

EXECUTIVE SUMMARY

REPORT ON FORENSIC INVESTIGATION INTO THE DROWNING OF A LEARNER OF PARKTOWN BOYS' HIGH SCHOOL ON A GRADE 8 CAMP

Submitted to

GAUTENG DEPARTMENT OF EDUCATION

By



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1. INTRODUCTION

The Gauteng Department of Education (“**GDE**”) instructed Harris Nupen Molebatsi Attorneys (“**HNM**”) to conduct an investigation into the death of a learner due to drowning at the Parktown Boys’ High School (“**the School**”) orientation camp. The learner was Enock Mpianzi, a 13-year-old boy who was enrolled in Grade 8 at the School.

Prospective Grade 8 learners in 2020 were invited to attend an orientation camp (“**the Camp**”), by way of a letter dated 12 November 2019 (“**the invitation**”). The invitation signed by the Deputy Headmaster, Mr Kevin Stippel (“**Mr Stippel**”), states that the purpose of the Camp is to provide boys with an opportunity to learn skills, such as team work and cooperation and to assist with ensuring a smooth transition from primary school to high school.

The invitation stipulates that the charge per boy for attending the camp is R870.00 and requests that indemnity forms be submitted and payment made by 30 November 2019. In a letter attached to the invitation, from the Grade 8 Head, Mr Alex Meintjes (“**Mr Meintjes**”), practical arrangements are set out. It stipulates that the Grade 8 Camp will be held from 15 – 17 January 2020 at Nyati Bush and Riverbreak in Brits (“**Nyati**”), North West.

HNM was informed that on the morning of 15 January 2020, which was the first day of the School year, after a School assembly, all Grade 8 learners remained behind in the Memorial Hall and a roll call was conducted. The issues relating to the roll call are discussed in more detail below. Thereafter, at approximately 11h00, the boys, accompanied by seven educators, left the School for Nyati by bus.

During the course of the afternoon, on the first day of the Camp, Enock Mpianzi tragically drowned in the Crocodile River. His body was found on the morning of Friday, 17 January 2020, two days later.

In this report, HNM considers the circumstances of Enock Mpianzi’s death and makes findings and recommendations in relation thereto. HNM also makes findings in relation to liability for this incident and proposes a series of recommendations to be implemented, some of which reinforce previous recommendations made by HNM in a 2018 Report.

The extent of this investigation has been curtailed by time constraints. Most notably, the HNM Team has not been able to speak to as many learners as we would have liked to.

The reason for this is two-fold: firstly, due to the guaranteed anonymity of interviewee learners, interviews had to be conducted off the school premises, and accordingly, on weekends and after the school day. Secondly, many learners were understandably traumatised and, although indicating a willingness to engage with us at some point, many parents felt it was too soon after the incident to consent to their sons being interviewed.

Notwithstanding this, a clear picture of what transpired on the afternoon of 15 January 2020 emerges from the version of the learners interviewed.

As such, HNM appeals to all Grade 8 boys and their parents who attended the Camp, and any other stakeholders, to contact us at any stage should they wish to participate in this investigation. HNM reserves the right to supplement this report should any relevant information come to light after the submission date of this report.

2. TERMS OF REFERENCE

The specific terms of reference governing this investigation are as follows:

“TERMS OF REFERENCE

3. *To conduct an investigation into the aforementioned allegations with the District Director, Circuit Manager, Cluster Leader, the principal, the camp management and staff, the victim’s parent/s, learners at the school and any other relevant witnesses.*
4. *The investigation must contain clear findings which will complement specific recommendations to the matters relating to Education Laws, SASA, EE Act, Children’s Act and any other relevant laws. Recommendations must include which sections of the legislation were contravened by whom and whether or not disciplinary action must be taken against offenders as well as charges that must be brought. The scope of the investigation, an executive summary must be included. Findings must also be linked to the terms of reference.*
5. *The scope of the investigation will involve: whether there are merits to the allegations, the circumstances around them,*
 - *The conduct of any Educator.*

- *The conduct of the School Management Team and the Principal.*
 - *Whether did the school follow a correct process in embarking in the Camp.*
 - *Was the Camp authorised, what procedure was followed by the school or school governing body in deciding to take the learners to the camp.*
 - *What was the obligation of the Camp/lodge in relation to safety of learners in the premises and what guarantees did the camp have in ensuring the safety of learners.*
 - *Is the school insurance covering this type of activity.*
 - *When did the Educators, Camp management realise that the learner was missing, and what procedure was followed by the school to report the missing learner.*
 - *Whether the matter was reported to Department, whether the Department is liable or not, whether or not there was any omission on the part of the department and what can the Department do to address the problem.*
 - *Whether there is a general problem of this nature at the school, the role if any of the School Governing Body. Whether counselling was provided or not and whether it is necessary to provide it now.*
- 6. Also attach a summary of your findings and recommendations as well as legislative framework to your report.” (sic)**

3. INVESTIGATION METHODOLOGY

The detailed methodology employed in the investigation is set out below:



3.1. INITIAL CONSULTATION AND BRIEFING FROM GDE

HNM had an initial consultation and briefing with the GDE on 22 January 2020, during which the GDE instructed HNM to conduct an investigation into the death of Enock Mpianzi on a Parktown Boys' High School Grade 8 Camp.

During this briefing, HNM's attention was drawn to particular areas of concern regarding this incident, namely: the authorisation from the GDE for the Camp, the broader issues of learner safety at the School in the light of a previous investigation conducted by HNM and the recommendations made in that report, and the particular version of a learner which was brought to the attention of the Head of Department of the GDE, Mr Edward Mosuwe ("the HoD"). HNM undertook to investigate these concerns.

3.2. DOCUMENT COLLECTION AND COLLATION AND DETAILED DESKTOP AUDIT OF DOCUMENTS

HNM received a number of documents from the GDE, including a copy of the file with the application for approval of the Camp submitted by the School to the District Office of the GDE. We were also provided with further documents by individuals who were interviewed during the course of the investigation.

3.3. CONDUCTING INSPECTION *IN LOCO*

On 24 January 2020, the HNM investigation team conducted an inspection *in loco* at Nyati, situated near Brits, approximately 3 hours from Johannesburg. The site where the stretcher activity took place, preceding the water exercise, was pointed out to us before being taken down to the Crocodile River which is situated just below the rugby fields.

3.4. INTERVIEW AND CONSULTATION PROCESS

HNM interviewed a number of witnesses, some of whom were present at the water activity and others who, although not eyewitnesses, HNM deemed relevant.

Despite several attempts to arrange interviews with certain alleged witnesses, HNM was unsuccessful. We were consistently informed that these alleged witnesses could not meet with us due to the possible trauma of an interview. HNM was informed by Mr Anton Knoetze's ("**Mr Knoetze**") attorney, Mr Daniël Eloff ("**Mr Eloff**") that he would assist with arranging interviews with certain Nyati facilitators who were present at the Camp, however he did not follow through with this undertaking.

All learner witnesses were interviewed on a confidential basis and statements were obtained from them during their interviews. Certain witnesses were also asked to point out relevant locations on photographs and maps of the river and riverbank. Two aerial photographs of the river and riverbank were obtained from Carte Blanche and were used with their permission. The red arrow and text 'Activity entry point' on the one Carte Blanche photograph was inserted by Carte Blanche and not HNM – the arrow and text bear no relevance to this investigation and should be ignored.

