



# ANNUAL REPORT 2018 – 2019

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UNDOING CORRUPTION. HOLDING GOVERNMENT  
ACCOUNTABLE. BUILDING HOPE FOR A PEACEFUL,  
PROSPEROUS, INCLUSIVE SOUTH AFRICA.

318 OAK AVENUE | RANDBURG | GT 2194 | SOUTH AFRICA

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**OUTA**  
ORGANISATION UNDOING TAX ABUSE

# THE OUTA CREDO

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SOUTH AFRICA'S SOVEREIGNTY AND CONSTITUTIONAL  
DEMOCRACY HAS BEEN HARD EARNED.

ITS BEAUTY AND ABUNDANCE OF NATURAL RESOURCES AND  
DIVERSE CULTURAL HERITAGE ARE PRECIOUS TO US.

Our potential for higher prosperity is immense, and limited only by  
those in authority who consciously choose to abuse their power,  
joined by those who stand by and choose not to take action.

Corruption and cronyism are the products of leadership distracted  
by greed and matters of self-interest.

Silently and steadily, this carves away at our nation's soul.  
It disempowers the poor of their rights and access to decent  
education, employment, health, housing and security.

We, the people, society and business, have two choices:  
We can look away and do nothing.  
Or we can take action and halt the decay.

## AT OUTA, WE CHOOSE TO TAKE ACTION.

We do so without fear, through a focused strategy and motivated  
team that holds accountable those in authority who ignore their  
responsibilities and run roughshod over our Constitution.

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# OUTA

ORGANISATION UNDOING TAX ABUSE

Holding Government Accountable

[www.outa.co.za](http://www.outa.co.za)



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# OUTA

OUTA IS A  
CIVIL ACTIVIST  
ORGANISATION.  
WE TAKE ACTION.



# OUR VISION

A prosperous country with an organised, engaged and empowered civil society that ensures responsible use of tax revenues throughout all levels of Government.

# OUR MISSION

**Using clear and effective methodologies and project management processes, through multi-disciplined high performance teams, OUTA will be a trusted vehicle for advocacy and positive change by:**

- Challenging and taking action against wasteful and corrupt expenditure or receipt of state revenue and, where possible, holding those personally responsible to account for their conduct and actions, whilst seeking to recover lost funds.
- Challenging policy and the regulatory environment as and when deemed as irrational, unfit or ineffective for their intended purpose.
- Working with communities and authorities in resolving decline in administration and service delivery, within all spheres of Government.

# OUR VALUES

Integrity  
Courage  
Humility  
Inclusivity

Resilience  
Challenging  
Honesty  
Accountability

# CHAIRPERSON'S REPORT

2018 – 2019

The country has experienced a full year under the leadership of Cyril Ramaphosa and, while there are perceived signs of progress in addressing corruption and maladministration (particularly in state-owned entities) and attending to the country's dire financial situation, we had expected more to have been achieved by now.

As I indicated in my Chairperson's report of last year, the political change that took place in 2018 could not have come soon enough. But we still have a long way to go to release our country from the stranglehold of state capture. As we have seen, state capture is about more than just the Guptas. As such, we need strong enforcement agencies – which themselves must be reclaimed – to help root out this evil.

The new energy and expertise being applied to the enforcement agencies of the National Prosecuting Authority (NPA), the Directorate for Priority Crime Investigation (the Hawks), the Special Investigating Unit (SIU) and other areas is beginning to gain traction and, from our own account of work that we do with these entities and others, we believe more accountability will begin to take place against those implicated in corruption.

The various inquiries into state capture (Zondo), SARS (Nugent), the Public Investment Corporation (Mpati) and the NPA (Mokgoro) have, over the past year, shed substantial light on the extent of organised corruption within the state and thereby dispelled any remaining claims that state capture is a myth or merely media sensationalism. These inquiries have highlighted the extent and reality of corruption and capture of the state, and yet society continues to wait for the next steps within the expected chain of accountability, which lie in the hands of the enforcement authorities.

This is the juncture at which accountability is taken and where it has been missing in the past. As a country, we cannot move forward if those clearly remiss are not taken to task. This in itself places significant reliance and pressure on civil society organisations such as OUTA.

The relevance of OUTA's work is often seen not for what we do, but for the lack of consequences that flow from what we do. Our work of laying charges and driving accountability is hampered when the state's enforcement institutions are captured and people in authority who are implicated in corruption remain free. This situation hopefully is changing with the latest appointments and energy at the NPA, the Hawks and SIU. Presently, however, it all seems to be "on hold" given the positioning, rhetoric and factionalism in the lead up to the May 2019 elections. As civil society, we have to continue to be vigilant and to focus on the many tasks at hand.

## AN OUTA TEAM HARD AT WORK

The OUTA team was hard at work in the 2018/19 period, with more emphasis on finalising and closing off many projects that had been opened in the prior years. Projects sometimes take many months or even years to complete, and the 2018/19 period saw a closure of 38 projects, taking the total of closed projects to 50 since 2016.

Of importance is the success rate of 83% of applicable projects closed, which is ahead of our 80% expectation of the team.

As part of its growth and move into the local government space, OUTA increased its headcount from an average of 35 people in 2017/18 to 44 in 2018/19, with an average of four additional staff in the Local Government Division.





**“A strong, organised and empowered civil society is crucial for South Africa’s future.”**  
Ferrial Adam



It is important to note that OUTA is funded by the public at large, with around 95% of its income from individuals and small businesses, and only 5% from donor foundations. The organisation’s ability to improve its revenue by an additional 16% year-on-year is testament to the belief that the public has placed in OUTA and its role in holding Government to account.

Now seven years old at the end of February 2019, as with the past two years, OUTA has continued to grow on a number of fronts, from its supporter donations through to the organisation’s impact on society. OUTA’s research indicates that the organisation is recognised as playing a prominent and respected role in civil society, since its Board adopted a broader mandate in 2016.

#### **SUSTAINABILITY AND GOVERNANCE**

As indicated last year, OUTA’s sustainability requires constant attention by the Board, driven by a number of interlinked factors that are mainly attributed to:

- Relevance to its supporters and the consequential donation growth;
- Leadership and a talented staff structure focused on achieving OUTA’s strategic intent;
- Good governance to ensure OUTA’s policies, procedures and risk assessments are in line with its long-term mandate and Memorandum of Incorporation.

This year, additional focus was placed on reviewing internal policies and procedures, as well as introducing risk management assessments on a more regular basis. The Board remains committed to aligning almost all of its processes to the King IV Codes of Good Practice (specifically that of NGOs).

OUTA’s Board of Directors has remained stable and committed to ensuring the organisation stays within its mandate and stays clear of political alignment.

#### **OUTA’S ROLE MORE RELEVANT IN SA’S FUTURE**

Despite a year of President Ramaphosa’s “New Dawn”, which resulted in far less than we had expected by now, we are more certain than ever before of our role in civil society, along with our decision to enter the local government area where the dire collapse of many municipalities requires urgent and drastic attention. Tackling corruption and maladministration is a matter that should never be left to the structures of Government alone, and a strong, organised and empowered civil society will be very necessary in South Africa for many years to come.

The demise of e-tolling – OUTA’s inaugural project – took a large step closer to its finality with the Credit Bureau Association’s announcement in March 2019 that e-toll debt will not be used to blacklist people’s credit ratings, combined with the South African National Road Agency’s announcement in the same month that it would suspend debt collection from e-toll defaulters.

OUTA remains committed to this challenge, along with all other open cases and projects (an average of 78 open during 2018/19), all of which are aimed at amending irrational policies or halting the loss of billions of rand that should ultimately flow to every sector of society.

**Ferrial Adam**  
**OUTA Board Chairperson**

# CEO'S REPORT

2018 – 2019

The year ending February 2019 produced more growth for the organisation, not only in its supporter base and subsequent income from its donors, but also in the number of projects that the team was able to bring to fruition.

Supporter revenue was just over R46 million – an increase of 16% from the prior financial year.

OUTA's competent and highly energised team continued its journey of tackling corruption and maladministration of taxpayers' money, particularly within the space of its portfolios of Energy, State Capture, Transport, Water & Environment and other Special Project portfolios.

## HIGHLIGHTS

- **OUTA increased its team from an average of 35 to 44 experienced and highly skilled members.**
- **Through our work with Parliament, various commissions, the SIU and others, we firmly believe that South Africa's age of accountability is imminent.**

### EFFICIENT STRUCTURES IMPROVE PRODUCTIVITY

OUTA took on another 17 projects in 2018/19, but focused more time on bringing some of its longer-standing projects to fruition, closing 38 during the financial year ending February 2019. OUTA's 2019 growth in headcount to 44 from last year's average of 35 was partially due to the work done in the new division of Local Government.

### THE NEW DAWN: SLOW TO DELIVER

2018/19 was obviously a momentous year for the country as Jacob Zuma had just been removed from power and his henchmen began to be slowly pushed out from cabinet and other sectors of government, importantly the National Prosecuting Authority (NPA) and the Hawks. It was also a big year for commissions and inquiries that dealt with the removal of heads and with inappropriate conduct within the South African Revenue Service (SARS), the NPA, Public Investment Corporation (PIC) and, significantly, the areas of state capture.

Despite these crucial changes, the obvious lack in accountability and action has been stark, with many who abused their positions of authority and who were deeply implicated in corruption still freely walking South Africa's streets.

OUTA made several welcomed submissions to the Zondo Commission of Inquiry into State Capture, some providing a narrative overview of the issues that we have uncovered, while other reports contained substantive detail and evidence linking people to corruption and fraud within the state. In addition, OUTA's management team have actively participated in presentations to Parliament, as well as provided information to oversight bodies, such as the Special Investigating Unit and others.

From these engagements, we have been able to obtain a clear sense that the accountability society needs to witness will start to rise once the May 2019 elections are behind us.

**We closed 38 projects during the financial year ending February 2019**

### INTEGRATED SYSTEMS ARE ESSENTIAL TO OUTA

Toward the end of 2018, we finalised our decision to move our finance and customer relationship management (CRM) system onto the Odoo integrated enterprise resource planning (ERP) system, which is expected to improve our efficiency and reduce our costs by around R900 000 per annum. This system will further integrate our human resources and project management processes going forward.

### A COUNTRY ON THE BRINK

Much in line with 2017, the past year has been a depressing one for South Africa. This is borne out in the country's poor economic performance and a growing number of people who are emigrating. 2018 started out more positively than it ended, with high expectations of Cyril Ramaphosa's appointment as the president leading to the accountability of many implicated in corruption and malfeasance within the state. Unfortunately, that didn't take place to the extent expected, giving rise to a belief that the will and desire to address this critical aspect of our nation's plight may not be strong enough.

Having engaged with our supporters on a very interactive basis, OUTA was at the coalface of the growing national frustration and depression being expressed by South Africans. As an organisation that has listened to the mounting negative or concerned sentiment by many, we were able to counter the negativity by expressing and confirming the many good dynamics of change that we were privy to within the various organs of state. We maintain that positive change and initiatives are occurring at a reasonably acceptable pace that will take this country forward.

There is, however, no doubt that a cocktail of the ruling party's damaging internal politics, the external dynamics of an election period and the need to rebuild the decimated law enforcement institutions has been challenging for the president. As we move beyond the elections, this country's future prosperity will depend on how robust the foundations of law enforcement will be when it comes to holding the corrupt to account. This aspect alone, if addressed through the various oversight bodies, will foster belief in the rule of law and will be fundamental to our growth and economic development.

### OUTA'S UNFOLDING STRATEGY

Over my few years in this space of civil activism, I have come to realise that for organised civil society to be effective, it needs to have a high degree of fluidity and constantly review its work and value to its supporters. In doing so, it must be highly effective

in its communication, both internally and externally, of the ever-changing environment and dynamics that impact the work and projects undertaken by the organisation.

Relevance to supporters remains key, especially as the forces of change in a volatile political and economic environment unfold. In this regard, OUTA's Executive Committee focuses on ensuring that its purpose and role remains meaningful in its quest to hold the public sector to account and to challenge irrational policy that is of little benefit to the public.



