that payments were made in the 2017/2018 financial year to beneficiaries which applied for Grant-in-Aid in the 2016/2017 financial year. This was confirmed by Emile Kramer and Cingisisa Ngemntu-Sonjani. Apparently, no formal process was followed to invite organisations and/or bodies to apply for financial assistance in 2017 for programs planned for in the 2018 calendar year. The same organisations and/or bodies, which applied in 2016, which did not qualify at the time, were allocated funds in 2017, resulting in payments to these beneficiaries in the 2017/2018 financial year.
- (j) During our investigation we found the first memorandum of 4 April 2017 with a different list (see Annexure 11.18) of beneficiaries and allocations totalling an amount of R1,830,000 in combination with the second memorandum of 28 August 2017 was used to motivate certain payments.
- (k) The value of the allocations provided in the second list totalling R1,830,000, also exceeded the initial financial implication as listed in Daluxolo Ncame's first memorandum.

Agreements between the Municipality and the Grant-in-Aid Beneficiaries

- (l) The Municipality's Grant-in-Aid Policy requires that the Municipality enter into a formal agreement with the Grant-in-Aid beneficiaries. The policy also provides a template for such an agreement.
- (m) According to Alan Croutz, he assisted the Office of the Executive Mayor to develop a more detailed Grant-in-Aid template agreement in or around April 2017. This agreement was to be used as a binding contract between the Bitou Municipality and the beneficiaries of the Grant-in-Aid.
- (n) According to Alan Croutz, he was provided with some of the Grant-in-Aid applications during this time and realised that some of the applications did not meet the requirements as per the Grant-in-Aid policy. Alan Croutz sent an e-mail on Friday, 28 April 2017 (see Annexure 11.19), to Carol van Staden and copied Ntho Maredi, Gerrie Groenewald, Thabo Ndlovu and Daluxolo Ncame, requesting Carol van Staden not to make any payments in terms of the Grant-in-Aid policy before the Office of the Executive Mayor had ensured the following conditions were met:
 - (i) Grant beneficiaries to furnish the Bitou Municipality with all outstanding documentation;

- (ii) Grant beneficiaries to enter into an agreement with the Bitou Municipality in terms of Section 67 of the MFMA; and
 - (iii) Undertaking to be provided by the grant beneficiaries that the funds transferred will only be used for purposes as outlined in the Grant-in-Aid policy.
- (o) According to Carol van Staden, she received payment requests for several Grant-in-Aid beneficiaries from the Office of the Executive Mayor early in May 2017. She was provided with the signed agreements between the Bitou Municipality and the Grant-in-Aid beneficiaries. After scrutinising these agreements, which was signed by the Municipal Manager (Thabo Ndlovu), she realised that the Grant-in-Aid beneficiaries did not initial all the pages of the agreements. She then contacted Alan Croutz telephonically and ascertained whether he had seen these agreements. Alan Croutz explained to her that he had not seen the agreements signed by the Municipal Manager (Thabo Ndlovu), however that he had assisted with the development of the agreement template and referred her to the e-mail he sent to her on 28 April 2017. He suggested that she refer these agreements back to the Municipal Manager (Thabo Ndlovu) and request further instructions.
- (p) Based on an e-mail from Carol van Staden to Thabo Ndlovu (which she also addressed to Gerrie Groenewald, Alan Croutz, Daluxolo Ncame and copying Vincent Mkhafa and Ntho Maredi), dated 3 May 2017 (see Annexure 11.19), she confirmed her discussion with Thabo Ndlovu pertaining to the Grant-in-Aid payments and stated that:
- (i) Alan Croutz had not seen the contracts/agreements/documentation and is not in a position to release payment to the beneficiaries;
 - (ii) The expenditure section may not make payments without proper and appropriate overriding the stop-payment order issued by the initial financial transaction authoriser; and
 - (iii) She requests to be advised on the process forward and is aware of the urgency of the matter as expressed by Daluxolo Ncame.
- (q) Carol van Staden provided us with telephonic recordings between her and Alan Croutz as well as between her and Thabo Ndlovu confirming the above. These recordings further prove that:

- (i) The required documentation as well as banking details of certain beneficiaries were not available at the time the agreements were submitted to Carol van Staden for payment;
 - (ii) Thabo Ndlovu re-submitted the signed agreements to Carol van Staden for payment after her e-mail, dated 3 May 2017;
 - (iii) Thabo Ndlovu authorised Carol van Staden to pay the Grant-in-Aid beneficiaries for which he had signed agreements even though these agreements were not reviewed by the Manager: Legal Services. It is standard procedure for the Manager: Legal Services to review all agreements the Municipality enters into with external parties;
- (r) All the agreements should have been reviewed by the Manager: Legal Services before they were submitted to the Municipal Manager for signature. This resulted in the Municipal Manager signing these agreements without ensuring that the relevant Annexure A's were in place and included with the said agreements. The Annexure A's, referred to in the agreement under paragraph 3.2, was intended to set out how the Bitou Municipality would measure the output on the basis of the targets and programmes that the Bitou Municipality agreed to (see Annexure 11.20 as an example of an agreement).
- (s) The absence of Annexure A to the agreements, places the Bitou Municipality and the use of the Grant-in-Aid fund at risk as it is very difficult to determine whether the expenses incurred by the beneficiaries complies with the Grant-in-Aid policy of the Bitou Municipality. During our investigation we found various instances of expenditure incurred by the beneficiaries, which appear not to comply with the Grant-in-Aid policy. The absence of an Annexure A and the fact that the Grant-in-Aid policy is inadequately defined in terms of expenses allowed, makes it almost impossible to validate these expenses.
- (t) In addition, the Grant-in-Aid agreements states in paragraph 7.7 that the beneficiary:
- (i) *"shall submit monthly reports reflecting expenditure to the Director: Strategic Services of the Municipality, within 15 business days of the end of each and every calendar month".*
- (u) Since the completed agreements were not submitted to the Manager: Legal Services for review, the Director: Strategic Services, who was David Friedman at the time, was

not notified of this and therefore was unaware that he had a responsibility to ensure he receives the monthly expenditure reports.

Expenditure Management

- (v) In terms of Section 65 of the MFMA, the Bitou Municipality is obliged to maintain an effective system of expenditure control, including procedures for the approval authorisation, withdrawal and payment of funds. Based on the processes followed during the screening, allocation, authorisation and payment of Grant-in-Aid funds as well as the management of these processes, it is clear that:
 - (i) The Office of the Executive Mayor did not adequately apply the Grant-in-Aid policy during the screening and allocation of the fund and did not manage the processes adequately. Allocations should not have been made to beneficiaries who did not comply with the requirements of the policy;
 - (ii) The Office of the Executive Mayor continued with allocating Grant-in-Aid funds to beneficiaries even though their application forms did not contain their banking details in all instances, which caused unnecessary pressure on the finance staff during the payment process;
 - (iii) The Municipal Manager did not maintain an effective system of expenditure control as he approved the payment of funds in respect of the first memorandum from Daluxolo Ncame, dated 4 April 2017, with a financial commitment which did not correspond with the total value of allocations made. The Municipal Manager further approved the payments in terms of Daluxolo Ncame's second memorandum without ensuring that the required processes were followed as per the Grant-in-Aid policy; and
 - (iv) The value of the new list also exceeds the financial implication approved by the Municipal Manager in the memorandum. It therefore appears that the list was manipulated to support payments to Grant-in-Aid beneficiaries in a new financial year without having the necessary authorisation.

Manipulation of Grant-in-Aid Process

- (w) During our interview with Emile Kramer, who worked in the Office of the Executive Mayor during the time of the 2016/2017 Grant-in-Aid process, he informed us that the Grant-in-Aid process was manipulated by Peter Lobese and Daluxolo Ncame. Apparently, Peter Lobese had meetings with some of the beneficiaries and arranged

with them that they will receive money, however that a portion thereof had to be returned in order to fund the political campaign of the Active United Front (AUF).