In relation to the learners interviewed, HNM interviewed them in the presence of their parent/s/guardian/s and undertook to not divulge their identity. As such, they are referred to by means of an anonymous designation and reference to any distinguishing characteristics have been omitted from their statements.

A complete list of people interviewed is detailed below:

1. Mr Anton Knoetze: Manager of Nyati Bush and Riverbreak
2. Headmaster: Mr Malcolm Williams
3. Educator: Ms Celiwe Mbuyisa
4. Educator and Grade 8 Head: Mr Alex Meintjes
5. Educator: Ms Stacey Reynolds
6. Educator: Mr Jarred de Jong
7. Intern-Educator: Mr Kyle Reddy
8. Educator: Mr Laurian Kruger
9. Intern/Housemaster: Mr Tshepo Ratala
10. Learners from the School
11. The Mpianzi family
12. Chairperson of the SGB: Mr Jim Pooley
13. District Director: Ms Shirley Molobi
14. Intern District Office: Ms Christina Sedibeng
15. Friend of a learner that previously drowned at Nyati: Mr Zithulele Tshomela.

HNM was unable to interview Mr Luke Lamprecht (“**Mr Lamprecht**”), a consulting psychologist and child safety and personal development specialist, who was at the Camp. We were informed that he had suffered a death in his immediate family, as well as the death of a close friend and he may not be available. Messages were left for Mr Lamprecht, however contact was not able to be made with him. In the event that he becomes available in the weeks to come, his interview will be contained in a supplementary report.

3.5. DRAFTING THE REPORT

This stage involved the structuring and drafting of the report. When drafting the report, reference was made to all relevant documentation and statements from witnesses.

4. INTERVIEWS AND CONSULTATION PROCESS

The full statements of all interviewees and all annexures are included in the main investigation report. Certain crucial evidence, extracted from the full statements, is discussed below in order to draw attention to the discrepancies in the versions provided to the HNM Investigation Team.

The importance of the Mpianzi family's input into this investigation is significant. Accordingly, HNM has included the full statement of the Mpianzi Family, at 5.10 below.

4.1. STATEMENT OF NYATI BUSH AND RIVERBREAK MANAGER, MR ANTON KNOETZE

According to Mr Knoetze, the entire water exercise took place in shallow water and on dry land. When questioned as to whether there had been sufficient control by Nyati and particularly the Nyati facilitators, over the water exercise, Mr Knoetze stated, "*we can control them.*"

Mr Knoetze informed HNM that Nyati Bush and Riverbeak only owns 12 life jackets and stated that, "*...we keep life jackets for tubing, not this activity.*" When questioned as to whether he was aware that learners had been stranded on an island in the river and had to be rescued by facilitators, Mr Knoetze responded, "*I don't know about islands.*"

Mr Knoetze was asked whether there had been any other incident at Nyati in the past. He responded by saying that there was an incident in 2008 and that a child had died in a swimming pool at Nyati.

4.2. STATEMENT OF MR MALCOLM WILLIAMS, PRINCIPAL OF THE SCHOOL

Mr Williams said that when he stood on the sandbank overlooking the river, he saw that there were two learners in the river and that the learners did not have life jackets. He further stated, "*I could see that there [was] a current but could not see how strong...I think he [one of the boys in the water] must have been treading [water] and moving with the current*". Mr Williams stated that when he got to the river and saw that the boys in the water were not wearing life jackets, he instructed Mr Reddy to stop the water exercise immediately.

Mr Williams said that he walked for some distance along the sand downstream and then emerged where the river narrowed, where he saw a learner, Learner 6, and a lot of other learners, on the sand on the riverbank. He also saw two facilitators. He stated that there were a group of learners on a small island in the river. Mr Williams stated that, while he was walking to the small sandbank where he observed the learners on the island, he heard shouting, but there was no shouting of, *“help, help”*. Mr Williams explained that two facilitators near the island were in the water, which was about half way up their legs. They were bringing the learners one by one from the island back to the riverbank. Mr Williams said that the learners were hyped up and that he decided to see to their safety. Mr Williams was asked if he believed that there was “risk” in the situation, and he confirmed *“...there was risk, that’s why I stayed there.”*

Mr Williams stated that after the boys had been brought to the bank from the island, some facilitators arrived from downstream and he asked them *“is everyone safe – is everyone out the water. I said are you sure and the tall chap said, ‘sir I was with the first group. There is no one down the river”*”.

When Mr Williams was asked if he knew that Nyati only had twelve life jackets, he responded, *“...that’s mind boggling.”* When Mr Williams was asked why he did not ensure that the learners were wearing life jackets, he responded, *“because I did not anticipate this exercise from...what it became...”*.

4.3. THE VERSION OF THE SCHOOL EDUCATORS ATTENDING THE GRADE 8 CAMP

When asked if she knew that the exercise was going to end in the river, Ms Reynolds stated *“I didn’t think the stretcher race would end in the river... I thought that they would then reinforce their stretchers..., you know, dismantle what they had built and use those materials to then build a raft. That was my assumption.”*

Ms Reynolds was asked whether it ever occurred to her that the learners would need life jackets, and she replied that she had been on previous camps where they hadn’t, *“I went on both the Grade 8 and 9 Camps last year...they also did the raft building.”* She said further that the water was very shallow and in fact many of the rafts fell apart. A further question was asked *“So you didn’t think that they needed life jackets?”* to which Ms Reynolds replied *“No”*.

Mr Reddy explained that shortly after they arrived at the water, Ms Reynolds stated, *“I wonder if they know that not all the boys can swim?”*. Mr Reddy said that he thought this was a good point and he then went to see what was happening at the start. When asked whether he was concerned about any potential risks, he replied, *“there was no concern about anything really”*.

Mr Reddy said, *“He [Mr Williams] asked me specifically are they wearing life jackets. My answer was no. He asked me am I sure, and I said yes I didn’t see any. And then he told me to make sure no one else gets in...”* Mr Reddy confirmed that he was asked to stop the exercise and said *“I with Mr Kruger went back to the start...there was no facilitator. As we walked back, the boys were coming up to go down a second round and we turned them away.... Mr Kruger and me walked through the shallow water near the point [reeds]...another kid came out of the reeds [on the river bank] ...We checked if he was okay...He said he had panicked and decided to swim back to the start.”* Mr Reddy said that he did not know this boy’s name and has not checked subsequently.

When Ms Mbuyisa was asked if it did not worry her to see the learners clinging to the raft in the strong current, she stated *“not at all”*. She stated *“it did not look strong to me also”*.

Towards the end of the interview, Ms Reynolds was asked if, when she looks at the photographs taken by Mr Reddy of the learners in the river, did she not think that there was risk. She answered *“in hindsight, yes”*.

