

# UNIVERSITY OF CAPE TOWN



## STEERING COMMITTEE MEETING

### MINUTE

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**Date:** Thursday, 26 January 2017

**Venue:** Mafeje Room, Bremner

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#### **Committee Membership**

**Council (Chair):** Siphon Pityana (Chair) and Debbie Budlender (alt)

**SRC:** Rorisang Moseli (rep) and Nthupula Masipa (alt)

**ShackvilleTRC/SRC Candidates:** Mlingani Matiwane (rep), Sinxolo Boyi (rep), Sinawo Thambo (alt) and Lindokuhle Patiwe (alt)

**Other Student Formations:** Thembelihle Ncayiyana (rep) (alt not yet filled)

**Deans:** Penny Andrews (rep) and Mills Soko (alt)

**Senate:** Nicola Illing (rep) and Jeremy Seekings (alt)

**Academic Union (AU):** Maanda Mulaudzi (rep) and Catherine Hutchings (alt)

**HoDs:** Hussein Suleman (rep) and Eric Van Steen (alt)

**Black Academic Caucus (BAC):** Khwezi Mkhize (rep) and Shadreck Chirikure (alt)

**EDs:** Russell Ally (rep) and Gerda Kruger (alt)

**Alumni:** Nombulelo Magula (rep) Lorna Houston (alt)

**Pass Forum:** Sonwabo Ngcelwane (rep) and Edwina Brooks (alt)

**Employees Union (EU):** Andrea Plos (rep) and Samuel Chetty (alt)

**NEHAWU:** Lindikhaya Payiya (rep) and Noluthano Pawulina (alt)

**Non Recognised Unions:** to be finalised

**Executive:** Max Price (VC) and Loretta Feris (DVC Transformation)

## **Present at meeting:**

Council (Chairs): Sipho Pityana (Chair) and Debbie Budlender (alt)  
SRC: Rorisang Moseli (rep)  
ShackvilleTRC/SRC Candidates: Mlingani Matiwane (rep), Sinoxolo Boyi (rep),  
Other Student Formations: Thembelihle Ncayiyana (rep)  
Deans: Penny Andrews (rep) and Mills Soko (alt)  
Senate: Nicola Illing (rep) and Jeremy Seekings (alt)  
Academics Union (AU): Maanda Mulaudzi (rep) and Katherine Hutchinson (alt)  
HoDs: Hussein Suleman (rep)  
Black Academic Caucus (BAC): Khwezi Mkhize (rep)  
EDs: Russell Ally (rep)  
Alumni: Nombulelo Magula (rep)  
Pass Forum: Sonwabo Ngcelwane (rep) and Edwina Brooks (alt)  
Employees Union (EU) and Samuel Chetty (alt)  
NEHAWU: Lindikhaya Payiya (rep) and Noluthano Pawulina (alt)  
Executive: Max Price (VC) and Loretta Feris (DVC Transformation)

## **Apologies:**

Alumni: Lorna Houston (alt),  
HoDs: Eric van Steen (alt)  
SRC: Nthupula Masipa (alt)  
Representation of staff in non-recognised unions not yet finalized.

## **1. Welcome**

The Chair welcomed the Steering Committee to the meeting, noting that reaching this point in the process of launching the Institutional Reconciliation and Transformation Commission was an incredible achievement, given the degree of conflict in the institution about what needed to be done to safeguard the academic project. He commended the November 6 agreement between the university executive and ShackvilleTRC as it enabled the completion of the 2016 academic year. On behalf of Council he expressed his gratitude that the parties were able to reach an agreement. He noted however that agreement does not contain solutions to the underlying challenges that are at the heart of the conflicts within the institution. He hoped that the IRTC process would help with finding lasting and sustainable solutions to the challenges.

## **2. Purpose of the meeting**

The purpose of the meeting was to co-determine the processes for establishing the proposed Institutional Reconciliation and Transformation Commission (IRTC) and other processes covered by the agreement. The Chair proposed the following agenda for the meeting:

### **2.1 Operating procedures for the Steering Committee**

- a. Attendance in meetings
- b. Number of meetings
- c. Stakeholder engagement
- d. Decision-making and quorum

- 2.2 **Framework for selecting commissioners: (criteria, expertise, availability with respect to expected time lines, costs etc.) and timeline of IRTC work. (See attached process proposal by the Executive).**
- 2.3 **Provisional Terms of Reference for IRTC**
- 2.4 **Operating procedures for the Steering Committee (SC)**

### *Discussion of the agenda*

- The representative of the EDs suggested that we should discuss how the work of the SC will be communicated to the broader public. He noted that there has been negative press around how the SC was constituted. He therefore suggested that the Committee should be as transparent as possible and shared some suggestions he had received for consideration: inviting an independent press company to the meetings to document proceedings, live-streaming the meetings, and making podcasts available after every meeting.
- The alternate representative of PASS staff made a point that the Committee should discuss a principle framework to guide the work of the SC, including the values we wish to promote. This is something that the Steering Committee may wish to discuss at a later stage
- A representative of ShackvilleTRC requested the members to refer to the member concerned with the pronoun they/them.