- (x) Emile Kramer further stated that the list of beneficiaries as well as the allocations changed throughout the process. Certain beneficiaries could apply after the official closing date and the Office of the Executive Mayor had to run around to assist in registering beneficiaries as NPO's, drafting of constitutions and obtaining details for the applications of these organisations. The final allocations apparently did not match what was communicated during the awards ceremony.

11.4.2

Baby Eagles Educare Centre:

Background

- (a) Baby Eagles Educare Centre applied for Grant-in-Aid funding to the Bitou Municipality on 6 December 2016 (see Annexure 11.2). The application was signed by LeighéAnne Kayster (now Kramer) in her capacity as secretary of the organisation.
- (b) According to the Department of Social Development's database for Non-profit Organisations (NPO's) in South Africa, Baby Eagles Educare Centre was registered on 30 March 2016 with registration number: 168-909 NPO. This information corresponds with the certificate of registration submitted with their application.
- (c) Based on information contained in an internal memorandum from Daluxolo Ncame (Office of the Executive Mayor) to the Municipal Manager, dated 4 April 2017, an amount of R100,000.00 was allocated to Baby Eagles Educare Centre in terms of Grant-in-Aid. The Municipal Manager (Thabo Ndlovu) approved this allocation on 24 April 2017.
- (d) The Bitou Municipality entered into an agreement with Baby Eagles Educare Centre in terms of the MFMA. It is recorded in the agreement that the Bitou Municipality will transfer an amount of R100,000 to Baby Eagles Educare Centre in respect of the period 15 April 2017 to 30 June 2017. According to this agreement, the Municipal Manager (Thabo Ndlovu) signed the agreement on 2 May 2017. Ursula Adams (Principal of Baby Eagles Educare Centre) signed the agreement as the duly authorised representative, however her signature was undated.
- (e) According to expenditure voucher: 117749 (see Annexure 11.2), dated 4 May 2017, an amount of R100,000.00 was paid to Baby Eagles Educare Centre in terms of Grant-in Aid.

Findings

(f) Our investigation revealed that:

- (i) LeighéAnne Kramer's surname was scratched out as contact person on Baby Eagles Educare Centre's application and replaced with "Kayster", her maiden name. This suggests that it was done to mislead the Municipality and hide the fact that she is married to Emile Kramer, who worked in the Office of the Executive Mayor at the time.
- (ii) The organisation did not provide a bank account confirmation letter as required during their application.
- (iii) Baby Eagles Educare Centre did not submit monthly reports reflecting expenditure to the Director: Strategic Services of the Bitou Municipality as stipulated under paragraph 7.7 of the agreement;
- (iv) Baby Eagles Educare Centre did not utilise the funds for the purpose indicated on their Grant-in-Aid application form. According to their application form, the grant was to be utilised to provide meals to children and food parcels to needy families. During our visit to the organisation's premises and consultation with Ursula Adams, she stated that R35,000.00 was utilised to build a wall on the premises. This is in contravention of the Grant-in-Aid policy, which stipulates in paragraph 4.1.4 that funding of projects and to organisations shall, inter alia, exclude capital costs;
- (v) During our consultation with Ursula Adams, she stated that:
 - (A) Emile Kramer and his wife LeighéAnne Kramer (formerly Kayster) informed her towards the end of 2016 of the opportunity to apply for Grant-in-Aid. LeighéAnne Kramer was the secretary of Baby Eagles Educare Centre at the time;
 - (B) LeighéAnne Kramer assisted her to complete and submit the application for Grant-in-Aid and the supporting documents as Ursula Adams was not familiar with the process;
 - (C) In or around April 2017, Emile Kramer informed Ursula Adams that the Bitou Municipality will pay Baby Eagles Educare Centre an amount of R100,000.00, however that she will not be able to utilise the full amount. At

that point in time, Ursula Adams told Emile Kramer that she does not want to be part of it as she is not a "politician";