Mr Reddy was asked, towards the conclusion of the interview whether, in the photographs that he took, he saw any risk in what was happening to the learners in the river, to which he replied *“it looked under control”*. He also stated, *“I’m not clued up on river safety...In hindsight I am, because I’ve looked into it, but at that moment in time I don’t know what you do and don’t do in a river.”*

4.4. VERSIONS OF LEARNERS 1 TO 5

Learner 1 explained that there were too many boys in their group to guide the raft in the water, so he decided not to get into the river and to follow the group on the riverbank. When asked if he thought his group seemed “together” he stated that they did appear to be together. He stated, *“I walked further and the current got faster and the boys in my group seemed to be panicking to get back to land. There were two facilitators and some boys helping the boys get back to the land. The water was flowing pretty quickly and so it was hard for them to get to the bank. They bailed on the raft and the facilitators and boys on the bank were holding out*

bamboo sticks for the boys in the river to grab to get out of the water. A couple of the boys on the bank were turning to go back to where the exercise began. I stayed and helped a number of boys, perhaps nine or ten boys, come into the shore. I saw no boys getting swept further down...."

Learner 2 entered the water with his group and their stretcher. He stated that *"We passed a motor and from then everybody's raft from each group broke apart so everyone was everywhere in the water. I asked one of the instructors to help us because boys needed assistance from them; they didn't respond. After the rafts broke, two boys were on top of me trying to save themselves and I was drowning under the water...when I got up two boys needed help 'cause they couldn't know how to swim. I managed to push one out at the checkpoint and others kept on passing because the water current was too powerful...We got to a point where...everyone got caught up and at the same time I'm trying to save my life. Two of my friends saved me then we all got out and got help then we got the other boys out."*

Learner 2 continued and stated that *"it was shocking but we tried to keep cool. Everyone was panicking"*. When asked *"had you known how strong that river current was and how deep the river was, would you have got into the water?"*, to which he replied *"no"*.

Learner 3 stated that he went out into the water when his group was about 50 metres ahead of him, *"but I could not see if there was a strong current. But the moment I got caught up in the current, I realised that the current was way too strong and I decided that I would swim to the bank to get out."* He stated that at a particular point he thinks he went blank as he can't remember really pulling himself onto the riverbank. *"I was so scared. I then went back to the facilitator and asked where I can follow my team and she said I must follow the sandbank."* In relation to the boys on the island, he stated, *"the boys on the island were shocked and scared and everything was going wrong"*.

Learner 3 said *"I went myself and went to facilitator 1 and told her that there are people struggling and please could she come and help us. We are down by the island, and she came with me to the island. She however said that she could not swim and then called another facilitator on her phone for help."*

Learner 4 did not get into the river as he cannot swim. He followed his group from the riverbank. When asked if his group looked similar to the one in the photograph provided to HNM by Mr Reddy, he said, *"yes, they were clinging onto the raft."* Learner 4 said that he saw some groups going past the island with learners in the water and said, *"my group went past, they were not able to get out. I shouted to a learner I knew in the group and he went past."*

Learner 5 describes going down the river with his group, Group 3. When asked if he could stand in the river, he said, “*I could never...only when we were coming to the rocks.*” Learner 5 said that the water in the river was moving very fast and “*we tried to grab on the reeds, on the side of the river but the currents pushed us away.*” According to Learner 5, his groups raft was holding together until a point. When the raft broke apart, his group split up. He said that after his group separated at the point referred to above, he continued down the river with two boys hanging onto him. He managed to hang onto one and let the other go. According to Learner 5, the boy he let go was Enock Mpianzi. Due to the visible trauma Learner 5 was experiencing, the HNM Team did not push him for a more detailed explanation. When asked if he thought Enock was pulled out of the river, Learner 5 said something to the effect of, “*no, but I thought maybe he had got out somewhere on the bank.*”

5. ANALYSIS OF EVIDENCE AND FINDINGS

5.1. THE ISSUE OF ROLL CALLS AND THE ACCURACY OF ROLL CALL LISTS RELATING TO CAMP ATTENDEES

5.1.1. Analysis

According to Mr Meintjes, a roll call was held by Mr Reddy at the Memorial Hall of the School after School Assembly on Wednesday 15 January 2020. Mr Meintjes confirmed that “*the roll call was of all grade 8s and not just those going on the camp*”. Mr Meintjes stated that another purpose of the roll call was to check if the School had the indemnity forms and to check payments for the Nyati Camp. Mr Meintjes later said in his interview “*there was no other list.*” “*Yes [we assumed], every single boy that was present [in the hall] got on the bus*”. A copy of the roll call list held at the School in the morning on 15 January 2020 reflects columns headed as follows:

- Number,
- Surname,
- First Name,
- Camp Indemnity,
- Camp PMT,
- Code of Conduct,
- Deposit PMT.

Thereafter the names of 214 learners are listed.

It should be noted that Enock Mpianzi was listed as number 183 on the list, with the “Camp Indemnity” and “Camp PMT” columns ticked. This indicates that Enock Mpianzi had submitted an indemnity form for the Camp and payment had been made in respect of the Camp.

Pupils were taken in buses to Nyati. A smaller vehicle, “the Iveco”, was also used, however once the Iveco arrived at Nyati and dropped the learners off, it then left for Johannesburg with the roll call list that was conducted at the School’s Memorial Hall that morning and which also served the purpose of indicating which Grade 8 learners attended the Camp at Nyati.

Mr Meintjes stated that, at approximately 15h30 on Wednesday, 15 January 2020, he telephoned the driver of the Iveco on which the roll call list had travelled back to Johannesburg, however the driver indicated that he was not in a position to return to Nyati to deliver the roll call list to Mr Meintjes.

Mr Meintjes stated that the first roll call that was held at Nyati was held by Mr Williams at approximately 17h30 on Wednesday, 15 January 2020 after the water activity. He stated that the roll call list that was used for the roll call at Nyati had to be requested from the School and it was sent by email to Nyati and printed at the Camp.

The list that was sent by the School was a list of **all** incoming Grade 8 learners. At the top of this list it states, “*Incoming Grade 8*” and in handwriting “*Wednesday 15/1 roll call (+- 17:25)*”. Mr Meintjes stated that the roll call list utilised at the camp on Wednesday 15 January 2020 at 17h30 would not have had the ticks, and other information of those who were present at the School’s Memorial Hall roll call that morning.

Mr Meintjes stated that he was extremely busy at Nyati on the afternoon of Wednesday 15 January 2020 as there was an issue in relation to the Halaal food that was delivered, which was insufficient for all of the Halaal pupils.

Mr Meintjes stated that, as soon as he got the list of missing learners after the roll call at Nyati, he sent a photograph of the list to Mr Stippel of enrollment. He stated that, “*the following day, they [enrollment office] followed up on who was not at camp [based on the photographed list]. At 11h45, I got the phonecall from Sandy Beard to say that she’s phoned Enock’s parents and they were adamant that he was dropped off at the camp*”.

On Thursday, 16 January 2020 at approximately 14h00, a further roll call was held at Nyati and it was confirmed that Enock Mpianzi was missing. Thereafter, an inspection was done of

the accommodation and the bag of Enock Mpianzi was found. Mr Meintjes confirmed that, prior to the roll call on Thursday, 16 January 2020, it was never brought to his attention by the learners that someone was missing.

The evidence of Mr Williams is that when they left the river and returned to the Camp, he assumed that a roll call would have taken place after the water activity by the facilitators and as a result of one not being held, he insisted that a roll call be held. He stated that he conducted the roll call between 17h20 and 17h30 on Wednesday, 15 January 2020. Mr Williams said they got the roll call list from the School and then he held the roll call. Prior to that, he had asked the learners to sit in their teams, one behind the other, and he had asked the facilitators to check that all learners were present in each team. He stated that no one indicated that anyone was missing. Thereafter, he read out the names on the roll call and it was discovered that eleven learners, including Enock Mpianzi, were not present.