## **2.1 Operating procedures for the Steering Committee**

### **2.1.1 Attendance in meetings and Stakeholder engagement**

### *Stakeholder Comments*

- The DVC for Transformation stressed the importance of SC members reporting back to their constituencies. She believed that live-streaming the meetings would facilitate engagement with stakeholders. She suggested that the SC should create a central repository for all the SC's documentation.
- The representative of the Academic Union said they would prefer that both the representative and the alternate attend the meetings as it's impossible for one person to report back accurately. This was supported by the representative of the Deans.
- The Senate representative expressed a concern about live-streaming as this could impact on the extent to which members would feel free to interact with one another. She suggested inviting a trained journalist to record the meeting and write a proper report which could be circulated to the wider university community.
- The alternate Senate representative supported the Academic Union's stance on attendance of alternates on the grounds that the participation of certain constituencies would be weakened if the representatives were not able to attend regularly. He expressed a concern that the Executive could be unfairly empowered in the Committee as their diaries are likely considered first when meetings are set up thus disempowering the constituencies that could have fluctuating representation due to unavailability/diary conflicts.
- The representative of other student formations also supported the sentiment that both members attend meetings. She supported the proposal for live-streaming the meetings as this would ease the task of reporting back to many other student formations.
- One of the representatives of ShackvilleTRC indicated that they still needed to apply their minds on the issue of how information should be disseminated. They indicated that they would like stick

to the original conceptualization that only representatives should participate in the meetings. They further noted that if representatives fear that they might not be available for future meetings, then we could limit the number of meetings to a year and use other forms of communication to distribute information. They felt that only the representatives should be able to vote.

- The representative of the Employees' Union supported the proposal to live-stream the SC meetings, as this would help with reporting and achieving transparency.
- The representative of the Deans indicated she understood the need for transparency and the need for live-streaming. However, she cautioned the SC that some of the discussions could potentially be polarizing, and therefore live-streaming might affect the ways in which stakeholders engage with one another.
- The representative of PASS staff asked the meeting to agree that both the representative and the alternate should attend meetings.
- The Chair noted that there appeared to be a high degree of alienation and mistrust within the university. He suggested that having transparent discussions might help to build understanding between groupings and get the broader university community on board. The Chair therefore concurred that the Steering Committee meetings should be as transparent as possible but that the Committee would need to be sensitive about any unintended consequences.
- The representative of the EDs supported an inclusive approach and therefore agreed that alternates should be granted equal rights to participate.
- The representative of Shackville TRC suggested that those constituencies that wish to have their alternates present at the meetings can take responsibility for this.

#### *Meeting Decision*

-The SC decided that the meetings should be as inclusive as possible. Therefore, both representatives and alternates should be able to attend all meetings with equal participation rights.

#### 2.1.2 Number of meetings

##### *Stakeholder Comments*

- The DVC of Transformation indicated that it might be useful to have a discussion about the desired outcomes of the work of the IRTC and possible timelines for each outcome in order to set the dates of the SC meetings in relation to appropriate milestones.
- The SRC representative indicated that he did not think it was useful to discuss the number of times the SC will meet at this point. He felt that it would be more useful first to discuss the work of the Committee and possible timelines for completing the work and then determine the number of meetings.
- The representative of the EDs indicated that the immediate/ urgent task before the SC is to set-up the Commission and flesh out the terms of reference for the Commission.
- The SRC representative indicated that the SC had not outlined/ defined its relationship with the Rapid Response Task Team (RRTT). He further noted that defining this relationship would help the SC determine what can be delegated to the RRTT, thus potentially easing the work of the SC and the number of times it has to meet.
- A Senate representative asked for clarity on the reference to the 'other processes' which the Steering Committee would be overseeing as per the Agreement.
- The Chair responded by indicating that the RRTT was one example of 'other processes' covered by the agreement. He further noted that there may also be other issues that are not adequately addressed in the terms of reference for the Steering Committee.