- (D) She attended a function held by the Bitou Municipality where it was announced that Baby Eagles Educare Centre was to receive an amount of R20,000.00;
 - (E) She was required to sign an agreement with the Bitou Municipality to receive funding;
 - (F) An unknown person from the Bitou Municipality called her to say that the R100,000.00 was paid into the account of Baby Eagles Educare Centre and that she had to withdraw R65,000.00 in cash and deliver it to LeighéAnne Kramer;
 - (G) She withdrew the money as instructed and delivered it to LeighéAnne Kramer at her workplace; and
 - (H) The remaining R35,000.00 was later used to build a wall at her premises, situated at [REDACTED]
- (vi) Ursula Adams provided us with a sworn statement, which contains details relating to the abovementioned information (see Annexure 11.3).
- (vii) We visited LeighéAnne Kramer at her place of work [REDACTED]. Upon questioning her about the event, she said that she could not recall the details and will have to come back to us. The following morning, she contacted us telephonically and stated the following:
- (A) She confirmed receiving the money from Ursula Adams;
 - (B) An unknown African person from the Bitou Municipality came to collect the money from her;
 - (C) She could not recall the type of vehicle, however she stated that it had dark windows and that there could have been a second person in the vehicle;
 - (D) She is of the opinion that the money was intended to fund the AUF.

- (viii) LeighéAnne Kramer became very aggressive over the phone when we asked her if she and/or her husband benefited from the Grant-in-Aid money in any way. She denied having benefited.
- (ix) During our interview with Emile Kramer, he stated that:
 - (A) He informed Ursula Adams about the opportunity to apply for Grant-in-Aid;
 - (B) His wife (LeighéAnne Kramer) assisted Ursula Adams with completing and submitting the Grant-in-Aid application;
 - (C) He did not inform Ursula Adams that she will receive R100,000, however that she will only be allowed to utilise R35,000 thereof;
 - (D) He heard from his wife that Ursula Adams dropped off money at his wife's work and that his wife had to give it to whoever came to collect the money;
 - (E) He does not know who collected the money;
 - (F) He is also aware that the money collected went towards the political campaign of the AUF;
- (x) During our interview with Emile Kramer, he provided us with a written statement pertaining to this matter (see Annexure 11.4).
- (xi) Daluxolo Ncame appears to have failed to ensure that the requirements of the Grant-in-Aid Policy were complied with and the possibility exist that he was complicit in changing Baby Eagles Educare Centre's allocation of R20,000 to R100,000.

Recommendations

- (g) We recommend disciplinary action against Emile Kramer in terms of:
 - (i) Not reporting the irregularities pertaining to Baby Eagles Educare Centre timeously to the Municipality;
 - (ii) Non-compliance with the code of conduct for municipal staff members as per Schedule 2 of the Local Government: Municipal Systems Act; and
 - (iii) The possible involvement in the identified irregularities.

- (h) Should the disciplinary action against Emile Kramer identify that he was complicit in the irregularities identified, the loss to the Municipality should be recovered from him.
- (i) We recommend that it be recorded in the human resource file of Daluxolo Ncame, that disciplinary action would have been recommended for him for non-compliance with the Municipality's Grant-in-Aid Policy, however due to his subsequent resignation, no disciplinary action can be taken.
- (j) We recommend criminal action in terms of fraud and corruption against:
 - (i) Emile Kramer;
 - (ii) Daluxolo Ncame;
 - (iii) LeighéAnne Kramer; and
 - (iv) Ursula Adams.

11.4.3

Bitou 10 Educational and Development Foundation:

Background

- (a) Bitou 10 Educational and Development Foundation applied for Grant-in-Aid funding to the Bitou Municipality on 15 December 2016 (see Annexure 11.5). The application was signed by Marietta van Rooyen in her capacity as chairperson of the organisation.
- (b) According to the Department of Social Development's database for Non-profit Organisations (NPO's) in South Africa, the Bitou 10 Educational and Development Foundation was registered on 8 June 2006 with registration number: 050-207 NPO. This information corresponds with the certificate of registration submitted with their application.
- (c) Based on information contained in an internal memorandum from Daluxolo Ncame (Office of the Executive Mayor) to the Municipal Manager, dated 4 April 2017, an amount of R100,000.00 was allocated to Bitou 10 Educational and Development Foundation in terms of Grant-in-Aid. The Municipal Manager (Thabo Ndlovu) approved this allocation on 24 April 2017.
- (d) The Bitou Municipality entered into an agreement with Bitou 10 Educational and Development Foundation in terms of the MFMA. It is recorded in the agreement that the Bitou Municipality will transfer an amount of R100,000 to Bitou 10 Educational and Development Foundation in respect of the period 15 April 2017 to 30 June 2017.