In relation to the eleven missing learners, Mr Williams stated, *“the impression I had was that these were the boys not on camp”*. He said also said he didn't think the facilitators kept a list of the people in their team. He further stated that, *“nor did any child at any point...say Sir, there was a guy in our group who was on the raft who's not here”*. Mr Williams stated that after he had held the roll call, when it was clear to him that no group could tell him if anyone was missing, nor could a facilitator, only then did the learners move off for their sleep-out in the veld. Mr Williams stated that he called out the names of the learners who were absent at the roll call three times, and also asked those in groups to check who was missing.

The version of the learners interviewed, largely confirms the version of Mr Williams and Mr Meintjes.

It should be noted that all of the learners interviewed stated that at no stage did any of the learners indicate that someone was missing. It was however stated by one of the learners that some learners did speak to a facilitator, or an educator, however, what was said or what was conveyed to the educator, or facilitator, is not that clear from the interview with the learner. This is due to the fact that, after saying some learners got up and went to a teacher and said *“one of our boys are missing”*, the learner followed that statement by saying, *“I did not pay attention as to whether the teacher, or facilitator, responded. I was busy talking and I can't remember what they said to the facilitator, or educator”*. The same learner stated that the following day, on Thursday 16 January 2020, the learners were all swimming in the swimming pool when Group 3 was called from the pool. He stated, *“We were gathered on the side of the pool and a few facilitators asked us about Enock. The boys were told that Enock had gone*

missing and did we know where he had gone missing. I said “no” and nobody else said they knew anything at that time.”

5.1.2. Findings

It is clear that the availability of the correct roll call list at 17h30 on Wednesday 15 January 2020, when the roll call was conducted, was of critical importance in relation to ascertaining who attended the Camp. If the correct roll call list had been utilised for the 17h30 roll call held by Mr Williams on Wednesday, 15 January 2020, it would have been clear that Enock Mpianzi was missing and the search process and emergency procedures could have been immediately activated, including a rigorous search of the river area which, given the circumstances of what had transpired during the course of the water exercise, would have been the obvious place to look.

There would also appear to have been certain assumptions made, which assumptions were relied on and which may not necessarily have been correct. It was assumed by the educators of the School that all of those present in the Memorial Hall of the School climbed on the buses, whereas that may not necessarily have been the case. In any event, the roll call list of the roll call that was conducted at the School Memorial Hall at 09h15 on Wednesday 15 January 2020, confirmed that Enock Mpianzi was present and had supplied an indemnity form for the Camp.

The above roll call list was however left on the Iveco bus that travelled back to Johannesburg. In effect, the only list which was reasonably accurate of those that attended the Camp was not at the Camp. Mr Knoetze of Nyati confirmed that Nyati never received a list of attendees of the School's Grade 8 Camp at Nyati. It is common cause that at the time that the roll call needed to be held at 17h30, after the water exercise, to ascertain whether any learner who attended the Camp was missing, another list had to be obtained from the School. The problem was that the list obtained from the School was of **all** incoming Grade 8 learners to the School and not just of attendees at the Nyati Camp.

As a result of the incorrect list being used for the roll call, it was found that eleven learners were missing and after asking the learners and facilitators whether anybody was missing, it was assumed that the eleven missing learners were learners who had not attended the Camp. This was an incorrect assumption. Thereafter, it was business as usual and the Grade 8 learners were then taken out into the veld for their sleep-out. The next day, Thursday 16 January 2020, the learners at the Camp continued with the activities as per the Camp agenda.

It was left to the enrollment office of the School to phone around to the parents of the missing eleven learners, referred to above, who eventually confirmed, after speaking to the parents of Enock Mpianzi, that Enock Mpianzi was definitely an attendee at the Nyati Camp.

It was only then, at approximately mid-day of the day following the water exercise, on Thursday 16 January 2020, that searches and emergency procedures were activated and the alarm was sounded.

Some time thereafter, during the course of the afternoon of Thursday 16 January 2020, the parents of Enock Mpianzi were informed that their child was missing.

It is found that Mr Meintjes was negligent, if not reckless and ultimately, Mr Williams, in not ensuring that a proper list of all Nyati Camp attendees from the School was present at Nyati. The list reflecting those that were present in the School hall (and according to Mr Meintjes, assumed to be the same number of learners who boarded the buses) was left by Mr Meintjes in a bus that returned to Johannesburg. The consequence being that on Wednesday, 15 January 2020, no one present at the Nyati Camp, had in their possession, an accurate register reflecting the precise number and details of the learners who arrived at the Camp. As such, although Mr Williams insistence that a roll call (the second roll call) be done after the river activity is acknowledged, it is our view that it was of limited utility because the register used during the second roll call was a 'master list' of learners who had been accepted for placement at the School. Mr Williams, as the person in a position of authority and bearing the responsibilities of the principal, neglected to enforce the necessary steps to accurately ascertain exactly who was at the Camp and, arising therefrom, if any learner was missing after the water activity.

It is found that the School should have supplied Nyati with a complete and accurate list of all Grade 8 learners who attended the Nyati Camp and a roll call should have been held on arrival at the Camp to confirm the names of all of those learners attending the Camp. Upon discovering the roll call list was in Johannesburg, a head count of all learners who disembarked from the buses at Nyati should have been done and this exercise should have been repeated at regular intervals to ensure that all learners were present at all times.

It is also found that when the learners were divided into fifteen groups at the commencement of the stretcher exercise and subsequent water exercise, the names of persons in each group should have been recorded, so that after each exercise, and particularly the water exercise, a roll call of each group could be held, in addition to the roll call of the entire group. The roll call

of each group should have been conducted by the facilitator allocated to each group as they were the persons responsible for those groups.

It is simply not acceptable for a camp to accept busloads of children not knowing who they are and then involving those learners in potentially hazardous exercises, including a water exercise involving rafting down a river with strong currents, and thereafter taking them out to sleep in the veld for the entire night without having a list of every single person in each group, and regularly confirming that they were present and not missing. It is found that Nyati in not ensuring that the above actions and procedures took place, was negligent and reckless.

The net result of the negligence and recklessness, referred to above, on the part of the School management, as well as Nyati management and facilitators, resulted in the search for Enock Mpianzi only commencing approximately some 18 hours after it should have commenced.

The actions of Mr Williams and Mr Meintjes, the coordinator of the Camp from the School, in simply assuming that the eleven learners who were identified as not being present when the roll call was conducted on Wednesday 15 January 2020 at 17h30, may not have attended the Camp and thereafter dispatching the learners to sleep out in the veld, were clearly wrong and negligent.

It is also found that the lack of provision of accurate roll call lists to Nyati reveals a lack of rigour in preparation and planning for the Nyati Camp.

5.2. THE LEVEL OF THE RIVER

5.2.1. Analysis

During the inspection *in loco* on Friday, 24 January 2020, Mr Knoetze was asked how high the river was on the afternoon of Wednesday 15 January 2020 when the water exercise had taken place. The response of Mr Knoetze was that the river was approximately one meter lower on the afternoon of Wednesday 15 January 2020 than it was on the day of the inspection *in loco*, namely 24 January 2020. When asked as to whether the sluice gates were open on 15 January 2020, he stated that they were not, but that the pipe which comes from Roodekoppies Dam was open and he referred to that as “the sluice”. He stated that the flow of water through the pipe could be adjusted.