**“OUTA has become a more trusted receiver of whistleblower information and is being accepted to participate in more engagements with government bodies and entities that oversee governance.”**

Wayne Duvenage

### THANKING THOSE WHO MATTER MOST TO US

OUTA's Executive extends a warm thank you to every supporter for every rand donated to the organisation. It is each contribution, no matter how small, that makes a difference in our ability to function. While our work is complex, our intentions are straightforward when it comes to making those who waste our taxes feel the consequences of their conduct. The more donors we sign up, the more we are able to do.

**Wayne Duvenage**  
OUTA CEO

# GOVERNANCE

In our 2017/18 annual report, we included a history of OUTA's governance journey. This highlighted the steps taken by our organisation following two years of rapid growth. This involved growth in funding, membership, and policy development and implementation. It also involved the strengthening of both the organisation and the Board, as we committed to the good governance principles outlined in the King IV Report.

This past year, the OUTA Executive Committee and Board – along with its sub-committees – have continued to strengthen the organisation's governance processes. Our Board remains diverse and compiled of autonomous individuals with complementary skill sets who constructively challenge each other and the team. The Chair and Vice-Chair are among the five non-executive directors on the Board, and are complemented by four executive directors who serve on the Executive Committee. Additions to the Board are voted for and approved by the Board, which utilises a number of factors when determining the most suitable and holistic fit to our governing body, with the aim of maintaining a balance of more non-executive Board members than executives appointed at any one time. The table below depicts the appointment and resignations of directors over the past year.

The Board has institutionalised impartial and objective business and labour practices throughout the organisation. Authorised by the respective charters, the Board has mandated a number of committees to oversee the execution of approved strategies and policies. Governance, ethics, audit and risk are overseen

by the combined committee of Audit and Risk, with risk identification, assessment, management and review taking centre stage over the past year as a vital yet multifarious component of ethical governance, which is intrinsic not only to what OUTA does, but to who we are as an organisation.

Independent assurance providers are appointed to support our internal procedures and the Board assesses its own performance annually. Board members receive fees in line with their services and time and for services as members of committees.

The advent of OUTA's Local Government Division this year necessitated a thorough strategic review to ensure the alignment of the local and national strategies and the uniformity of the OUTA brand and principles. Whilst the OUTA Local Government Division is still within its genesis, key municipal areas have already been identified and are detailed within this report.

The Executive Committee is empowered to act on behalf of the Board, in line with its delegated authority, in the day-to-day operations of the organisation and to implement the Board policies and strategies. The CEO, in his overarching capacity, is supported by executives from legal, financial and operational aspects within the National and Local Divisions.

A genuine passion for the vision of OUTA is universal, not only across the Board, but throughout the culture of the organisation.

	BOARD OF DIRECTORS	AUDIT & RISK COMMITTEE	REMUNERATION COMMITTEE
Ferrial Adam	Chairperson, Non-Executive Director		Member
Phumlani Majozi	Vice-Chair, Non-Executive Director		Chair
Simi Pillay van Graan	Non-Executive Director	Chair	Member
Wyna Modisapodi	Non-Executive Director	Member	
Paul Pauwen	Non-Executive Director	Member	
Wayne Duvenage	Director: Chief Executive Officer	Invitee	Invitee
Godfrey Gulston*	Director: Chief Financial Officer	Member	Invitee
Makhosi Khoza**	Director: Local Division		
Stefanie Fick	Director: Chief Legal Officer		
Ben Theron***	Director: Chief Operating Officer		

\* Appointed February 2019

\*\* Appointed June 2018

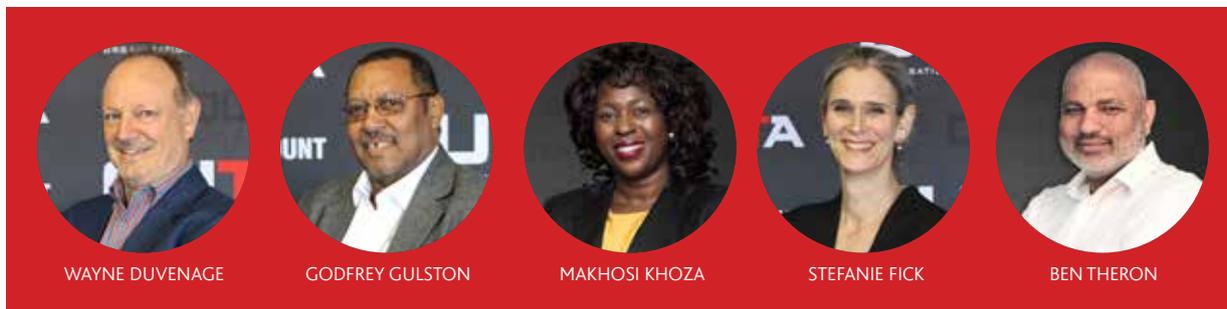
\*\*\* Resigned September 2018

# OUTA BOARD & EXCO MEMBERS

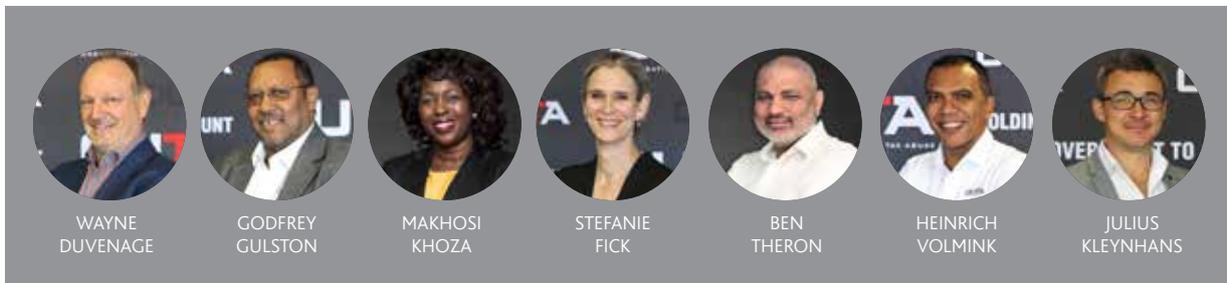
## NON-EXECUTIVE DIRECTORS ON THE BOARD DURING 2018/19



## EXECUTIVE DIRECTORS ON THE BOARD DURING 2018/19



## EXECUTIVE COMMITTEE MEMBERS DURING 2018/19



## DIRECTOR'S ATTENDANCE AT BOARD MEETINGS: FINANCIAL YEAR 2018/19

DIRECTOR NAME	Date Appointed	Director Status*	Q4 2017/18 mtng 20 Mar '18	Extraordinary mtng 30 Apr '18	AGM 2017/18 17 May '18	Q1 2018/19 mtng 27 Jun '18	Extraordinary mtng 17 Aug '18	Q2 2018/19 mtng 26 Sep '18	Q3 2018/19 mtng 23 Jan '19	Q4 2018/19 mtng 17 April '19
Ferrial Adam (Chairperson)	April 2017	NED	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Phumlani Majozi (Vice-Chair)	March 2017	NED	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Simi Pillay van Graan	April 2018	NED	App Apr '18	No	Yes	Yes	Yes	Yes	Yes	Yes
Wyna Modisapodi	April 2018	NED	App Apr '18	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Paul Pauwen	April 2012	NED	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes
Wayne Duvenage	April 2012	ED	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Makhosi Khoza	June 2018	ED	Appointed June 2018			Yes	Yes	Yes	Yes	Resigned Mar 2019
Ben Theron	Jan 2018	ED	Yes	Yes	Yes		Yes	Resigned Sept 2018		
Stefanie Fick	April 2018	ED	App Apr '18	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Godfrey Gulston	Feb 2019	ED	Appointed February 2019							Yes

\* NED = Non-Executive Director. ED = Executive Director

# HOW OUTA WORKS

OUTA aims to hold Government accountable over its spending and management of state resources. We do this by monitoring Government and building cases aimed at challenging poor governance and corruption. To do this, we have a team of legal experts and ensure that we maintain a provision for fast-paced litigation when needed.

We employ leaders, researchers, investigators, lawyers, project managers and marketers.

Hiring investigators and lawyers helps us limit the costs of litigation, although we may still have to hire outside legal assistance, such as senior counsel. OUTA's work is overseen by portfolio project managers who coordinate the projects and provide direction on the main issues which the organisation takes up. Each portfolio oversees a number of projects (the case files) on specific issues. The departments work on these projects, in consultation with the portfolio managers.

## OUTA'S METHODOLOGY

### OUTA'S FIVE-STEP METHODOLOGY

01

#### RESEARCH AND INVESTIGATE

This involves assessing an issue and deciding whether to pursue it.

02

#### ENGAGE THE AUTHORITIES

Engagement provides an opportunity for those implicated to respond, explain, rationalise or rectify.

03

#### EXPOSE THE AUTHORITIES

Should engagement fail, we will expose the matter and those implicated to the public, media and authorities to create pressure to rectify the situation.

04

#### MOBILISE

Mobilising public support further highlights the issue and again places pressure on the perpetrators to rectify the situation. Mobilisation may include media releases, public protests or pressure on oversight bodies.

05

#### LITIGATE

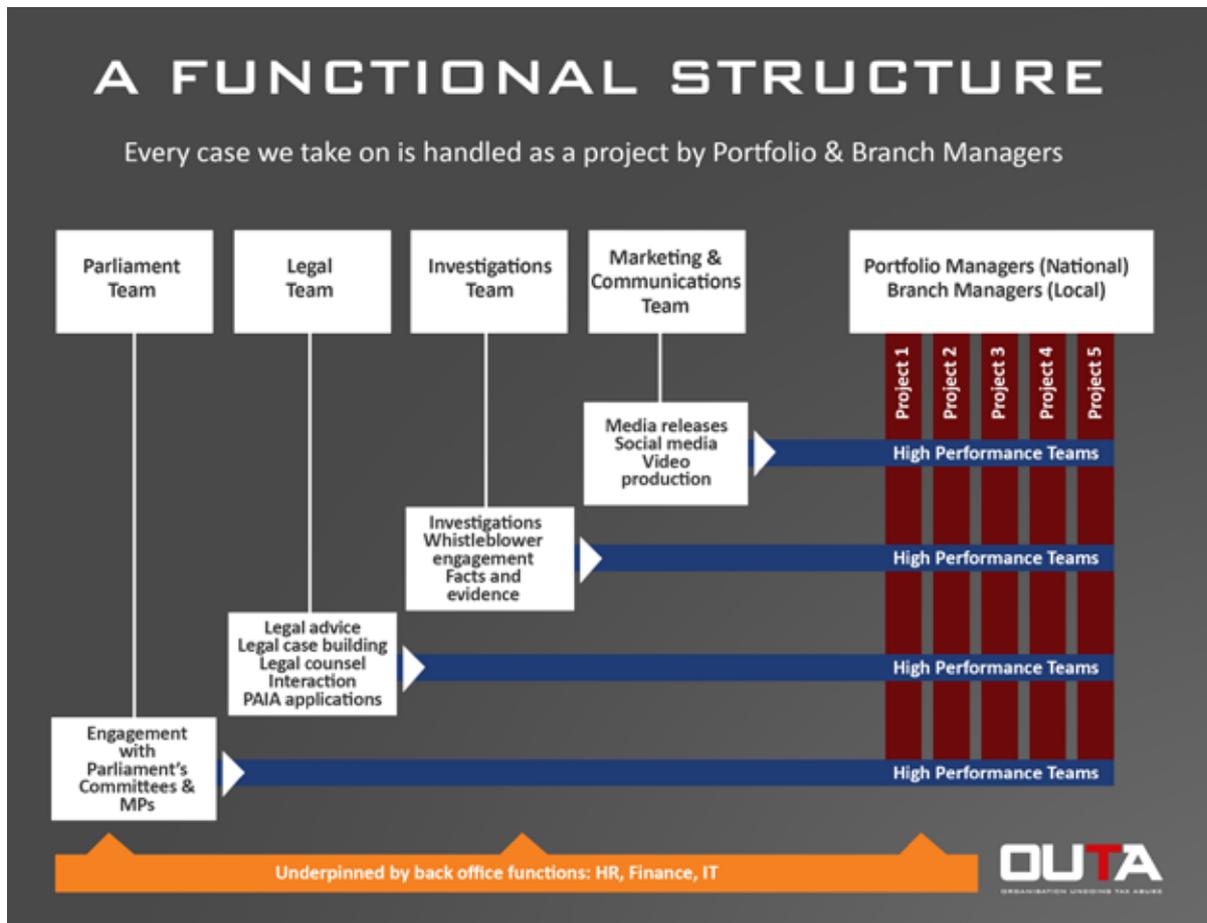
The last resort is to use the law to correct the matter through opening criminal cases, litigation, mediation and arbitration.