According to this agreement, the Municipal Manager (Thabo Ndlovu) signed the agreement on 10 May 2017. Marietta van Rooyen (Chairperson of Bitou 10 Educational and Development Foundation) signed the agreement as the duly authorised representative, however her signature was undated.

- (e) According to expenditure voucher: 119228 (see Annexure 11.5), dated 20 June 2017, an amount of R100,000.00 was paid to Bitou 10 Educational and Development Foundation in terms of Grant-in Aid.

Findings

- (f) Our investigation revealed that:
 - (i) Paragraph 7.7 of the agreement stipulates that Bitou 10 Educational and Development Foundation should submit monthly reports reflecting expenditure to the Director: Strategic Services of the Bitou Municipality. The Bitou Municipality could not provide us with these monthly reports.
 - (ii) The Bitou 10 Educational and Development Foundation did not provide a copy of their organisation's latest bank statement and bank account confirmation letter as required during their application.
 - (iii) The Bitou 10 Educational and Development Foundation appears to have utilised the funds for the purpose as provided in their application. During our visit to the Bitou 10 Educational and Development Foundation and consultation with Marietta van Rooyen and Sooneela Naina, adequate proof was provided to us indicating what the funding was utilised for and that it complements the goals, objectives, programmes and actions of the Bitou Municipality.
 - (iv) Daluxolo Ncame appears to have failed to ensure that the requirements of the Grant-in-Aid Policy were complied with.

Recommendations

- (g) We recommend that it be recorded in the human resource file of Daluxolo Ncame, that disciplinary action would have been recommended for him for non-compliance with the Municipality's Grant-in-Aid Policy, however due to his subsequent resignation, no disciplinary action can be taken.

11.4.4 Bitou Early Childhood Development Forum:

Background

- (a) Bitou Early Childhood Development Forum applied for Grant-in-Aid funding to the Bitou Municipality on 4 February 2017 (see Annexure 11.6). The application was signed by Nokwezi Mdatyulwa in her capacity as chairperson of the organisation.
- (b) According to the Department of Social Development's database for Non-profit Organisations (NPO's) in South Africa, the Bitou Early Childhood Development Forum was registered on 22 July 2009 with registration number: 069-626 NPO. This information corresponds with the certificate of registration submitted with their application.
- (c) Based on information contained in an internal memorandum from Daluxolo Ncame (Office of the Executive Mayor) to the Municipal Manager, dated 4 April 2017, an amount of R350,000.00 was allocated to Bitou Early Childhood Development Forum in terms of Grant-in-Aid. The Municipal Manager (Thabo Ndlovu) approved this allocation on 24 April 2017.
- (d) The Bitou Municipality entered into an agreement with Bitou Early Childhood Development Forum in terms of the MFMA. It is recorded in the agreement that the Bitou Municipality will transfer an amount of R350,000 to Bitou Early Childhood Development Forum in respect of the period 15 April 2017 to 30 June 2017. According to this agreement, the Municipal Manager (Thabo Ndlovu) signed the agreement on 2 May 2017. Louise Harker (Secretary of Bitou Early Childhood Development Forum) signed the agreement as the duly authorised representative on 24 April 2017.
- (e) According to expenditure voucher: 118424 (see Annexure 11.6), dated 2 June 2017, an amount of R350,000.00 was paid to Bitou Early Childhood Development Forum in terms of Grant-in Aid.