A photograph of the river was taken on the day of the inspection *in loco* and is inserted on page 22, below titled “**LEVEL OF THE WATER 1**”.

A telephonic discussion was had with Mr Eddie van der Merwe (“**Mr van der Merwe**”), the dam controller of the Roodekoppies Dam (“**the dam**”). Mr Knoetze provided us with his contact details. According to Mr van der Merwe, the dam is situated on the Crocodile River, about 3-4 kms upstream from Nyati. The dam has 9 large gates (“**sluice gates**”) and two smaller pipes that flow into the Crocodile River. Mr van der Merwe explained that there are two factors that inform the decision to open the sluice gates: firstly, if the water level is critically high in the dam and secondly, the need for water downstream. Mr van der Merwe confirmed that the sluice gates had not been opened for some time before 15 January 2020 and were not open on 15 January 2020. He indicated that a pipe was open but that is not unusual, and it just allows for a consistent flow of water into the river. Mr van der Merwe said that having a pipe open does not dramatically change the level of the river. He confirmed that on Thursday, 16 January 2020, someone from Nyati came to his house, informed him that a search for a missing learner was underway and asked that everything be closed, so he closed the pipe.

The HNM Investigation Team was supplied with a photograph of the learners in the river during the water exercise on the afternoon of Wednesday, 15 January 2020, which was taken by an educator, Mr Reddy (“**LEVEL OF THE WATER 2**”, inserted on page 23 below). The photograph shows a group of learners clinging onto what appears to be a raft type structure being carried by the current past a pump from which a pipe extrudes into the water. The pipe has been circled by the HNM Team with an arrow pointing to it on the photograph titled **LEVEL OF THE WATER 2**. Within the circle, referred to above, there is a white mark on the pipe which appears to cover the circumference of the pipe.

A careful examination of the photograph taken on the day of the inspection *in loco*, 24 January 2020 (**LEVEL OF THE WATER 1**) reveals the same mark on the pipe, referred to above, and is circled on the photograph by the HNM Investigation Team.

The mark on the pipe in the two photographs taken on different days, namely 15 January 2020 on which day the water exercise took place and 24 January 2020, the day of the inspection *in loco*, reveals that there is not much difference in the location of the mark on the pipe in the two photographs and the level of the river on the day of the inspection *in loco* appears to be marginally higher, perhaps by one or two inches.

The distinctively shaped rocks on the riverbank surrounding the pump appear to be the same in both photographs (**LEVEL OF THE WATER 1 AND 2**). In other words, the river is at

approximately the same level in both photographs. If it were not, certain of the distinctively shaped rocks, in particular the large one marked with an X on both photographs (**LEVEL OF THE WATER 1 AND 2**), would be noticeably more submerged in the one photograph than the other.

The conclusion that can be drawn from an analysis of the two photographs is that the level of the river on the day of the inspection *in loco* (24 January 2020) is not that much different from the level of the river on the day that the water exercise took place (15 January 2020) and when the learners went down the river.

In the circumstances, it is found that the evidence of Mr Knoetze in relation to the level of the river, when he said it was a meter lower on the day of the water exercise, is incorrect and can be viewed as an attempt to mislead the HNM Investigation Team.

LEVEL OF THE WATER 1



LEVEL OF THE WATER 2



5.3. THE ISSUE OF SAFETY AND CARE OF LEARNERS DURING THE WATER EXERCISE: WEDNESDAY, 15 JANUARY 2020

Mr Knoetze stated, during the inspection *in loco* on 24 January 2020, that the route taken by the learners on the water exercise was to run to a promontory, approximately 25 meters from the riverbank along sand, and then run back through shallow water to dry land and then get to the finishing posts approximately 50 meters away.

Mr Knoetze stated that due to the fact that the river, in which there are currents, runs next to the shallow waters in which the learners were meant to run to return to land, he had stationed two facilitators along the line referred to as the red zone by the HNM Investigation Team, to ensure that the learners did not stray into the river with its currents and depth. Mr Knoetze later stated that there were five facilitators stationed between the shallow water and the river in order to stop the learners getting caught in the river.

When Mr Knoetze was questioned as to whether there had been sufficient control by Nyati over the river exercise, Mr Knoetze stated “*we can control them*”.

The issue of the route that the learners took when undertaking the water exercise will be dealt with in detail in section 5.4 below. It was however confirmed by the educators interviewed that the learner groups were instructed to enter the river and to proceed down the river to a point where they should then exit the river.

The version of the educators interviewed was that when they got down to the riverbank from the rugby fields, they saw the last two groups coming down the river. This is reinforced by Mr Williams who stated that the learner/s were coming down the river and that he saw learner/s in the river.

All the learners interviewed stated that they were told to enter the river and exit at a point downstream, where a facilitator would be waiting for them.

The version of the educators, Mr Williams and the learners interviewed, was that the learners were being rescued all along the riverbank and much further down the river than where the facilitator, marked F2 on the photograph titled ‘**Photograph 1**’ (on page 28) was situated, as they had been swept downstream.

It should also be noted that on the version of the learners interviewed, as well as the educators interviewed, there were not two facilitators, or five facilitators, as Mr Knoetze alleged in his

interview on 24 January 2020 stationed between the shallow water and the flowing river near the starting point of the water exercise.

5.3.1. Findings

It is found that the version given by Mr Knoetze in relation to the number and position of facilitators deployed to ensure the safety and control of the learners during the water exercise is false. The evidence given by interviewees confirms that the learners were instructed to enter the river and that there were no facilitators deployed to stop them from entering the river from the shallow water, as alleged by Mr Knoetze.

In view of the above, it is found that there were clearly insufficient controls to ensure the safety and care of the learners and testament to this fact is what took place when the learners entered the river. It is found that Nyati had no adequate safety precautions, if any. The facilitators deployed were too few, at least one could not swim, which, in conjunction with the fact that no life jackets were issued to the learners, constitutes reckless conduct on the part of Nyati. We find that there were insufficient safety, care and control measures in place to ensure that no learner would come to harm in any way. As such, we find that the conduct of Nyati was negligent and reckless.

The liability in this respect lies with Nyati.

In relation to the School educators who were there to see to the safety of the learners and their wellbeing, it is found that not being present at the commencement of the water exercise manifested negligence in the performance of their duties. In addition, by not stopping the water exercise when it was clear that there were inadequate controls and safety measures including a lack of facilitators at the river to ensure the safety, care and control of the learners, and no life jackets, it is found that they were negligent.

Ms Reynolds, Mr Reddy, Mr Kruger and Ms Mbuyisa confirmed in their interviews that after joining the learners on the rugby fields once they had started constructing their stretchers, they observed the stretcher race until the last groups were finishing up on the rugby fields. They then proceeded down a path to the riverbank. By the time they reached the riverbank, the children they observed in the water directly in front of them in the water (depicted in Photograph 2 on page 29) were part of the second last group to go down the river. In other words, 13 groups had already entered the water as part of the water exercise.

It is unfortunate that the educators did not see it as their duty to be present throughout the duration of the water exercise and that they only arrived at the stretcher exercise sometime after instructions had been given for the stretcher and water exercise. By the time they had walked down to the river, the water exercise had all but taken place.