# OUTA NATIONAL DIVISION PORTFOLIOS

<b>OUTA NATIONAL DIVISION</b> headed by Dr Heinrich Volmink	<b>ENERGY PORTFOLIO</b> headed by Ronald Chauke	<b>SPECIAL PROJECTS PORTFOLIO</b> headed by Dominique Msibi	<b>STATE CAPTURE PORTFOLIO</b> headed by Rudie Heyneke
<b>TRANSPORT PORTFOLIO</b> headed by Rudie Heyneke	<b>WATER &amp; ENVIRONMENT PORTFOLIO</b> headed by Yamkela Ntola	<b>PARLIAMENTARY ENGAGEMENT OFFICE</b> headed by Matt Johnston	

## PORTFOLIO MANAGERS ARE SUPPORTED BY OUTA'S FUNCTIONAL DEPARTMENTS

<b>LEGAL DEPARTMENT</b> headed by Adv Stefanie Fick	<b>INVESTIGATIONS DEPARTMENT</b> headed by Erich Neethling	<b>COMMUNICATIONS AND MARKETING DEPARTMENT</b> Samantha van Nispen
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# LEGAL DEPARTMENT

## PUTTING THE BITE INTO OUTA'S BARK



*Stefanie Fick, Advocate & OUTA Board Member*

The Legal Department provides the teeth for OUTA's bite and the means to hold individuals and entities accountable.

This is our specialised legal team, which aims to facilitate creative, effective and collaborative solutions in our ever-changing South African legal environment. We aim for an innovative approach to holding Government accountable and evolving public law to protect our country. We also aim to ensure value-for-money outcomes.

This team is headed by Advocate Stefanie Fick, who is also a director on OUTA's Board. Team members have more than 45 years of combined legal experience, with expertise including criminal law, constitutional law, corporate and commercial law, labour law, administrative law, property and public law, litigation and alternative dispute resolution.

Using our own in-house team enables us to build and litigate cases faster and at lower cost than using only external lawyers.

We act against the misconduct identified by our investigators and live up to promises made to our supporters. Our team largely prepares and institutes civil proceedings, drafts criminal complaints and lays the criminal charges with the SAPS, compiles and submits requests in terms of the Promotion of Access to Information Act (PAIA) and submits letters to senior government officials. It helps us navigate the public participation processes and public inquiries, so our voice is heard.

This team also ensures that OUTA's internal policies and structures comply with the law and the principles of good governance.

We have two main legal workstreams: administrative law and litigation.

The administrative law workstream works closely with OUTA's portfolio managers and investigators to achieve OUTA's objectives.

This workstream also assists oversight bodies – such as the Companies and Intellectual Property Commission, the South African Institute of Chartered Accountants (SAICA) and the Independent Regulatory Board for Auditors – by strengthening complaints against corrupt professionals through the provision of legally sound arguments and evidence to block their appointment as directors or ensure professional disbarment. The team filed seven complaints to oversight bodies during the year.

The litigation workstream works closely with two admitted attorneys appointed by Alet Uys Attorneys, the firm that manages and litigates OUTA's cases. It is also through Alet Uys Attorneys that we provide the OUTA





## FILING COMPLAINTS

We filed seven complaints about individuals to oversight bodies

E-toll Defence Umbrella, ensuring that each of our supporters will be defended if they are prosecuted by the South African National Roads Agency (SANRAL) for the non-payment of e-tolls. By the end of February 2019, OUTA's lawyers were defending 1 234 cases on e-toll matters in the magistrates' and high courts.

At the peak of the state capture crisis in 2017/18, the Legal Department drafted 14 criminal affidavits detailing the misconduct of individuals, including then-President Jacob Zuma, the Gupta family and the various government officials who had been captured. These cases are still open and our team is in constant contact with the Directorate for Priority Crime Investigation (the Hawks) to ensure that justice is done.

During 2018/19, the information in those cases was consolidated, together with new evidence acquired by our investigators and researchers, into a series of submissions to the Zondo Commission of Inquiry into State Capture. We hope that these submissions will aid in holding to account the architects and perpetrators of state capture.

The Legal Department was an integral part of establishing and advising the new OUTA Local Government Division. As with the OUTA National Division, we focus on public administration and good governance with a special interest in the local sphere of government.

In line with the OUTA local government strategy, the legal team has further adapted our strategy to encourage and educate communities and enhance public participation to develop a culture of active citizenry. This includes focusing more on the impact for residents rather than pursuing costly litigation, which may not have the desired effect at grassroots level, even though this approach may take longer. We hope that if we can influence behaviour and practices at the municipal and community level, we can foster a culture of unity and better service delivery.

This approach of finding alternatives to or in addition to litigation is used across our projects. For example, we file complaints with professional bodies such as SAICA and the Council for Debt Collectors, or complain about ministers to Parliament's Ethics



## THE E-TOLLS COURT CASE

- By 28 February 2019, our lawyers were defending **1 234 cases** on behalf of e-toll defaulters who received summonses from SANRAL. These were 1 205 cases in the magistrates' courts with a total value of **R75.105 million** and 29 cases in the high court **valued at R86.126 million**.
- We've now filed about 135 000 pages of legal documents over several years and in many courts in our e-tolls cases against SANRAL.
- The **highest value claim** in these court cases by SANRAL against one of our supporters is **R20.239 million**, the lowest value claim is **R1 360**.

Committee, as these are cheaper actions than litigation, can be undertaken by our own team, are less reliant on cumbersome legal processes and may prove more effective at blocking wrongdoers from their access to power and influence. Our strategy of writing letters to various authorities, including ministries and law-enforcement agencies, may appear futile at times, but if one of these letters lands on the desk of an official who takes action, then it makes this worthwhile.

OUTA's legal team not only brings something new to the table, it also considers who is dining at the same table. This means that the legal team's point of departure for any challenge is to know and understand its adversary, as opposed to simply adopting a replicative approach to problem-solving.

Our legal team shows us that civil justice is not just knowing what you have the right to do, but also knowing what the right thing to do is.

# INVESTIGATIONS DEPARTMENT



*Erich Neethling, Head of Investigations*

The year 2018/2019 saw the Investigations Department continuing to play an important role as part of the greater OUTA family. This department is staffed with qualified investigators, including some with backgrounds in forensic investigations given their experience within auditing firms or in the internal audit space within the private sector. Team members also have law enforcement and tax investigation experience.

The team implemented new workflows during the year. The docket management and case-flow management system now allows for quick retrieval of information, while also servicing the OUTA teams with standardised case files. The OUTA workflow requires team members not only to assist whistleblowers and collect the information they provide, but also to conduct preliminary and, later, fuller investigations.

As OUTA focuses on rooting out corruption and abuse of taxpayers' monies, it is succinct to say that most of the cases focus on supply chain and procurement management at local and national government level. The outflows are the proceeds of financial crimes.

OUTA received 239 reports relevant to the OUTA mandate and focus areas via multiple information channels. These resulted in 27 preliminary investigations and subsequently in seven projects, which continue to reveal corruption and tax abuse. Our team of investigators personally interacted with whistleblowers on 43 occasions. The investigations team also services existing projects, which can be regarded as





OUTA received 239 reports relevant to our mandate, resulting in seven new projects



an overflow from the previous reporting period. This includes many of the cases in our state capture portfolio, which are expected to continue for some time.

An example of a major project is the ongoing investigation into tax abuse and corruption associated with different Sector Education and Training Authorities (SETAs). The skills development levies paid by employers result in a vast reservoir of funds which, when applied correctly, must go to employers and training bodies to fund training programmes, internships and apprenticeships, and to learners in the form of discretionary grants and bursaries.

OUTA continues to uncover corruption in this space. The students, who are in dire need of skills development, and the businesses paying levies are ultimately the victims of corruption as the levies go to waste.

The Investigations Department has, where required, continued engagements with various oversight bodies, law enforcement and fellow civil action groups. The

investigations team will continue looking into matters that relate to the Commission of Inquiry into State Capture. Greater emphasis also needs to be placed on finding mechanisms to provide better protection for whistleblowers, without whom South Africa will see a continuous if not increased abuse of power. This needs to be done in unison with identified stakeholders and should consider the protection of whistleblowers not only in terms of their employment during reporting, but also after bringing instances of fraud and corruption to light.

OUTA's Investigations team is working on a best-practices paper in this regard, which will also be published on our website.

This unit will continue to engage with multiple whistleblowers. They come from all walks of life and are proud citizens and heroes. We are the channel through which their voices can be heard, while giving them the protection they require.

# SUBMISSIONS & REPORTS

March 2018 – February 2019

**OUTA wrote submissions and reports across its projects for commissions, inquiries, Parliament, ministries and for public use. These included formal opposition to corruption and interventions in policy and regulatory matters.**

1. **March 2018:** Submission to the National Council of Provinces (NCOP) on the Administrative Adjudication of Road Traffic Offences (AARTO) Amendment Bill, expressing support for improved road safety, but raising technical and legal problems with this Bill, which will hamper implementation. This submission was compiled from OUTA's attendance at the NCOP public hearings and OUTA's own public workshop on AARTO.
2. **March 2018:** Written and verbal submissions on the Draft Carbon Tax Bill to the Standing and Select Committees on Finance and the Portfolio Committee on Environmental Affairs.
3. **March 2018:** Written submission to the National Energy Regulator (NERSA) on the municipal electricity tariff guideline increase for 2018/19, calling for improved oversight.
4. **March 2018:** Report on an institutional audit of Govan Mbeki Local Municipality.
5. **April 2018:** Submission to NERSA objecting to NERSA's proposed rules on Small-Scale Embedded Generation below 1MW.
6. **June 2018:** Submission to the Public Protector on evidence of irregular contracts worth hundreds of millions of rand signed by the South African Social Security Agency (SASSA), which were not budgeted for, but were apparently designed to absorb surplus funds in SASSA, and a complaint that then-Minister Bathabile Dlamini misled Parliament about this.
7. **June 2018:** Report on an institutional audit of Emfuleni Local Municipality.
8. **June 2018:** Submission to NERSA opposing Eskom's application for reimbursement for under-recovery on electricity prices for 2014/15-2016/17. There was also a verbal submission at the NERSA public hearing.
9. **July 2018:** Submission to the Ministers in the Economic Cluster on how to reduce the consumer burden of high fuel prices. This included calling for the scrapping of e-tolls, reducing the general fuel levy and reassessing the Road Accident Fund levy.
10. **July 2018:** Report published: *Gauteng Freeway Improvement Projects' e-tolls: A story of failure*. This report was also included in the submission to the Ministers in the Economic Cluster.
11. **July 2018:** Petition submitted to the Mpumalanga Legislature calling for Govan Mbeki Local Municipality to be put under administration and a Financial Recovery Plan to be drawn up and implemented.
12. **July 2018:** Memorandum to the National Treasury handed over after a public protest in Pretoria, protesting the high fuel prices and fuel levies, calling for a decrease of R1/litre in the fuel levy and an investigation into the Road Accident Fund.
13. **August 2018:** Submission on the Bucket Eradication Programme and water boards to the inquiry into the Department of Water and Sanitation, run jointly by the Portfolio Committee on Water and Sanitation, the Standing Committee on Public Accounts and the Portfolio Committee on Public Service and Administration.
14. **September 2018:** Submission and verbal input to the Portfolio Committee on Home Affairs inquiry into the Gupta family's acquisition of citizenship.
15. **September 2018:** Submission to the State Capture Commission on state-owned defence entity Denel.
16. **September 2018:** Submission to the South African Human Rights Commission about pollution of the Vaal River resulting from the collapse of the Emfuleni sewerage system.
17. **October 2018:** Submission to the Portfolio Committee on Energy and the Department of Energy on the Draft Integrated Resource Plan 2018. A verbal submission to the Portfolio Committee was also made.