Findings

- (f) Our investigation revealed that:
 - (i) Bitou Early Childhood Development Forum applied for Grant-in-Aid funding approximately a month after the closing date of 30 December 2016.
 - (ii) The Grant-in Aid application form clearly states that organisations should submit a copy of the applicant's latest bank statement. The bank statement provided with

Bitou Early Childhood Development Forum application form was dated 14 February 2012, which is approximately 5 years old.

- (iii) Bitou Early Childhood Development Forum did not provide a bank account confirmation letter as required during their application.
- (iv) The constitution submitted by Bitou Early Childhood Development Forum during their application states in paragraph 8.1, that the chairperson is responsible to sign all funding agreements. In this instance the agreement between the Bitou Municipality and Bitou Early Childhood Development Forum was signed by their secretary, which is not in line with their constitution. During our interview with Nokwezi Mdatyulwa, she stated that the signing of the agreement was delegated to the secretary as she as chairperson was not available at the time.
- (v) Paragraph 7.7 of the agreement stipulates that Bitou Early Childhood Development Forum should submit monthly reports reflecting expenditure to the Director: Strategic Services of the Bitou Municipality. The Bitou Municipality could not provide us with these monthly reports. During our interview with Nokwezi Mdatyulwa, she stated that feedback on the expenditure of the funding they received was provided to Peter Lobese during a meeting in June 2018. She was however not certain about the date and could not provide us with any written expenditure reports. We requested the minutes of all meetings held with Grant-in-Aid beneficiaries for the 2017 and 2018 calendar years from the secretary of the Executive Mayor, Mavis Busakwe. We unfortunately did not receive any response from Mavis Busakwe by the time of finalising this report.
- (vi) During our interview with Nokwezi Mdatyulwa, she stated that the Grant-in-Aid funds were spread amongst registered creches, which forms part of the Bitou Early Childhood Development Forum. In total there are 42 creches and/or pre-primary schools in Bitou, however all of them are not registered. The unregistered creches and/or primary schools did not receive a portion of the Grant-in-Aid.
- (vii) Nokwezi Mdatyulwa provided us with Bitou Early Childhood Development Forum's bank statement for the period 10 August 2017 to 6 February 2018 (see Annexure 11.7) reflecting how the R350,000 received from the Bitou Municipality was spent. We noted the following from this bank statement:
 - (A) Several amounts of R9,700 were transferred to organisations, which appear to be creches and/or pre-primary schools and agrees with what Nokwezi Mdatyulwa told us;

- (B) A few large transactions were made for goods purchased from Game and Mambo's; and
- (C) Several large cash withdrawals totalling an amount of R154,588 were made.
- (viii) Nokwezi Mdatyulwa explained that the cash withdrawals were utilised to procure; blankets, toys, plastic scooters, mattresses, etc. in bulk from stores that only accepts cash payments. She was unable to provide us with invoices and/or slips for these purchases.
- (ix) Daluxolo Ncame appears to have failed to ensure that the requirements of the Grant-in-Aid Policy were complied with.

Recommendations

- (g) We recommend that it be recorded in the human resource file of Daluxolo Ncame, that disciplinary action would have been recommended for him for non-compliance with the Municipality's Grant-in-Aid Policy, however due to his subsequent resignation, no disciplinary action can be taken.

11.4.5

Sokhuluwa Youth Future Organisation:

Background

- (a) Sokhuluwa Youth Future Organisation applied for Grant-in-Aid funding to the Bitou Municipality on 5 February 2017 (see Annexure 11.8). The application indicates that it was signed by Lundi Gcanga as "Secretary" of the organisation.
- (b) According to the Department of Social Development's database for Non-profit Organisations (NPO's) in South Africa, the Sokhuluwa Youth Future Organisation was registered on 27 September 2005 with registration number: 044-056 NPO. This information corresponds with the certificate of registration submitted with their application.
- (c) Based on information contained in an internal memorandum from Daluxolo Ncame (Office of the Executive Mayor) to the Municipal Manager, dated 4 April 2017, an amount of R190,000.00 was allocated to Sokhuluwa Youth Future Organisation in terms of Grant-in-Aid. The Municipal Manager (Thabo Ndlovu) approved this allocation on 24 April 2017.