When asked whether they thought the river current was strong or whether the river was deep, certain of the educators replied that they did not know. One educator was asked if the group which they were observing, coming down the river clinging to the rafts seemed to be in distress, he replied “*not at all*”. One educator was asked, towards the conclusion of the interview, whether looking at the photograph that was placed before him, (titled ‘**Photograph 2**’ on page 29 below), he saw any risk in what was happening to the learners in the river, he replied, “*it looked under control*”.

All the educators, with the exception of Mr de Jong and Mr Meintjes, witnessed the water activity taking place. It has been determined from their interviews that Ms Mbuyisa, Ms Reynolds, Mr Reddy and Mr Kruger arrived some time after the first group of learners had entered the river. Mr Ratala joined shortly after. On all accounts, the educators present at the river indicated that they did not witness any signs of distress, it did not occur to them that it was a problem that the learners were not wearing life jackets and they were not aware that a learner was missing during or after the water activity. In their capacity of *in loco parentis* (in the place of a parent), HNM is not satisfied that Ms Mbuyisa, Ms Reynolds, Mr Reddy, Mr Kruger and Mr Ratala discharged their duty to take all reasonable steps to protect the safety and wellbeing of the learners at Nyati.

Notwithstanding the presence of a number of Nyati facilitators, the educators ought to have split up, with some supervising the first group that went down the path to the river and others waiting for the last group to finish on the rugby fields. Despite several educators explaining that they could not have made an informed assessment as to whether the river was dangerous, it is expected that they are aware that water is a high-risk area, particularly in the circumstances of a large group of excited learners. HNM is not persuaded that the involvement of the facilitators discharges the educators of their roles and responsibilities associated with *in loco parentis* and accordingly, a degree of liability rests with them.

In terms of the Employment of Educator’s Act, educators may be disciplined if it is found that they conducted themselves in a manner that amounts to misconduct or serious misconduct. In this instance, the educators failed to reasonably discharge their roles and responsibilities, as such, they should be the subject of disciplinary proceedings.

When an educator was asked whether he thought that the learners should have worn life jackets he replied “no”. It would appear that the educators thought that because the exercise was under the control of the Nyati facilitators that they were therefore absolved of their duty to ensure the safety and wellbeing of the learners in their care. It is found that such an assumption was incorrect and reveals little, or no, understanding of their duties as educators at the Nyati Camp.

It is found that a number of groups were in distress, learners panicked and struggled in the river and had to be rescued by facilitators and School educators at various points along the river, some distance from where the exercise was meant to have ended.

It is found that issues were not “under control” as stated by certain educators interviewed, and that the conditions of the river, which should have been clearly apparent to the educators, had caused the “water exercise” to go clearly awry.

It is therefore found that the educators from the School, at the river, who observed the water exercise and who failed to ensure that there were adequate safety and control measures to ensure the safety of the learners in their care, are guilty of negligent conduct.

PHOTOGRAPH 1



PHOTOGRAPH 2



5.3.2. The School's Policy of Safety of Learners and Staff on Domestic Sports Tours

It is found that in relation to the care and safety of the learners on the Grade 8 Camp, the educators on the Camp, including the principal, Mr Williams, are bound to fulfill the role of *in loco parentis*. It is clear that the seven educators at the Camp, or eight in total, including Mr Williams, is insufficient for 202 learners and does not meet the educator-learner ratio stipulated in the School Policy of Safety of Learners and Staff on Domestic Sports Tours (“**PBHS Safety Policy**”) of 20 learners per staff member. Accordingly, it is found that this policy has been breached.

In relation to the stipulation in the PBHS Safety Policy that “*each staff member will take all reasonably practical steps to – ensure the safety of and supervise the activities of all learners at all times*”, it is found that the educators on the Camp (excluding Mr de Jong), including the Principal, Mr Williams, are in breach of this provision in that they did not supervise the water activity from beginning to end. In fact, the educators arrived at the river after thirteen of the fifteen groups had already, or were busy, undertaking the water exercise. On the version of the seven educators who were at the Camp who were interviewed, at the time they got down to the water exercise, they were only able to observe the last two groups going down the river. As such, it is found that those educators were in breach of the School Safety Policy.

It should also be noted that the PBHS Safety Policy, on the second page, states:

“No learner shall be permitted to participate in any activity which may be deemed dangerous or life-threatening which may result in undue loss of property or personal injury.”

This provision is under the heading “parent / learner requirements and responsibilities”, however it would appear to be a more general requirement which would apply to both the School and parent/learner requirements and responsibilities.

In the circumstances, giving consideration to the fact that no life jackets were provided to learners for the water activity and the other acts of negligence described in the different sections above and below, there is clear negligence on the part of Mr Williams and the educators who attended the Camp

5.4. THE ROUTE FOLLOWED BY THE LEARNERS DURING THE WATER EXERCISE ON WEDNESDAY 15 JANUARY 2020

5.4.1. Analysis

During the pointing out at the inspection *in loco* at Nyati on 24 January 2020, Mr Knoetze, in the presence of his attorney, Mr Eloff of Hurter Spies, stated that the teams of learners carried their stretchers over a dry river bed, on the right of the river bank, on 15 January 2020, to a promontory. They then ran back through shallow water to land and then ran on the sand to the finish line which comprised two pieces of wood stuck in the sand through which they had to pass. The route described by Mr Knoetze for the water exercise is marked in blue on the photograph titled '**Photograph 3**' on page 34.

Mr Knoetze stated, during the inspection *in loco*, that there were two facilitators stationed between the shallow water and the deep water of the river in order to prevent the learner groups from straying into the river. Mr Knoetze later stated during the interview with the HNM Investigation Team that there were five facilitators (marked as black dots on Photograph 3, on page 34) located in the area between the shallow water and the river to prevent teams from straying into the deeper part of the river which contained currents.

In addition, Mr Knoetze stated that the learners were repeatedly urged by the facilitators to keep left, which would be closer to the riverbank to ensure they remained in the shallow water. Mr Knoetze confirmed in his interview that during the course of the teams returning to the riverbank, through the shallow water, two groups of learners got caught in the current to the right of the shallow water (looking downstream), and they then panicked. He said this was as a result of the groups trying to overtake one another. He said there were approximately fourteen to fifteen learners in the two groups which got caught in the current of the river.

Mr Knoetze also stated that those learners who got caught in the current, namely the two groups, were swept downstream and were rescued by the facilitators. He said that he had been told by the facilitators that no learners passed the point in the river that is marked with a 'X' on Photograph 3, on page 34. He stated that, in the view of the facilitators, all the learners had been rescued and thereafter, the learners made their way back to the Nyati buildings from the river.

All of the learners interviewed confirmed that the route that they were instructed to follow was out into the shallow water, into the "red zone" and exit at a point downstream. None of the

learners mentioned being told to run on dry land to a promontory and then back through shallow water and then back on the sand to the two posts that Mr Knoetze indicated as being the finish line.

All of the learners interviewed stated that they went out into the river and had been swept downstream and that the large majority of the learners that took part in the river exercise in their groups emerged far downstream. The route followed by the learners is illustrated in red on the photograph on page 35 titled, '**Photograph 4**'. The furthest point at which some of the learners exited the river is marked with a red 'X' on the Google Maps Satellite image titled, '**Map 1**' on page 36.