OUTA made 39 submissions for commissions, inquiries, parliament, ministries and public use

18. **October 2018:** Submission to the State Capture Commission on Ace Magashule and the Office of the Free State Premier.
19. **October 2018:** Submission to the State Capture Commission on former Eskom Chair Ben Ngubane.
20. **October 2018:** Submission to the State Capture Commission on former Minister of Mineral Resources Mosebenzi Zwane.
21. **October 2018:** Submission to the State Capture Commission on the Transnet Second Defined Benefit Fund.
22. **October 2018:** Submission to the State Capture Commission on the South African Broadcasting Corporation (SABC).
23. **October 2018:** Submission to the State Capture Commission on the Passenger Rail Agency of South Africa (PRASA).
24. **October 2018:** A general submission to the State Capture Commission, which included information on the Bank of Baroda and a wife of former President Zuma, Gloria Bongzi Ngema Zuma.
25. **October 2018:** Submission to the State Capture Commission on Eskom.
26. **October 2018:** Submission to the State Capture Commission on the Department of Home Affairs.
27. **October 2018:** Submission to the Standing and Select Committees on Finance on the Mid-Term Budget Policy Statement (MTBPS) of October 2018.
28. **November 2018:** Report on a financial assessment of Emfuleni Local Municipality.
29. **November 2018:** Submission to the Municipal Financial Recovery Services unit in the National Treasury about the unit's Financial Recovery Plan for Emfuleni Local Municipality.
30. **November 2018:** Submission to NERSA opposing Eskom's application for the annual increases of 15% a year for 2019/20-2021/22. Verbal submissions to NERSA's public hearings were made in January 2019, the second including opposition to Eskom's last-minute application to increase its price request.
31. **November 2018:** Submission to NERSA opposing Eskom's application for reimbursement for the under-recovery of revenue in 2017/18. Verbal submissions to NERSA's public hearings were made in January 2019 along with the submissions on the annual increases.
32. **November 2018:** Second submission to the South African Human Rights Commission (SAHRC) on the pollution of the Vaal River, calling for an investigation into the Sedibeng Regional Sanitation System. A verbal submission to the public hearing was also made.
33. **December 2018:** Report on a financial assessment of Govan Mbeki Local Municipality.
34. **December 2018:** Report on an institutional audit of Victor Khanye Local Municipality.
35. **January 2019:** Report on a financial assessment of Victor Khanye Local Municipality.
36. **January 2019:** Report on a financial assessment of Mbombela Local Municipality.
37. **January 2019:** Submission to the Department of Energy on the review of the basic fuel price.
38. **February 2019:** Report on the financial assessment of Emalahleni Local Municipality.
39. **February 2019:** Submission to the Standing and Select Committees on Finance on Budget 2019.

# NATIONAL DIVISION OVERVIEW



*Executive Head of the National Division, Dr Heinrich Volmink*

The vision cast by OUTA of a prosperous country, free of corruption and maladministration, is one that drives the work of the National Division.

During the 2018/19 period, the Division's contribution to the implementation of OUTA's strategy was organised around five portfolios, namely: State Capture, Transport, Energy, Water and Environment and Special Projects. Activities in the portfolios were led by the portfolio managers, who worked in partnership with the Legal Department and were supported by the Investigations and Communications Departments. Substantive work was also undertaken by OUTA's Parliamentary Engagement Office, particularly in relation to financial and fiscal policy.

During the period under review, 17 new projects were opened across the portfolios and 38 were closed.

17 new projects opened across the portfolios; 38 projects were closed

## STATE CAPTURE

Highlights from the State Capture Portfolio include 10 submissions to the Commission of Inquiry into State Capture (also known as the Zondo Commission). These were informed by a range of sources, including information obtained from the #GuptaLeaks and from whistleblowers. Submissions related to a number of state-owned enterprises, such as the SABC, Passenger Rail Agency of South Africa (PRASA), Transnet, Eskom and Denel. A submission was made to Parliament on alleged irregularities within the Department of Home Affairs (relating to the Gupta family).

## TRANSPORT

Under the Transport Portfolio, OUTA's opposition to the Gauteng Freeway Improvement Project's e-tolls continued unabated. The active citizenship against this irrational policy has seen collection rates tumble, with approximately three-quarters of affected motorists defaulting. OUTA expanded the E-tolls Defence Umbrella, defending over 1 200 e-toll defaulters by the end of the financial year, and our legal team continued with exhaustive preparations for the anticipated test case. Another key development in this portfolio was our challenge to the Administrative Adjudication of Road Traffic Offences (AARTO) Amendment Bill. While we fully support any effective efforts to improve road safety, our strong contention is that the AARTO Bill, if passed into law in its current form, will fail in terms



## NETWORKING FOR A CORRUPTION-FREE SOUTH AFRICA

- We joined hands with other civil society groups to establish the National Convention of South Africa (ConveningSA).
- We helped draft ConveningSA's Civil Society Manifesto which was published in March 2019.
- We're leading the Anchoring Democracy theme.
- "This is a call for active citizenship at all levels of society," says the Manifesto.

of constitutionality (given its presumption of guilt) and implementation (due to the need to first fix the traffic infringement system) and could have potentially disastrous implications for motorists.

### ENERGY

OUTA continued its advocacy on behalf of citizens within the Energy Portfolio, opposing above-inflation electricity price hikes. This was done through multiple engagements and submissions to the National Energy Regulator (NERSA). Submissions, both written and verbal, were also made to Parliament's Portfolio Committee on Energy in relation to the draft Integrated Resource Plan (a plan that will have long-term implications for energy security in South Africa). Other activities in the Energy Portfolio include opposition to NERSA's proposed regulations on small-scale embedded electricity generation, and comments on the proposed carbon tax as well as the basic fuel price.

### WATER AND ENVIRONMENT

In the Water and Environment Portfolio, OUTA partnered with Water Shortage South Africa in the call for the establishment of an Independent Water Regulator (IWR). Launched in December 2018, the campaign calls for an IWR to deal with many of the regulatory deficits in the governance of SA's water sector. Moreover, the IWR would help to ensure the availability, and quality, of water to households across the country.

OUTA engagement with the National Prosecuting Authority (NPA) regarding Aurora Empowerment Systems also began to come to fruition during the year. The NPA issued summons against Aurora's directors due to alleged violations of the water use regulations, with a court date set for May 2019.

Other activities in the Environment and Water Portfolio include: a submission to a parliamentary Joint Committee pertaining to the Department of Water and Sanitation, advocacy with regards to bucket

toilet eradication, and following up on the complaint to the South African Human Rights Commission on the pollution of the Vaal River.

### SPECIAL PROJECTS

Substantive work was undertaken in the Special Projects Portfolio, particularly in relation to the education and communication sectors. Allegations of corruption and maladministration in the Sector Education and Training Authorities (SETAs), arising from whistleblower information, were investigated. The SETAs are supposed to help provide vital skills for job-creation; corruption in this area is, therefore, particularly damaging. Work undertaken in the portfolio included exposing an allegedly flawed contract between the Services SETA and a management consulting firm to the tune of over R160 million.

With regards to communications, activities centered on dealing with maladministration in the SABC. This included supporting the application by the SABC's Interim Board to prevent Hlaudi Motsoeneng (the former COO) from receiving a pension payout from the SABC and contributing to the Special Investigating Unit's successful setting aside of a R52 million irregular contract between the Vision View Productions and the SABC.

### PARLIAMENTARY ENGAGEMENT OFFICE

Finally, vital work continued through OUTA's Parliamentary Engagement Office. This included supporting OUTA's multiple submissions to, and appearances before, parliamentary committees, and the provision of analysis with regards to key legislation before Parliament (including the AARTO Bill).

In terms of fiscal policy, the Office submitted detailed comments on the Mid-Term Budget Policy Statement as well as the 2019 National Budget. Office staff members also continued in their engagements with a range of stakeholders in the parliamentary community on behalf of OUTA.



# PORTFOLIOS & PROJECTS ENERGY

Headed by Ronald Chauke

## HIGHLIGHTS

- WE OPPOSED FOUR SETS OF ELECTRICITY PRICE HIKES
- WE CALLED FOR A RETHINK ON THE CARBON TAX
- WE OPPOSED THE REGULATION OF SMALL-SCALE EMBEDDED GENERATION IN HOMES AND BUSINESSES
- WE SUBMITTED COMMENT ON THE DRAFT INTEGRATED RESOURCE PLAN 2018

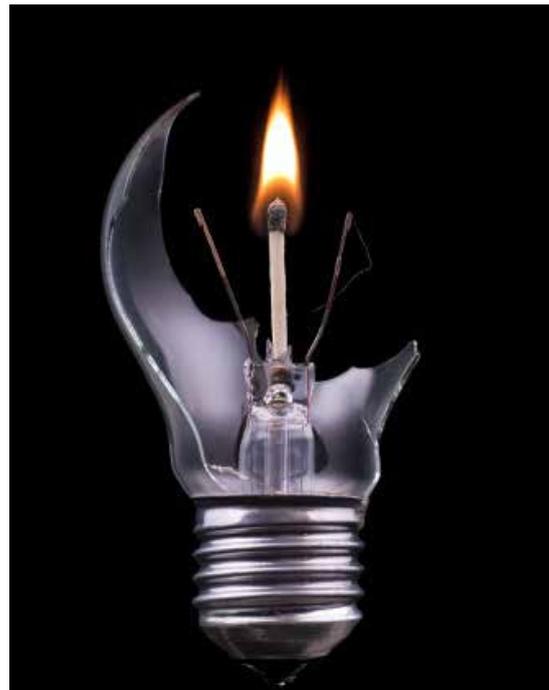


### OPPOSING ELECTRICITY PRICE INCREASES

OUTA submitted four sets of written submissions to the National Energy Regulator of South Africa (NERSA) in the public comment processes on electricity prices, opposing Eskom's requests for above-inflation increases.

- In March 2018, OUTA submitted comment on the municipal electricity tariff guideline increase of 6.84% for 2018/19. OUTA's submission included calling for NERSA to ensure that municipalities pay their Eskom bills on time, that plans are implemented to address arrears to Eskom, that municipalities comply with the cost-of-supply framework, and that a portion of municipal electricity revenue is ringfenced to run the service. OUTA also called for disclosure on the required municipal spending of 6% of revenue on maintenance and repairs to ensure this takes place.
- In June 2018, OUTA opposed Eskom's application for reimbursement for revenue under-recovery for 2014/15-2016/17. These were the Regulatory Clearing Account (RCA) applications. OUTA encouraged public comment to NERSA on this and also made a verbal submission. NERSA granted Eskom half what it requested. This decision adds 4.41% to the electricity price from 2019/20, which is then deducted from the price in 2023/24.
- In November 2018, OUTA submitted comment opposing Eskom's Multi-Year Price Determination Application for 2019/20 to 2021/22 (the MYPD4 application). Eskom asked for an increase of 15% for each of the three years, in addition to the RCA increases. OUTA also commented at the

public hearing in Cape Town. OUTA's comments included: the MYPD methodology is flawed as it does not curb expenses such as those related to corruption or maladministration, which allows these inefficiencies to be built into successive price increases; the coal costs have increased 500% over a decade, which includes the corrupt R11.7 billion contract to the Guptas' Tegeta; Eskom plant performance has declined substantially; and the new power stations are massively over budget



**“ The Eskom debacle is as a result of poor Government oversight and political meddling. #NoTaxHike until DoE produces credible IRP and Eskom performs optimally and efficiently for the people. ”**

and late. OUTA called on NERSA to apply much stronger regulation to Eskom. At the end of the public consultation process, Eskom increased its request to 17.1%, 15.4% and 15%, which OUTA opposed at the public hearing in Midrand as making a mockery of the public consultation process. NERSA later granted Eskom increases of 9.41%, 8.10% and 5.22%; the RCA increase is added bringing the 2019/20 increase to 13.82%.