- The VC clarified that the role of the SC is not outlined in the Agreement. The Agreement only contemplates a RRTT and the IRTC. The SC was decided on after the agreement was signed to help shape the IRTC process in an inclusive way. He believes that the SC has a specific mandate - setting up the IRTC, overseeing what it does and monitoring the recommendations that it makes. The RRTT will continue to deal with day- to-day and crisis issues. He also noted that the 'other processes' mentioned in the background document include things like developing a view on fee-free higher education. The University is developing an academic research and engagement programme to deal with this issue. The Agreement does not specify how the recommendations will be monitored. This could be done through the SC or through the RRTT. He suggested that the members should look at the grey areas and identify other things that should be addressed through the SC.
- The representative of ShackvilleTRC indicated that the primary mandate of the SC should be the IRTC and the 'other processes' covered by the agreement, should be handled on an ad hoc basis.

#### Meeting Decision

The meeting decided that the number of meetings would be determined after the Committee has finalized a work plan. The meeting further agreed to discuss mechanisms for dealing with the 'other processes' covered by the agreement at a future meeting so that they do not get lost in the process.

#### 2.2.3 Decision-making and quorum

##### *Comments from the Stakeholders*

- The Employees' Union representative indicated that it's important for the EU that they consult with their constituents around decision points and that they should be given enough time to do so.
- The Senate representative indicated that it would be nice if the SC could reach consensus through engaging with each other.
- The Academic Union representative suggested the most inclusive view should be favoured and that voting can sometimes be divisive. He thus suggested that the SC should make decisions through popular consensus.
- The PASS staff representative suggested that there will be some decisions that will need to be referred back to constituency members.

##### *Meeting Decision*

SC agreed that decisions will be taken through SC discussion and dialogue with a view to reaching consensus. The SC did not resolve how decisions will be made where consensus is not possible.

- The Chair recommended that if a stakeholder is unhappy about a decision reached through consensus, then they should not lobby for support outside against the SC; the SC should rather seek to resolve issues within the SC.
- A representative of ShackvilleTRC wanted to know what the authority of the SC is, as its job cannot just be to recommend. He proposed that the SC needs to be more imaginative about the status/role of the SC, as he has been part of many task teams at UCT which made recommendations with no follow-through.
- The BAC representative wanted the Chair to provide his honest assessment on whether Council will be able to provide the kind of strategic leadership needed to take the institution forward. For example, if the commissioners make recommendations, will/can Council become a stumbling block?

- The Chair indicated that the laws of the University are made by Council, therefore, the SC serves to advise Council. He also noted that no ad hoc structure can make decisions on behalf of the University. He stressed that Council is placing a great deal of reliance on the SC and will not seek to undermine this structure as it has an important role.
- The representative of other student formations indicated that for students to believe in the IRTC process they need to know how the recommendations will be implemented.

The BAC representative noted that the work of the commission will take place in an environment where a political transition has not taken place. He further noted that the role of the commission should be to help re-imagine the institution. The BAC representative also made the point that voices from the so-called 'progressive' sector(s) should be given more weight in the hearings of the IRTC. Even if they comprised a minority of the University, they should simply over-ride the majority. The BAC representative questioned whether the Steering Committee process needed to be broadly inclusive and legitimate. This member insisted that some things were non-negotiable, and some voices should be disregarded. The Chair countered that all voices should be heard, especially voices with which we disagree, and that we all need to engage with each other.

### 3. Provisional Terms of Reference for IRTC

#### *Comments from the stakeholders*

- The Senate alternate representative suggested that as a starting point the Committee should try and simplify this process by clustering the terms of reference within two broad areas: amnesty and disciplinary processes and institutional culture. He also expressed the view that it would be useful to have a preamble to the terms of reference which reflects the values of diversity, inclusiveness etc.
- The BAC representative signaled that the Committee needed to be aware of the history of specific terms. For example, the notions of diversity and inclusiveness, are associated with a conceptualization of multiculturalism emanating from the US and Europe. It is desirable to unpack what these terms mean for our context as our histories are not the same. He then suggested that terms such as decolonization are more suitable for our context.
- A representative of ShackvilleTRC SRC suggested that it would be more accurate to refer to the first phase as the ShackvilleTRC and the second phase as an institutional review
- The HoD representative stated that the Committee should not preempt the work of the commission. He recommended that the final wording of the terms of reference should be determined by the Commission.
- The Senate representative suggested the SC should deal with institutional culture in the first phase with a specific focus on institutional relationships, avoiding terms such as transformation, decolonization etc. as these could be too divisive. The outcomes of this phase will then inform the approach to the phase dealing with amnesty/ clemency . This suggestion was countered by the PASS staff alternate who argued that the SC should first deal with amnesties and then with the institutional culture. This is because this a pressing issue for students and failure to resolve it could constrain participation of students in discussions about institutional culture if these precede the amnesty discussions.
- The HoD representative asked at what point we will consult with the rest of the university. He disagreed that terms such as transformation should be viewed as charged terms, as we have a DVC of transformation