The evidence of Mr Williams is that he walked downstream on the riverbank, some distance beyond F2 on Photograph 4 and that he started to involve himself in rescuing learners who had been stranded on an island and they numbered between eight and ten. There is also evidence from educators and learners that learners were swept much further downstream (as illustrated by the exit point of these learners marked on Map 1). Most of them were swept way beyond the point Mr Knoetze stated was in line with the finishing line (marked 'X' on Photograph 3 on page 34).

5.4.2. Finding

It is found that there is clear evidence that very few learners got out of the river where they should have, according to the version of Mr Knoetze, which was where the second facilitator, F2, was standing (illustrated on Photograph 1 and 4) and in line with the finishing line posts (marked 'X' on Photograph 3 on page 34). The river was too strong, and they got swept downstream, where the situation deteriorated dramatically.

When asked by the HNM Investigation Team if there was risk in the situation that he (Mr Williams) saw when he got to the point downstream (approximately marked on Photograph 4 on page 35 as W2), he stated that there was risk.

It is our finding that the version given by Mr Knoetze in the presence of his attorney, which version was recorded, is false and that the learners did not run to a promontory and then back through shallow water to the goal posts. All learners in their groups were told to get into the river, go downstream and then exit.

We are of the view that Mr Knoetze attempted to mislead the HNM Investigation Team by proffering a version which would minimise the liability of Nyati and would deceive the HNM Investigation Team.

Given what has taken place at Nyati Camp, including four previous deaths, and the fifth death of Enock Mpianzi, we find his misrepresentation and presentation of false evidence to be scandalous and offensive. It is found that Mr Knoetze lied to the HNM Investigation Team about the route that the water exercise followed in order to present a picture of a water exercise that was much safer than it actually was.

Furthermore, we find that Mr Knoetze lied in relation to the facilitators being placed between the shallow water and the deep water of the river. He also lied when he said no learner in the river went beyond a point marked with a red 'X' on Photograph 3 on page 34.

PHOTOGRAPH 3



PHOTOGRAPH 4



MAP 1



5.5. THE ISSUE OF LIFE JACKETS TO THE GRADE 8 LEARNERS FOR THE “WATER EXERCISE”: WEDNESDAY 15 JANUARY 2020

5.5.1. Analysis

An analysis of the print-out of the Nyati website makes no mention of safety precautions or safety procedures. What is noteworthy is that in relation to the pictures on the website of camp attendees participating in various exercises, there are photographs of what appear to be river exercises with camp attendees. On one page of the website print-out, there is a picture of a group of persons on tubes going down the river, which persons are clearly wearing life jackets. On the same page, there is a picture of persons clearly wearing life jackets about to enter the river on tubes. On the next page, there is a picture of individuals on tubes in the river, which individuals are not wearing life jackets.

It was stated in the evidence of Mr Williams that, at the preparatory meeting for the 2020 Grade 8 Camp held at the School on 28 October 2019, the issue of life jackets and water safety had been addressed. Mr Knoetze, in a written response dated 4 February to certain questions, sent by his attorney, Mr Daniel Eloff of Hurter Spies, stated that Mr Knoetze does not recall that the issue of water safety and life jackets had been raised at the preparatory meeting on 28 October 2019.

Mr Knoetze was asked, during the course of the inspection *in loco* at Nyati on 24 January 2020 as to whether life jackets had been issued to the learners for the water exercise, to which he replied that life jackets were only issued to those persons who were “tubing” down the river and that they were not issued for the water activity because it was meant to take place in shallow water.

When questioned as to how many life jackets Nyati had, Mr Knoetze stated that Nyati had twelve life jackets. This was re-emphasised by Mr Knoetze when a further question was asked in relation to why the river exercise took place without the pupils being given life jackets, he stated that Nyati keep life jackets for tubing, not the stretcher/rafting activity.

Mr Williams stated, during the course of his first interview, that when he got down to the river at approximately 16h30, there were two learners in the river, this was corrected to one learner in the river by Mr Williams in his second interview, and that the learner/s were not wearing life jackets. He stated that he immediately cancelled the water exercise. The versions of the various educators present at the Nyati Camp all confirmed that life jackets were not issued to

the learners for the water exercise. The photograph titled Photograph 2 on page 21 taken by the educator, Mr Reddy, of learners holding onto, or clinging to a raft in the river, confirm that they were not wearing life jackets.

In addition to the above, the learners interviewed confirmed that they undertook the water exercise without life jackets.

All parties interviewed confirmed that no life jackets were issued to the learners for the water exercise on 15 January 2020. The circumstances of the water exercise were that there were 202 learners from Grade 8 who were told to undertake a water exercise, which exercise involved building a make-shift stretcher which would be strapped onto tubes to form a 'raft' and then entering a river with strong currents and in which, on the version of the learners interviewed, they were not able to stand due to the depth of the water. The photograph of Mr Reddy confirms the strong currents as they are visible, as are the actions of the learners clinging to a raft which is being carried downstream and in which they are clearly not standing on the riverbed.

5.5.2. Finding

It is our finding that all of the learners who undertook the water exercise should have been issued with life jackets and the failure of Nyati to issue them with lifejackets was reckless in the extreme. It is found that the groups of learners who went down the river without life jackets were at risk of injury and indeed drowning, due to the nature and condition of the river. This is evidenced by the fact that the rafts of some groups disintegrated, and learners were swept down the river for some considerable distance. Many had to be rescued from an island further down the river, while others were carried beyond the island, close to an area near the hall (marked 'X' on Map 1 on page 30) where they were rescued by facilitators. Enock Mpianzi drowned and his body, on the version of Mr Knoetze, was found 1.8 kilometers downstream. What transpired in the water exercise should have been foreseen by Nyati.

The explanation given by Mr Knoetze that the learners were meant to stay in the shallow water and not go into the river and that life jackets are only issued for tubing is found to be callous and false. The fact of the matter is that learners were instructed to go down the river on tubes to which they had tied their stretchers. As such, they should clearly have been given life jackets. It is unfortunate that, even if the learners had qualified for life jackets, the Camp only had twelve life jackets.

Mr Knoetze made it clear that there had never been any intention to issue the learners with life jackets, in spite of the state of the river, including the currents and the depth of the river. It is unsurprising, in the circumstances, that many learners got into serious trouble on the river.

In respect of the issue of life jackets, the educators of the School who were present at the Camp (with the exception of Mr De Jong who was attending a lecture being given by Mr Lamprecht, a consulting psychologist and child safety and personal development specialist) were also negligent, if not reckless, in the performance of their duties. Mr Meintjes, who has confirmed that he was busy with other duties, arising from the Halaal food issues, should have ensured that in relation to the water exercise, all learners were issued with a life jacket (difficult when there were only 12), alternatively, he should have enquired as to the true nature of the water exercise which, if he had done so, would have placed him in a position to assess the level of risk, which was considerable, and he should then have cancelled the water activity.

The other educators who went down to the river only got to the river after thirteen groups had already entered the water and passed through the river downstream. The water exercise had, in large part, already been completed. Even then, the four educators at the river who witnessed the last two groups going down the river watched the learners in front of them without life jackets in a river in which conditions were clearly dangerous, without taking any steps to stop the exercise.

Ms Stacey Reynolds, at some point, made the comment to Mr Reddy and the other educators, *“do they know that not all the boys can swim?”*, at which point Mr Reddy considered that the point was well made and that he should go and raise the issue with the facilitator at the start of the water exercise. The fact of the matter is that by then it was already too late, the groups had already departed and were getting into serious trouble in the river.