- In November 2018, OUTA opposed Eskom's RCA application for 2017/18. Eskom requested R21.624 billion, however NERSA approved R3.869 billion. The decision on loading these increases onto prices is still awaited.

#### RETHINKING THE CARBON TAX

In March 2018, OUTA made a written submission on the Draft Carbon Tax Bill to the Standing Committee on Finance and a verbal input to the committee's public hearings. OUTA fully supports strategies aimed at mitigating climate change. However, OUTA opposed the implementation of this tax in the proposed format, as there was not a strong enough link to behavioural change, which raises concerns that this was a pretext to extract extra funds from taxpayers rather than address climate change. OUTA was also concerned that there was insufficient baseline data and that Eskom should first be unbundled. In November 2018, the Carbon Tax Bill was introduced to Parliament. In February 2019, the Bill was passed by the National Assembly and referred to the National Council of Provinces.

#### CALL FOR FLEXIBLE REGULATION OF EMBEDDED GENERATION

In April 2018, NERSA issued proposed rules regulating Small-Scale Embedded Generation of below 1MW, which would include residential photovoltaic cells. OUTA made a written submission advocating flexible regulation and promotion of electricity self-sufficiency. NERSA subsequently withdrew the proposal.

#### MOVING SLOWLY TOWARDS AN INTEGRATED RESOURCE PLAN

In late 2018, the Department of Energy published the much-delayed Draft Integrated Resource Plan 2018 (IRP 2018) for public comment. This plan is needed to provide certainty in long-term planning, including in the electricity sector. In October 2018, OUTA submitted written comment to the department and the Portfolio Committee on Energy, followed by a verbal submission to the committee.

OUTA welcomed the removal of nuclear build from the plan for the next 12 years after years of public anger over Government attempts to manipulate nuclear build, and the increase in renewables from 4% to nearly 30% of supply by 2030. OUTA was concerned about the plan's inclusion of power from the unbuilt Grand Inga scheme in the DRC, and the low allocation of only 200MW for embedded generation.

There are also concerns about the allocation for gas generation and the sourcing of this gas, much of which would have to be imported. OUTA also called for more clarity in the IRP on the transition to renewable energy, as coal plants are decommissioned, and disclosure of decommissioning costs.

ⓘ IRP 2018 is still not finalised.

#### RETHINKING THE BASIC FUEL PRICE

In January 2019, OUTA submitted comment to the Department of Energy for its review of the basic fuel price.



See the Transport portfolio for work on the fuel levies.



# PORTFOLIOS & PROJECTS SPECIAL PROJECTS

Headed by Dominique Msibi

## ■ HIGHLIGHTS

- WE HELPED DRAFT THE CIVIL SOCIETY MANIFESTO, LAUNCHED IN MARCH 2019
- WE EXPOSED CORRUPTION IN THE SECTOR EDUCATION AND TRAINING AUTHORITIES, WHICH GET SUBSTANTIAL STATE FUNDING TO HELP YOUTH FIND EMPLOYMENT
- OUR WORK AGAINST CORRUPTION AT SABC WAS USED IN THE SABC CLEAN-UP



This portfolio includes projects that affect marginalised people, particularly those who are vulnerable and disempowered.

### WE ARE PART OF CONVENINGSA TO SET STANDARDS FOR GOVERNANCE

OUTA joined the National Convention of South Africa (ConveningSA) in April 2017.

This is an initiative championed by the South African Council of Churches (SACC), aimed at laying a foundation for a broad consensus on public values and standards towards building a just and equitable society. OUTA is a member of the SACC steering committee responsible for structuring a series of strategic meetings and interim conferences involving civil society, youth groups, organised labour, business and faith groups, which culminated in a Civil Society Manifesto launched on 19 March 2019.

OUTA is leading the Anchoring Democracy theme. The core value for this theme is that our constitutional democracy "must be anchored in serving the interests of all who live in this country, especially those who are socially, economically and politically the weakest". The Civil Society Manifesto lists the minimum standards needed to sustain that core value.

**"This is a call for active citizenship at all levels of society."  
ConveningSA manifesto**

### WE ARE PART OF THE CIVIL SOCIETY WORKING GROUP ON STATE CAPTURE

OUTA is part of the Civil Society Working Group on State Capture, a group of NGOs that are opposing state capture, initiated by Open Secrets. Open Secrets is a non-profit organisation that exposes and builds accountability for private-sector economic crimes through investigative research, advocacy and the law.

### WE ARE CHALLENGING CORRUPTION IN THE HIGHER EDUCATION SECTOR

OUTA has exposed gross corruption within the Sector Education and Training Authorities (SETAs).

The 21 SETAs are government entities, which are intended to raise skills among the employed and those who are not employed but want to be, through funding skills programmes, learnerships, internships and apprenticeships. In 2018/19, Government allocated R17.312 billion to the SETAs, collected from the skills development levy that employers pay.

These are structures particularly intended to help youth get a foothold in employment, but OUTA has found that the huge resources allocated to the SETAs have been cynically abused, jeopardising the future of those youths and robbing them of the opportunity to participate fruitfully in South Africa's economy.

Since January 2018, OUTA investigators have received information from whistleblowers alleging fraud, corruption and maladministration within the SETAs. These allegations include serious irregularities in relation to procurement and stipend payments.



OUTA's work on SETA corruption included:

- Exposing the Services SETA's procurement at inflated prices, with 20 000 exam pads bought at R214 each, 30 000 lanyards at R166.50 each and 30 000 USB sticks at R167 each. OUTA found that USB sticks could be bought for less than R60 each and lanyards for as little as R3 each.
- Exposing the Services SETA's R162 million contract with the Grayson Reed Consortium, a contract apparently designed to loot funds from the SETA. The contractor was not a registered business, but used another business as a front. The biometric units it was supposed to provide to track learner payments were apparently not delivered; it was hired to pay stipends to 100 000 learners although this SETA deals with only 28 715 learners a year; it claimed stipends for learners at businesses which didn't exist; and learners complained that they did not receive their stipends.

OUTA attempted to engage with the Ministry of Higher Education and Training over corruption in the SETAs, but was ignored.

OUTA is investigating corruption allegations at the Services SETA, the Construction SETA (CETA), the Education, Training and Development Practice SETA (ETDP SETA) and the Media, Information, Communication and Technology SETA (MICT SETA).

#### **PROGRESS AT THE SABC**

Since 2016, OUTA has campaigned against the corruption at the SABC, which included making a submission to Parliament's Ad Hoc Committee on the SABC. This has been a long battle, but during 2018/19 we saw more progress.

In December 2016, OUTA laid criminal charges against former SABC COO Hlaudi Motsoeneng. This case is still open.

During 2017/18, OUTA provided information to the SABC's Interim Board on corruption at the broadcaster. OUTA welcomed the Interim Board's subsequent clean up at SABC, its dismissal of Motsoeneng, the legal action to reclaim misspent money from him and the departure of former CFO James Aguma. OUTA was involved in the Board's application to block Motsoeneng's pension being paid out to him. By late 2018, the Special Investigating Unit and the new Board had overturned the R52 million Vision View contract, which OUTA had campaigned against as corrupt.

In July 2018, OUTA filed a complaint with the Council for Debt Collectors against law firm Basson Van Zyl Ltd and its directors Frans Basson and Andreas van Zyl, over their involvement in the SABC TV licence debt collection contract, which OUTA had campaigned against. This complaint is still unresolved.

OUTA's 2017 complaint to the South African Institute of Chartered Accountants against Aguma is still unresolved.

#### **PUBLIC PROTECTOR'S HELP SOUGHT ON SASSA**

In June 2018, we made a submission to the Public Protector on evidence of irregular contracts worth hundreds of millions of rand signed by the South African Social Security Agency (SASSA), which were not budgeted for but were apparently designed to absorb surplus funds in SASSA, and a complaint that then-Minister Bathabile Dlamini misled Parliament about this. The contracts were mainly with Azande Consulting, an events management company.



# PORTFOLIOS & PROJECTS

## STATE CAPTURE

Headed by Rudie Heyneke

### ■ HIGHLIGHTS

- WE PURSUED OUR CRIMINAL CASES WITH LAW ENFORCEMENT BODIES
- WE MADE 10 SUBMISSIONS TO THE STATE CAPTURE COMMISSION



#### BUILDING ON CHARGES

During 2017/18, OUTA opened 12 criminal cases with the police against individuals implicated in state capture. Charges included treason, corruption, racketeering and fraud.

During 2018/19, OUTA followed up on these cases with various law enforcement agencies including the SAPS, the Hawks investigation unit, the Specialised Commercial Crimes Unit and the National Prosecuting Authority. All these cases remain open and none have yet proceeded to court. Some have been combined. In at least one matter, law enforcement has conducted document seizures. In one matter, investigators have applied for warrants of arrest.

#### PROVIDING INFORMATION TO THE STATE CAPTURE COMMISSION

OUTA compiled 10 submissions on aspects of state capture for the Zondo Commission of Inquiry into State Capture, which got underway in early 2018. These submissions were built on information in OUTA's 2017 report on state capture, *No Room to Hide: A President Caught in the Act*, and on the criminal cases opened previously, plus additional information, including from whistleblowers.

**We compiled 10 submissions on aspects of state capture for the Zondo Commission**

These are the submissions:

1. **Denel:** This details how this state-owned entity with an order book of more than R35 billion in 2015 came perilously close to handing over defence technology to the Guptas. Under Minister Lynne Brown's direction, the Denel board was replaced in 2015 with a board that planned the capture of the entity. This included as chairman the lawyer Lugisani Daniel Mantsha, who was once disbarred then reinstated and is now former President Jacob Zuma's lawyer.
2. **Ace Magashule and the Office of the Free State Premier:** This outlines how, from 2012 to 2014, the Free State Premier's Office and official letterhead were used to send invitations to political leaders in India to visit South Africa. These were prepared by a Gupta associate, who sent them to Premier Magashule's son, who in turn forwarded them to the Premier's Chief of Staff, who distributed them on the Premier's official letterhead.
3. **Dr Ben Ngubane:** This outlines the former Eskom chair's involvement with key Gupta associates, such as Salim Essa and Iqbal Sharma; his decisions pertaining to the pension claim by former Eskom CEO Brian Molefe and criminal complaints regarding the use of false share certificates.
4. **Mosebenzi Zwane:** This outlines the involvement of this former Minister of Mineral Resources with the Vrede dairy farm and the Gupta company Estina; his role in the purchase of Optimum Coal Holdings by the Guptas' Tegeta; his conduct



regarding the Koorfontein and Optimum coal mines' rehabilitation funds; and his role in the Inter-Ministerial Committee which tried to pressurise South African banks to keep the Gupta bank accounts open.

5. **The Transnet Second Defined Benefit Fund:** This details how Gupta-linked companies acquired contracts with the Fund and Transnet; how these contracts were used to gain access to funds, which were then misappropriated; and how these were used to fund the purchase of Optimum Coal Holdings by the Guptas' business Tegeta.
6. **The South African Broadcasting Corporation (SABC):** This includes links to the Guptas by former Communications Ministers Dina Pule and Faith Muthambi, the appointment of Hlaudi Motsoeneng as SABC COO and the dubious TV licence collection scheme run by Frans Basson.
7. **The Passenger Rail Agency of South Africa (PRASA):** This covers the Siyangena and Swifambo Rail contracts with PRASA; how the PRASA board had to approach the court to get the Hawks to investigate PRASA corruption; and how OUTA became involved with this application. It also includes hundreds of reports on various procurement projects from different forensic investigations.
8. **A general submission:** This includes information on former director general of Public Enterprises Richard Seleke; former Eskom interim CEO Collin Matjila; Broadband Infraco; The New Age; the Bank of Baroda and a wife of former President Zuma, Gloria Bongzi Ngema Zuma.

9. **Eskom:** This outlines how Eskom helped the Gupta family to obtain ownership of Optimum Coal Holdings and paid huge amounts to Gupta-affiliated businesses without legal contracts.

10. **Department of Home Affairs:** This details how former Minister of Home Affairs Malusi Gigaba expedited naturalisation applications by the Gupta family and how departmental officials went out of their way to assist the Guptas with visas and work permits.