- (d) The Bitou Municipality entered into an agreement with Sokhuluwa Youth Future Organisation in terms of the MFMA. It is recorded in the agreement that the Bitou Municipality will transfer an amount of R190,000 to Sokhuluwa Youth Future Organisation in respect of the period 15 April 2017 to 30 June 2017. According to this agreement, the Municipal Manager (Thabo Ndlovu) signed the agreement on 2 May 2017. An unknown person signed the agreement as the duly authorised representative of Sokhuluwa Youth Future Organisation. This unknown person did not date his/her signature.
- (e) According to expenditure voucher: 117750 (see Annexure 11.8), dated 4 May 2017, an amount of R190,000 was paid to Sokhuluwa Youth Future Organisation in terms of Grant-in Aid.

Findings

- (f) Our investigation revealed that:
 - (i) Sokhuluwa Youth Future Organisation applied for Grant-in-Aid funding approximately a month after the closing date of 30 December 2016.
 - (ii) Sokhuluwa Youth Future Organisation indicated in their application that their physical address is: [REDACTED] Our physical verification of this address was unsuccessful. The property at this address is a residential home and belongs to Vuyo Matsola. According to Vuyo Matsola, he does not know an organisation by the name of Sokhuluwa Youth Future Organisation, or a person named Lundi Gcanga. We were further unable to get hold of Lundi Gcanga on the contact number provided in the application.
 - (iii) Upon further scrutiny of the application form, we noted that the contact person listed is Denise Makhetha, the same Denise Makhetha listed as a contact person on the application form for the Bitou Sohluma Organisation, however with different contact numbers.
 - (iv) We determined that Denise Makhetha is an EPWP (Expanded Public Works Programme) contract worker in Kwanokuthula and therefore interviewed her. During our interview she stated that she was a committee member of Sokhuluwa Youth Future Organisation and that she knows Lundi Gcanga. She stated that she was not involved with the completion of the Grant-in-Aid application form and that she does not know "DV Matsolo" who signed the agreement with the Bitou Municipality.

- (v) Denise Makhetha provided us with a contact number for Lundi Gcanga and we managed to contact him telephonically. He directed us to speak to the Director of Sokhuluwa Youth Future Organisation, "Mrs Matsolo". Mrs Matsolo was out of town and we were unable to interview her at the time.
 - (vi) We decided to interview Lundi Gcanga and determined that he was the former chairperson of this organisation and not the secretary as indicated on the application form. During our interview with Lundi Gcanga, he confirmed that he did not complete or submit the application form and that it was not his signature on the application form. He stated that his signature was forged, although it was his identity number that was recorded on the application form. He further stated that he attended the award ceremony that was held at the town hall in Kwanokuthula during 2018 and that a cheque of R20,000 was presented to Sokhuluwa Youth Future Organisation by the Bitou Municipality. According to Lundi Gcanga, he does not know what happened to the money after the organisation received it. According to Lundi Gcanga, the Director of Sokhuluwa Youth Future Organisation, "Mrs Matsolo" will be able to tell us how the money was utilised.
 - (vii) Lundi Gcanga was shocked to hear that Sokhuluwa Youth Future Organisation received R190,000 and not R20,000 from the Bitou Municipality in terms of Grant-in-Aid. According to him, the original plan was to renovate a building to be used for rehabilitation of individuals, however, he does not know if it materialised.
 - (viii) No evidence could be found that Sokhuluwa Youth Future Organisation submitted monthly reports reflecting expenditure to the Director: Strategic Services of the Bitou Municipality as stipulated under paragraph 7.7 of the agreement.
 - (ix) Sokhuluwa Youth Future Organisation did not provide a copy of their organisation's latest bank statement and bank account confirmation letter as required during their application.
 - (x) Daluxolo Ncame appears to have failed to ensure that the requirements of the Grant-in-Aid Policy were complied with.
- (g) Based on the above and the allegations of the whistle-blowers, the possibility exists that the funds paid to Sokhuluwa Youth Future Organisation in terms of Grant-in-Aid, could have been misappropriated.