- The Senate alternate urged the Committee to make the terms of reference manageable for the Commissioners to avoid long protracted processes and huge expenses
- The representative of other student formations felt the terms of reference should address the role of the IRTC with respect to the other student tribunals associated with the student protests that have already been implemented
- The ShackvilleTRC representative noted that the IRTC process should result in policy changes on how disciplinary tribunals function.
- The EDs representative pointed out that the words 'amnesty and clemency' are used interchangeably in the Agreement and this needs to be corrected.
- The PASS department alternate asked for clarity on: the difference between clemency and amnesty and for more details about the different groups of students potentially impacted by the IRTC. The VC said the groups included students who had been granted clemency, students who had been found guilty by tribunals and those who faced possible charges due to activities during September and October 2016. It was suggested that the terms of reference should provide more detail on the students involved and stressed that all the groups should be treated fairly.<sup>1</sup>
- The VC responded saying that the current rules for student discipline may need to be modified so that they can serve us better in the future. An example of a modification would be allowing the VC to grant amnesty or clemency to students. No provision for this exists at the moment. All cases relating to amnesty or clemency have to go to Council for final approval
- The Chair indicated that it might be useful to leave the terms of reference as two broad clusters and leave it to the Commissioners to determine the scope. He noted that trying to get agreement on the details may not work well as SC members are too close to the situation.

*The SC decided that*

Provisional terms of reference will be clustered into three broad areas, as per the agreement of 6 November 2016:

- Look into what is referred to as the 'Shackville protests of February 2016, including any related and subsequent protest actions
- Invite submissions from all constituencies on clemencies that were granted and whether clemency should be turned into amnesty; and make recommendations on how the university should deal with pending cases and other such matters in future.
- Make recommendations on institutional culture, transformation, decolonisation, discrimination, identity, disability and any other matters that the university

The details of the discussion on the time frame for the IRTC, the terms of reference and the criteria for selecting commissioners would be written up and circulated to the steering committee in the next week and would then be shared with the university community.

- **3. Framework for selecting commissioners:** The SC proposed the following criteria for nominating commissioners:
  - Commissioners must be persons with integrity and a commitment to social justice and must have support from the wider campus community

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<sup>1</sup> Members were asked not to comment on the highlighted section as this section is the subject of the meeting on 23. The comments in shaded blue section were provided and so were included in this revision.

- Commissioners must be independent from UCT, but may include alumni. Thus, no current staff or students are eligible.
- Commissioners should preferably have experience in restorative justice processes, e.g. have been part of the Truth and Reconciliation Commission.
- Ideally, the commission should include at least one person with legal expertise e.g. a judge with an appreciation for social justice and transformative constitutionalism
- At least one of the Commissioners must have understanding of, and experience in, dealing with trauma
- Commissioners must possess demonstrated sensitivity to issues of race, gender, ability, and LGBTIQ identities
- Commissioners must have at least ten years' experience working in civil society and experience in engaging with complex institutions
- Commissioners must be able to be flexible with regard to time commitments and available to participate fully in the IRTC process.
- For financial reasons preference should be given to locally based commissioners

In selecting the names of commissioners to recommend to Council, the representative of other student formations stated that the race and gender profiles of the Commissioners should be taken into account. UCT may have to pay some of the Commissioners in order to get the best Commissioners that will have trust of the university community.

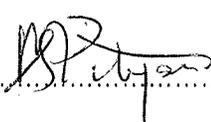
*The Meeting decided*

The SC decided on a maximum of five Commissioners. Three will constitute a quorum. Each constituency may nominate up to five commissioners. The steering committee will consider the nominations and make recommendation to Council, who will appoint the commissioners. The call for nominations for commissioners, together with the agreed criteria for commissioners, will be sent out to the university community in February and again when students have registered in March. Nominations will close on 20 March 2017. Members of the university community will be asked to send their nominations, accompanied by a motivation, to their respective representatives on the steering committee. A portal will be set up to receive nominations.

4. Dissemination of information

- In the interest of transparency, information will be disseminated in the following ways:
  - Future steering committee meetings will be live-streamed, but the committee may determine by agreement that certain discussions (e.g. relating to the privacy of specific individuals) will need to be conducted in closed session.
  - The Chair of the steering committee or Deputy Vice-Chancellor for Transformation will issue a campus-wide statement after every meeting.
  - A secretariat will organise and capture the minutes of the SC meetings. The minutes will be sent out to all steering committee members for approval.

Approved: 18 April 2017

Chair:  .....

Date: 09/05/2017 .....