#### DECLARING DUDU MYENI A DELINQUENT DIRECTOR

In 2016, OUTA and the South African Airways Pilots' Association (SAAPA) began legal action to have Dudu Myeni declared a delinquent director, which would block her from serving as a director or senior executive in any organisation for at least seven years. Myeni is the former chair of SAA and was implicated in dubious dealings with BnP Capital that resulted in financial instability of the national airline.

This case has dragged on. In August 2018, there was a significant development when the former CEO of BnP Capital, Daniel Mahlangu, agreed to comply with a subpoena demanding that he hand over all documentation relating to the SAA deal to OUTA and SAAPA.

The trial date is set for 7 October 2019. The criminal case that OUTA opened against Mahlangu and BnP Capital over this deal is continuing, with the investigation in the final stages and expected to go to court during 2019.



# PORTFOLIOS & PROJECTS TRANSPORT

Headed by Rudie Heyneke

## HIGHLIGHTS

- WORK ON OUR E-TOLL DEFENCE UMBRELLA CASES AGAINST SANRAL CONTINUED UNABATED
- WE REPEATEDLY HIGHLIGHTED THE LOGISTICAL AND BUREAUCRATIC DEFICIENCIES IN THE ADMINISTRATIVE ADJUDICATION OF ROAD TRAFFIC OFFENCES (AARTO) AMENDMENT BILL



### THE E-TOLL DEFENCE UMBRELLA

Opposition to the South African National Roads Agency (SANRAL) e-toll collections on the Gauteng Freeway Improvement Project (GFIP) continued through 2018/19.

In July 2018, OUTA published an overview of the e-tolls issue, called *Gauteng Freeway Improvement Project's e-tolls: A story of failure*. This report details how the combination of SANRAL's overspending and public resistance to paying e-tolls means SANRAL effectively spends more collecting e-tolls than it makes from e-toll revenue. Collection rates are estimated at 25% to 29%.

In August 2018, Minister of Transport Blade Nzimande said the e-tolls were needed to pay SANRAL's debt of R67 billion. It's not clear how this total was calculated, or how it jumped from the previous minister's total of R48 billion in November 2017.



During 2018, both the Gauteng Premier and the Gauteng ANC reiterated their opposition to the e-tolls, opposing the national government stance. In November 2018, OUTA joined a multi-organisational march to the Union Buildings to oppose the e-tolls scheme.

OUTA continues to facilitate the appointment and funding of legal representatives when motorists are individually or collectively prosecuted or summonsed in civil cases for failure to pay e-tolls. This case has been running since 2016 and a court date has yet to be set.

In August 2018, a significant step was made when the legal team for SANRAL and the legal teams appointed on behalf of the defendants agreed to consolidate 10 big claims as the test case in the e-tolls legal dispute. This consolidation was made an order of court. This "test case" will constitute the first part of the matter as, should we succeed with that, the matter will be disposed of and e-tolls will end. With the cases consolidated and key issues identified, the process of discovery (requests for documents and evidence) started. OUTA's legal team is also using evidence from six cases in the magistrates' courts in this test case.

The Minister of Transport, the Minister of Finance, the SARS Commissioner and the Minister of Environmental Affairs have been joined to the test case, as they have an interest in the matter. In September 2018, Minister Nzimande told Parliament that SANRAL had issued 15 505 summonses for e-toll debt, that only 3 724 (24%) of these were served on the defendants and that 1 320 of those served are being defended.



OUTA's lawyers are acting in most of the cases that are being defended. By 28 February 2019, OUTA's lawyers were defending 1 234 e-toll defaulters, who received summonses totalling R161.231 million. By the time this report was published, this had risen to more than 2 000 cases.

This is a fraction of SANRAL's reported outstanding e-toll debt of about R11 billion, which underlines the logistical difficulty of collecting on this.

OUTA has repeatedly warned motorists not to ignore SANRAL summonses, as failure to defend these may result in default judgments. The Credit Bureau has confirmed that these judgments cannot be used to blacklist defaulters.

#### AARTO WANDERS OFF TRACK

The Administrative Adjudication of Road Traffic Offences (AARTO) Amendment Bill was passed by the National Assembly in 2017 then submitted to the National Council of Provinces (NCOP), which held further public participation then passed the Bill in February 2019. OUTA has written to President Cyril Ramaphosa asking him not to sign this into law.

OUTA supports attempts to improve road safety, but felt this Bill had substantial logistical and bureaucratic deficiencies, which would make it impossible to implement, particularly in terms of serving infringement notices, the loss of driving licence points, and the difficulties of contesting these. There are also concerns that the AARTO Bill will be used to block e-toll defaulters from renewing driving licences.

OUTA made a submission to the NCOP's Select Committee on Transport based on inputs from a public seminar hosted by OUTA on the AARTO Bill.

OUTA's information was well received in Parliament, but ultimately these suggestions were not incorporated into the final version of the Bill. OUTA remains concerned over the effectiveness of this legislation.

#### CAMPAINING FOR R1 OFF THE FUEL LEVIES

In July 2018, OUTA made a written submission to the Ministers in the Economic Cluster on how to mitigate the effect of the high fuel prices on the public. This included calling for the scrapping of e-tolls, reducing the general fuel levy as it is not ringfenced for roads, and reassessing the Road Accident Fund (RAF) levy due to mismanagement of that fund.

This submission included a copy of OUTA's report on the failure of e-tolls (see above), as OUTA believes that part of the general fuel levy should have been used towards paying for the GFIP instead of e-tolls.

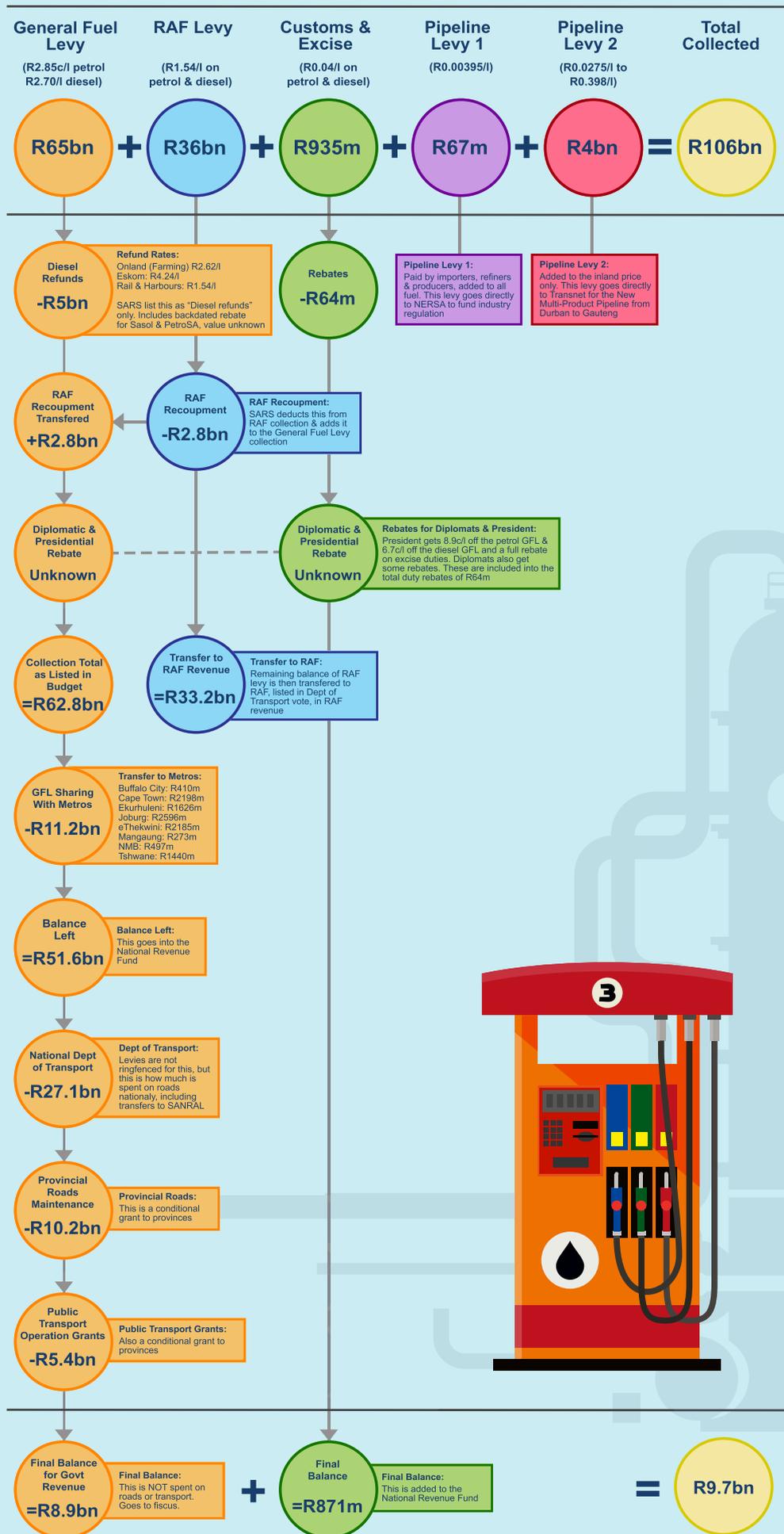
The same month, OUTA organised a public protest in Pretoria against fuel levies, handing over a memorandum to the National Treasury calling for a decrease of R1/litre in the general fuel levy and an investigation into the RAF.



See the Energy portfolio for work on the review of the basic fuel price during January 2019.

# WHERE DOES YOUR FUEL LEVY GO?

## Details 2016/17 collections



2016/17 stats are used, as this is the most recent year with full stats

## KEEPING YOU IN THE LOOP IN 2018/19

**34 509**

Supporters receive our monthly newsletter

We published **157** media releases and were mentioned **6 570** times in print, online and broadcast stories

OUTA answered **63 173** telephone calls and **50 408** emails from Supporters

**INSIDEOUTA**

broadcasts began in June 2018 and 26 shows were produced



### SOCIAL MEDIA STATS

- Our Twitter followers grew from 32 000 to **46 000**
- We posted **10 107 tweets**, giving a potential post reach of 24 million over the year
- Our top tweet was about the Gupta associate who wore sunglasses in his ID book photo. It received **2 552 responses**
- Our Facebook page has **143 971 likes**
- Our most popular post was on the fuel levy with a **reach of 1.2 million**, achieving **45 526** clicks and **36 734** reactions, comments and shares without being boosted



# PORTFOLIOS & PROJECTS

## WATER & ENVIRONMENT

Headed by Yamkela Ntola

### ■ HIGHLIGHTS

- THE NPA AGREED TO PROSECUTE THE DIRECTORS OF AURORA EMPOWERMENT SYSTEMS FOR ENVIRONMENTAL CRIMES, FOLLOWING TWO YEARS OF PRESSURE FROM OUTA
- OUTA PARTNERED WITH WATER SHORTAGE SOUTH AFRICA TO CAMPAIGN FOR AN INDEPENDENT WATER REGULATOR
- OUTA MADE SUBMISSIONS TO PARLIAMENT ON CORRUPTION IN THE DEPARTMENT OF WATER AND SANITATION AND TO THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION ON THE POLLUTION OF THE VAAL RIVER



#### OUTA PRESSURES NPA TO PROSECUTE AURORA DIRECTORS

The National Prosecuting Authority (NPA) has finally issued a summons against the directors of Aurora Empowerment Systems for environmental and water transgressions. The directors are: Khulubuse Zuma, former President Jacob Zuma's nephew; Zondwa Mandela, former President Nelson Mandela's grandson; Thulani Ngubane; and Raja Alam Shah.

In February 2019, the NPA informed OUTA that it will prosecute these directors over activities at the failed Grootvlei gold mine near Springs in the Upper Vaal Management Area. It is assumed that the charges will include failure to comply with the conditions of the water-use licence. The National Water Act criminalises non-compliance with water licence conditions and convictions may result in a fine or sentence.

Prosecutors have issued a summons and a court date is set for 28 May 2019.

Aurora ran Grootvlei from October 2009 to May 2011, and left it devastated and abandoned. Under Aurora's control, a plethora of environmental issues were reported, including the illegal discharge of acid mine

feeds into the Marievale wetland and ultimately the Vaal River. Acid mine water is water that is very acidic with high concentrations of metals, sulphides and salts owing to mining activity. If untreated, this pollutes surface and groundwater and eventually the soil.

OUTA engaged with the NPA for more than two years to get this prosecution under way, as we believe there is enough evidence. We believe that attention was only given to this case as a result of our lobbying.

#### SOUTH AFRICA NEEDS AN INDEPENDENT WATER REGULATOR

Significant shortfalls in regulation by the Department of Water and Sanitation (DWS) mean South Africa is unlikely to meet the National Development Plan's objective of universal access to clean potable water by 2030.

OUTA has partnered with Water Shortage South Africa to campaign for the establishment of an independent water regulator. A regulator that is independent of the DWS will be a concrete step towards addressing regulatory issues, blocking political interference and providing much-needed certainty in the water sector.

Our campaign launched in December 2018. OUTA and Water Shortage SA are finalising a position paper elaborating on the need for a regulator as the basis of our engagements with stakeholders. It is important to note that OUTA and Water Shortage SA are not campaigning for denationalisation or privatisation of South Africa's water sector, and that we will not



Aurora ran Grootvlei from October 2009 to May 2011, and eventually left it **devastated and abandoned**.



**"#NoTaxHikes until the complete eradication of the approximately 60 000 bucket toilet systems in South Africa. Government is already 12 years past deadline on this target."**

Yamkela Ntola, Portfolio Manager for Water and Environment

prescribe the functions of a regulator, as these should be developed following extensive engagements with stakeholders.

**HELPING PARLIAMENT’S INQUIRY INTO DWS**

In May 2018, Parliament’s Portfolio Committee on Water and Sanitation, the Standing Committee on Public Accounts and the Portfolio Committee on Public Service and Administration set up a joint inquiry into the functioning of DWS. This followed a report by the Auditor General on DWS, which highlighted financial problems in the department.

In August 2018, OUTA made a submission to the Joint Committee, covering corruption and maladministration in the department, including information reported to us by whistleblowers. OUTA’s submission highlighted concerns over the department’s Bucket Eradication Programme and poor governance in water boards, including Magalies Water, Umgeni Water, Mhlathuze Water and Rand Water. This inquiry has stalled. OUTA is applying pressure to ensure it continues.

**ONGOING INDIGNITY: BUCKET TOILETS**

In May 2018, OUTA exposed the gross overspending and under-delivery by the DWS on the Bucket Eradication Programme, which is intended to eradicate the use of bucket toilet systems in formal settlements in South Africa. This programme has continued without an end in sight since 2004. OUTA also found that the programme ran twice, with no explanation. The DWS has not met any of its own deadlines for the

eradication of bucket toilets. OUTA aims to publish a comprehensive report on this programme during 2019/20.

**VAAL POLLUTION: THE SEDIBENG REGIONAL SANITATION SCHEME**

On 30 November 2018, OUTA’s Water and Environment Portfolio made written and verbal submissions to the South African Human Rights Commission’s inquiry into pollution in the Vaal River. This followed a submission by OUTA’s Local Government Division in September 2018.

Our submission recommended that the Commission investigate the Sedibeng Regional Sanitation Scheme in Emfuleni Local Municipality. This scheme was intended to upgrade and expand the capacity of the waste-water treatment works and end the spillage of raw sewage.

Our submission noted that DWS stopped the project from being implemented by Emfuleni Local Municipality in 2012 and appointed Rand Water as the implementing agent.

OUTA recommended that the Commission’s investigations include: the transfer of the scheme to Rand Water; how this affected the municipality’s ability to operate and maintain the sewerage network; and Rand Water’s progress on the scheme. The Commission’s investigation continues.





# PORTFOLIOS & PROJECTS PARLIAMENTARY ENGAGEMENT OFFICE

Headed by Matt Johnston

## ■ HIGHLIGHTS

- SUBMISSION ON BUDGET 2019 TO PARLIAMENTARY FINANCE COMMITTEES
- SUBMISSION ON MID-TERM BUDGET 2018 TO FINANCE COMMITTEES
- ENABLING OUTA SUBMISSIONS TO VARIOUS COMMITTEES



This office is situated near Parliament in Cape Town and provides an essential base for monitoring policy and legislation development.

The purpose of this office includes:

- Monitoring parliamentary committees and enhancing their oversight;
- Providing policy and legislative inputs to Parliament;
- Strengthening OUTA campaigns through parliamentary engagement;
- Identifying information on governance and oversight which is useful to OUTA's work;
- Engaging with other civil society groups on a project-specific basis.

This office assisted various OUTA portfolios with written and verbal submissions to parliamentary committees and generated its own submissions. This office also helped provide the results of OUTA investigations to committee members in anticipation that they will take up these issues.

OUTA's Parliamentary Engagement Office seeks to enhance OUTA's contribution to sound financial decision-making and oversight in the public sector.

## Facilitating Submissions

Our Parliamentary Engagement Office helped facilitate, deliver and produce many of our submissions and reports to Parliament, part of our formal opposition to corruption and intervention policy

Parliament plays a central role in fulfilling this function, but civil society institutions like OUTA are needed to improve that function.

### FINANCIAL POLICY INPUTS

Submissions generated by the Parliamentary Engagement Office were to the Standing and Select



### GETTING INFORMATION

- OUTA's Legal Department wrote **dozens of letters** to the presidency, ministries, departments, municipalities, SOEs, oversight bodies – not all received responses.
- This department filed 14 applications in terms of the Promotion of Access to Information Act (PAIA) and received **six responses**.

Committees on Finance on the Mid-Term Budget Policy Statement (MTBPS) in October 2018 and on Budget 2019 in February 2019, as part of the public comment process on the money bills. These submissions included analysis on the MTBPS produced for OUTA by Econometrix. A report capturing the essence of OUTA's input was compiled and submitted to the National Treasury. This fed into National Treasury's Revised Fiscal Framework for February 2019. OUTA's budgetary strategy is being refined reflexively and proactively for further input in the Appropriations and Division of Revenue Bills in the future.

The macroeconomic planning for the country reflects some of OUTA's recommendations; for example, limiting direct taxation until waste and maladministration in organs of state is remedied. One major point of advocacy is the unbundling of financially ailing state-owned enterprises. At the same time, OUTA has called for consolidation of excessive government departments and a reprioritisation of funds as opposed to increasing Government's revenue through ever-increasing taxes.

### STATE CAPTURE INPUTS

OUTA's report on state capture, *No Room to Hide: A President Caught in the Act*, was submitted to Parliament in June 2017. This report was used extensively in Parliament's four inquiries into aspects of state capture, as MPs often relied on it for research, particularly on the Gupta e-mails. OUTA also provided additional information to some of these inquiries.

OUTA's Parliamentary Engagement Office kept track of these inquiries:

- The Portfolio Committee on Public Enterprises inquiry into Eskom was the most comprehensive inquiry, calling numerous witnesses and perusing a substantial number of documents. OUTA made written and verbal submissions to this inquiry during 2017/18. In November 2018, this committee unanimously adopted its inquiry report and recommended further investigations by law-enforcement agencies.
- The inquiry by the Portfolio Committee on Home Affairs into the naturalisation of the Gupta family continued. In September 2018, OUTA made written and verbal submissions to this inquiry. The Committee recognised OUTA as a valuable player in exposing state looting.

- In March 2018, MPs in the Portfolio Committee on Communications inquiry into then-Minister Faith Muthambi called for the minister to be prosecuted, based on OUTA's submission during 2017/18. This committee also referred the matter to the Committee on Ethics and Members' Interests; this committee's deliberations are confidential.
- The inquiry by the Portfolio Committee on Mineral Resources effectively collapsed, apparently due to political pressure. OUTA then provided a submission on former Minister of Mineral Resources Mosebenzi Zwane to the Committee on Ethics and Members' Interests in November 2017.

### PUBLIC PARTICIPATION POLICY

During 2017/18, OUTA submitted a petition against the publication of government notices calling for public comment over the festive season, as this limits public participation. It was signed by roughly 15 000 supporters. The example used was the National Energy Efficiency Strategy, which had the invitation for comment published on 23 December 2017 in an apparent attempt to limit public comment.

This petition has gone through various Parliamentary offices and has settled with the official responsible for the implementation of the High-Level Panel on the Assessment of Legislation and the Acceleration of Fundamental Change Report's recommendations. This is a broader movement in Government that is reviewing the value and effect of certain key policies. OUTA will continue to monitor this and participate when appropriate.

### OTHER PARLIAMENTARY BUSINESS

OUTA has played its part in strengthening Parliament's oversight role. OUTA portfolio managers have provided input into parliamentary committees at times when they were considering significant topics. These included the Administrative Adjudication of Road Traffic Offences Amendment Bill (the AARTO Bill) and the hearings on the Integrated Resources Plan 2018.



Please refer to the portfolio reports for more details.

# LOCAL GOVERNMENT DIVISION



*OUTA Operations Executive for Local Government, Julius Kleynhans*

## OUR PEOPLE

OUTA's Local Government Division was headed by Dr Makhosi Khoza, who joined OUTA in June 2018 as Executive Director for this programme. Her experience and expertise in national and local governance was essential in setting up this division. Dr Khoza subsequently left OUTA in March 2019, to pursue her political career.

The team includes: Julius Kleynhans, OUTA Operations Executive for Local Government; Michael Hostenstein, OUTA Local Government Manager for the Inland Region; financial expert Godfrey Gulston; and financial and legal experts and community coordinators. In February 2019 Gulston, who was South Africa's first Accountant General, was appointed as OUTA's Chief Financial Officer.

## OUR STRATEGY

In March 2018, OUTA decided to engage in the local government space and set up the OUTA Local Government Division.

In late 2018, we secured funding to cover start-up expenses for this division but ultimately aim to have branches funded by local communities to ensure sustainability.

By February 2019, this Division had started work in five municipalities and established two branch offices. The municipalities were identified following requests for assistance from the communities. The offices

are in Vereeniging (Emfuleni Local Municipality) and Secunda (Govan Mbeki Local Municipality).

Since going public with the Local Government Division, we have received queries from communities in more than 90 towns that have shown interest in OUTA's assistance in local government affairs. However, before we introduce these initiatives, we need to develop the necessary capacity to provide sustainable assistance.

Establishing this Division has involved a slow and careful process of considering a direction, designing a Community Intervention Model for Municipal Sustainability, identifying strategic interventions and finding staff with the necessary skills. Some of this development has taken longer than we had anticipated.

OUTA does not fix potholes or provide service delivery. Residents and businesses pay rates, taxes and service delivery charges for these services. Instead, we aim to hold municipal councils and officials to account, using our legal muscle where necessary, to ensure more responsible spending by municipalities.

OUTA aims to encourage a sustained and organised platform, which will empower communities to participate in the affairs of local government, and to create the capacity to hold officials to account. It has been quite a journey and we have learned a lot. The complexity of the local government space has forced



us to re-evaluate our plans several times to ensure that we are effective in driving positive change. The political dynamics in local government illustrate the challenges civil society faces and the complexities involved in influencing positive change.

We are adopting a multi-level approach to addressing municipal decay:

- Firstly, we aim to unite a community, starting with civil society and business, to support them to become actively involved in their local government affairs, by evaluating municipal performance, challenging maladministration and corruption, and taking up local issues.
- Secondly, OUTA has designed a financial review model to assess a municipality's financial situation, identify financial problems and highlight the extent of underfunding. This provides a basis for us to help a municipality address its problems. However, should the municipality be unwilling to rectify the situation, OUTA will consider other options.
- Thirdly, OUTA will monitor the provincial and national bodies responsible for oversight of the municipalities to ensure they execute their roles. These include the provincial and national Departments of Cooperative Governance and Traditional Affairs (CoGTA), and provincial and national Treasuries. OUTA wants to ensure the oversight responsibilities are met and that these departments take the action required to stop municipal decay and enhance performance.
- Fourthly, OUTA is developing a blueprint for a financial recovery plan and turnaround strategy for distressed municipalities to influence the interventions by provincial and national government, and assist with monitoring the progress of such interventions.
- Fifthly, OUTA is exploring ways of using technology to create a seamless electronic platform for OUTA to communicate with our supporters, generate data, train residents and coordinate with local councillors in an organised and intelligent fashion.

## i

### CHALLENGING LOCAL GOVERNMENT

- We set up OUTA Local Government Division offices in Govan Mbeki and Emfuleni municipalities.
- We compiled financial analyses on five municipalities.
- We started checking the quality of water provided by Gauteng municipalities.

## MUNICIPAL PROJECTS

During 2018/19, OUTA worked on initiatives in several municipalities.

- We launched offices in Emfuleni Local and Govan Mbeki Local, and started work in these areas. See below for details.
- We started planning for a third branch office in KwaZulu-Natal, which will likely serve Msunduzi Local and eThekweni Metro.
- We started preliminary discussions with Cape Town residents with a view to setting up a branch there.
- We completed institutional analyses on three municipalities: Emfuleni Local (Gauteng), Govan Mbeki Local (Mpumalanga) and Victor Khanye Local (Mpumalanga).
- We conducted financial analyses on five municipalities: Emfuleni Local, eMalahleni Local (Mpumalanga), Govan Mbeki Local, Mbombela Local (Mpumalanga) and Victor Khanye Local. We are currently engaging with provincial CoGTA and Treasury to find a workable solution to address the financial management short-comings in local municipalities.
- We launched our first drinking water quality project in Gauteng after a survey of OUTA supporters in that province indicated that 83% don't trust the water they drink. This was done through specialist consultants and SANAS-accredited laboratories. By February 2018, we had tested points in 21 of the 31 systems: all provided potable water.
- We started developing a Municipal Compliance Checklist to encourage municipal transparency, public participation and scrutiny. This will be completed during 2019.

### EMFULENI LOCAL MUNICIPALITY, GAUTENG

When Emfuleni residents approached us for help, there had been a history of uncollected refuse, failed sewerage pump stations, sewage spills in the streets and in the Vaal River, an electricity system in disrepair and inadequate road maintenance.

In June 2018, OUTA compiled an institutional audit on Emfuleni municipality. This included assessing the existence and availability of key documents on the municipality's website, including the Integrated Development Plan (IDP), performance agreements, policies on indigents, tariffs, rates, credit control and debt collection, the annual report and financial statements.

In June 2018, the Gauteng provincial government decided to intervene in Emfuleni in terms of Section 139(1)(b) and 139(5)(a) of the Constitution. This followed months of OUTA's lobbying of the Gauteng government to intervene in the municipality's financial collapse. However, the intervention was slow to get



going with Emfuleni resisting it. A draft financial recovery plan was circulated by Government in November 2018 and, the same month, OUTA provided a written submission on this to the National Treasury's Municipal Finance Recovery Services unit, criticising the plan as inadequate with no clear implementation strategy.

In September 2018, we made a written submission to the South African Human Rights Commission (SAHRC) inquiry into the pollution of the Vaal River due to the collapse of the sewerage systems in Emfuleni, as part of our Emfuleni branch work. This was followed in November 2018 by a further written and verbal submission on the Sedibeng Regional Sanitation Scheme in Emfuleni, compiled by OUTA's Water and Environment portfolio. The SAHRC inquiry is still ongoing. Both submissions were critical of national and local government over the infrastructure failures.

In October 2018, following increasingly negative publicity of the Vaal pollution, President Cyril Ramaphosa deployed the South African National Defence Force to Emfuleni for a year to provide emergency work on the collapsed sewerage system. OUTA has been monitoring this and lobbied for the provision of the promised funding for this intervention which, by February 2019, was still not clearly secured.

In November 2018, OUTA compiled a financial assessment of Emfuleni municipality, which found the municipality owed about R2 billion to creditors and could not deliver basic services.

In November 2018, OUTA's Emfuleni office opened in Vereeniging with a single staffer. This office provides us with a local base and has enabled us to attend municipal meetings on the IDP and Budget



**Failure in local government leads to rubbish piling up, pollution of rivers and service delivery protests.**

process. By December 2018, OUTA was officially recognised by the Emfuleni municipality as a local community organisation, which is a positive step for future engagements.

By the end of 2018, Emfuleni's mayor, Jacob Khawe, had resigned. OUTA had called for his departure after he was appointed as the ANC Gauteng Secretary, a paid position, as municipal law blocks fulltime councillors from undertaking any other paid work without council consent; the council could not provide us with confirmation of such consent. Khawe was replaced in January 2019 by Reverend Gift Moerane and OUTA hopes this will encourage an era of better governance in Emfuleni.

We have attended meetings with the National Council of Provinces and OUTA has started preparing a submission highlighting the failure of provincial and national government in exercising their oversight responsibilities.

#### **GOVAN MBEKI LOCAL MUNICIPALITY, MPUMALANGA**

When Govan Mbeki residents approached us for help, there was a failure of service delivery with refuse removal problems and threats of service cuts by Eskom. Rand Water was reducing the water supply due to unpaid bills, leaving higher-lying areas without water.

In March 2018, OUTA compiled an institutional audit on Govan Mbeki municipality. This included assessing the existence and availability of key documents on the municipality's website, including the IDP, performance agreements, policies on indigents, tariffs, rates, credit control and debt collection, the annual report and financial statements.

In April 2018, OUTA's Govan Mbeki office was established in Secunda with one staffer.

In July 2018, OUTA submitted a petition with 1 100 signatures to the Mpumalanga provincial government, calling on it to intervene in Govan Mbeki and draw up a Financial Recovery Plan. At the time, the municipality owed Eskom R517 million and Rand Water R131 million, and was facing service cuts.

In October 2018, the Mpumalanga government intervened in Govan Mbeki in terms of the Municipal Finance Management Act.

In November 2018, OUTA called on the municipality to reverse the backdated salary increases for the municipal manager and senior managers, as the municipality is unable to pay suppliers. At the time, Rand Water had reduced the municipality's water supply due to unpaid bills. The municipality failed to respond.

In December 2018, OUTA compiled a financial assessment of Govan Mbeki, which found precarious finances, probably due to severe negligence and lack of provincial oversight.

In December 2018, OUTA was officially recognised by the Govan Mbeki municipality as a local community organisation, which is a positive step for future engagements.

By February 2019, the municipality had begun the IDP consultation process and OUTA attended the meetings; however, some meetings were cancelled or postponed, due to non-attendance by officials and communities. Advertising of the IDP meetings was poor, and we are investigating whether there has been a contravention by the Speaker's office of the rules and processes for proper public participation.

# FINANCIALS

March 2018 – February 2019

OUTA continues to grow as reflected by the 16% increase in revenue to the prior year. This steady growth comfortably enabled us to meet our operational expansion.

The nature of our work is very labour intensive as reflected in our employee costs accounting for 58% of revenue and 39% more than the prior year; however, we have been prudent in managing our expenditure and stayed within 7% of budget. This was achieved by significant reduction in litigation costs.

OUTA has now firmly positioned its Local Government Division in preparation for the new financial year. We expect this division to yield contributions to cover its operating costs, through a combination of crowd-funding donations (from individuals and businesses) as well as donor support. We are grateful to the Millennium Trust for its contribution of seed funding toward the Local Government Division project in the 2018/19 financial year.

We have acquired our new ERP/Financial system known as Odoo. The migration is currently underway

which will initially operate in parallel with the existing system to ensure completeness. The benefits are an integration of our sub-ledgers including the payroll and improved reporting.

Given our expansion, the financial management has necessitated the appointment of a new Chief Financial Officer effective from 1 February 2019 to carry out oversight and provide assurance to the Executive Committee and the Board.

The Executive Committee is pleased to announce that we have received an unqualified audit opinion for the year ended February 2019. This is a result of diligent work by the Finance Department and good co-operation throughout the organisation.

The systems of internal control are very important in providing assurance to Exco and the Board. The internal controls need to be constantly tested and developed as required. To this end, the new Chief Financial Officer has issued the Audit and Risk Committee a self-certification on the effectiveness of the current system of internal control.

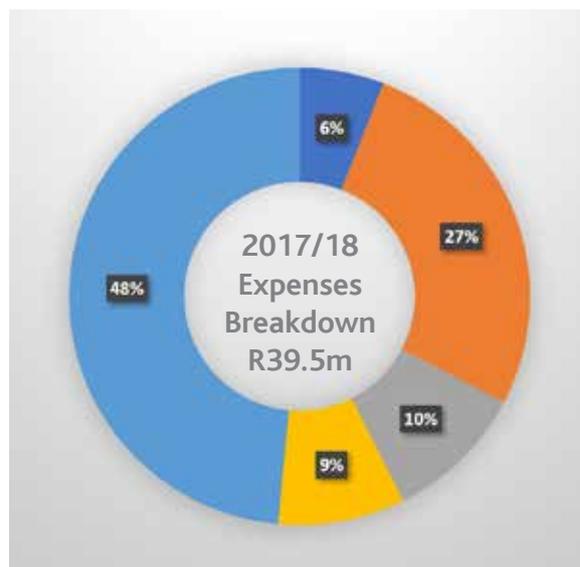
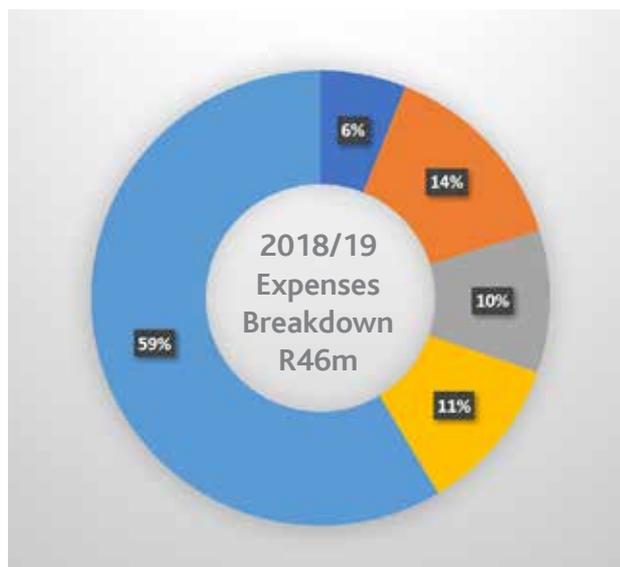


2018/19

**FINANCIAL YEAR**

2017/18

R46 002 115	INCOME	R39 560 070
R45 957 799	EXPENSES	R39 549 614
R44 316	SURPLUS	R10 456



- Litigation and Advocacy
- Litigation Provisions
- Other Direct Costs
- Admin and Operating Costs
- Employee Costs

44	HEADCOUNT Average throughout the year	35
17	NO. OF NEW PROJECTS Actual opened during the year	67*
38	NO. OF CLOSED PROJECTS Actual closed during the year	7
78	NO. OF OPEN PROJECTS Average throughout the year	61

\* Updated from 2017/18 report

Income growth: 16%

Depicts the organisation's continued growth and includes R2.7m (6% of income) special donation allocation for Local Division launch

Headcount: 26% (to 44)

More resources brought in to focus on advocacy and project advancement, increasing staff costs to 58% of revenue

Litigation provisions

In place to cover e-tolls and other committed litigation costs

More projects closed: 38

Focus on advancing projects in 2018/19

Local Division launch

Local Division launched in 2019 using special donation allocation



THE **OUTA** TEAM  
APRIL 2019



CAPE TOWN TEAM



KWAZULU-NATAL TEAM



ETHICAL

FRAUD

PROSPERITY

JUSTICE

HOPE

ACCOUNTABILITY

GROWTH

## OUR CONTACT DETAILS

[www.outa.co.za](http://www.outa.co.za)

Facebook: @outasa  
Twitter: @OUTASA  
Instagram: @officialoutasa  
YouTube: OUTASouthAfrica  
LinkedIn: OUTA - Organisation Undoing Tax Abuse

**OUTA office number:** 087 170 0639

**OUTA**  
ORGANISATION UNDOING TAX ABUSE