It was left to Mr Williams, who later went down to the river at approximately 16h30, and on seeing the learners in the river without life jackets, immediately stopped the exercise. Sadly, it was too late.

It is found that the educators, when they got to the stretcher exercise and knew that the exercise would end in the river, as on the version of certain of the educators, they had seen “river swim” on the agenda for the camp, should have ensured that the learners were issued with life jackets. This action would have been impossible for all the learners as there were only twelve life jackets at Nyati. In such an event, they should have stopped the water exercise. In failing to stop the water exercise, it is found that the educators on the Camp did not fulfil their duty which was to ensure the safety of the learners in their care at the Camp.

The attitude of Mr Knoetze, the manager of Nyati is extremely problematic. We make this finding in view of the fact that there have been four deaths of learners at that camp since 1999. Given the tragic nature of those deaths involving water, whether in the swimming pool or in the river, it is to be expected that great care would have been exercised by Nyati. Its manager and the facilitators that it employed for the School Camp should have taken every precaution to ensure that no learner should come to harm at Nyati, given its tragic history. Enock Mpianzi is the fifth child to have drowned at Nyati Camp, a fact which we find shocking and disgraceful.

The actions of Nyati, its manager and its facilitators in simply allowing over 200 learners to enter into a river without life jackets in which the conditions were clearly risky and dangerous, is outrageous and reckless. This is particularly so, given Nyati's fatal history.

5.6. THE ISSUE OF WHETHER AUTHORISATION HAD BEEN GRANTED BY THE GDE FOR THE NYATI CAMP IN JANUARY 2020

5.6.1. Analysis

It was confirmed by Mr Williams that the School did not get permission from the GDE for the Grade 8 Camp to take place. When asked what steps the School had taken when they did not get the requisite permission from GDE, Mr Williams stated "*I had thought that the permission had been granted because I was informed that the paperwork was in order*".

Mr Meintjes confirmed in his evidence that an application had been made to the District, which application was signed by himself and was dated 12 November 2019. In the letter of Mr Meintjes dated 12 November 2019, there is a paragraph that states, "*We do apologise for the late application for approval and trust you will approve for our boys to attend this incredibly important development phase.*"

There were many factors that hindered our process in organising this camp and submitting the required documentation on time, including the sudden unavailability of our previous venue despite agreements that we could take our boys there at the beginning of the 2020 academic year. It has unfortunately taken us longer than anticipated to confirm numbers and establish pricing for next year. Kindly note that the school takes full responsibility for being unable to adhere to the GDE's time frames with regard to the submission of documents".

Mr Meintjes stated that he had heard that many applications from schools in Gauteng for approval by the GDE do not get properly processed by the relevant district and that may have been why he did not follow up on the authorisation.

In a telephonic interview with the District Director, Ms Shirley Molobi, she confirmed that the normal process in the District for which she is responsible and in respect of which the School falls, is the following:

- The school submits applications to interns at the district office;
- The interns check the application in the presence of the person submitting the application and the person submitting has to fill in their details in a book; specifically, name, date, school, destination and signature;
- The intern receiving the application will also sign the book indicating receipt of the application;
- The school usually comes with their own log book which the district would sign, as proof that the application has been submitted;
- Thereafter, the application is placed in a box and will be captured on the system by the interns/ Ms Christina Sedibeng (“**Ms Sedibeng**”);
- Ms Sedibeng will also check the application and submit it to her immediate supervisor, Ms Linda Mtete (“**Ms Mtete**”);
- Ms Mtete will also conduct her checks and route the application to the District Director;
- If it is a school trip to another province, the District Director will send the application to the relevant Chief Director at GDE head office;
- The Chief Director will route the application to the relevant delegated DDG;
- The application will be returned to the district office, and using the district mail, the application will be sent back to the school – it will indicate whether the trip was approved / not approved and the reasons. (Note: In some instances, schools collect the application with the outcome from the district office).

In a telephonic interview with Ms Sedibeng, a District official, she stated that the records at the District Office show that the School submitted two applications on the 19th of November

2019 and the person who signed the book from the School only wrote “MA”, the one application was for Nyati and the other for a trip to Bloemfontein. She stated that the records do not contain any signature of any interns from the District office and it is not clear who accepted receipt of the applications. She confirmed that she was not around in November 2019, when the application was received.

Ms Sedibeng stated that, after the incident involving the death of Enock Mpianzi occurred, on 17 January 2020, the District staff checked the applications on the system, and saw that they were not captured and did not go through the normal process, set out above. She, thereafter, instructed the interns to search for the applications and they were found in the desk in the office of one of the interns.

An analysis of the application of the School reveals a number of annexures which are part of the GDE documentation which should be filled in by the School in terms of their application to the GDE for tour approval. The different details appear to be sufficiently completed and it is signed by Mr Williams, the Principal, as well as by the School Governing Body (SGB) Chairperson, Mr Pooley. Their signatures are undated. The section dealing with approval / recommendation which is due to be filled in by GDE is blank.

5.6.2. Findings

It is found that the appropriate authorisation necessary for the School to conduct the Grade 8 Orientation Camp at Nyati was not granted by the GDE. As such, the Camp should not have taken place until the matter had been resolved and/or approval obtained from the GDE.

Ms Molobi stated in her interview that normal practice, if a late application is made for a school camp, is that there is an interchange between the GDE and the School and, where appropriate, permission may still be granted after the circumstances have been properly explained and issues addressed.

The interchange, referred to above, by Ms Molobi did not take place between the GDE and the School. It appears that the school simply proceeded to hold the Camp contrary to the required approval and authorisation processes of the GDE.

It is also clear that the permission of the School to take the Grade 8 learners of the School to Nyati was incompetently handled by the relevant District staff, namely the persons responsible for handling the application form, in that we were informed by Ms Sedibeng during her

interview that after the tragic death of Enock Mpianzi, they had searched for the application form of the School and found it lying in a desk in the intern's office.

In view of the above, it is recommended that the persons responsible for the handling of application processes, which handling resulted in the School's application not being properly addressed and being incompetently handled, should be the subject of disciplinary action in relation to their negligent conduct.

The non-performance of the relevant District personnel who handled the application process of the School, does not excuse the conduct of the School, and particularly Mr Meintjes, in simply proceeding with the Nyati Grade 8 Camp without the necessary and appropriate authorisation from the GDE. At the very least, he should have taken action to interact with the relevant GDE officials and the District to ensure that the authorisation was granted or, indeed, have interacted with officials at a more senior level in the GDE in order to address the application of the School.

It is found that, as the Principal, Mr Williams is the person ultimately responsible and who signed the authorisation form. He was negligent in not ensuring that the proper authorisation was granted before the School undertook the Grade 8 Orientation Camp at Nyati. It is found further that the SGB is jointly responsible in relation to the Camp taking place without the requisite authorisation.

Similarly, we find the conduct of Mr Meintjes to be negligent in not taking the appropriate action to ensure that proper authorisation for the Camp was obtained from the GDE.

5.7. PREVIOUS DEATHS AT NYATI BUSH AND RIVERBREAK

On 24th January 2020, in the presence of Mr Eloff, the question was put to Mr Knoetze if there had been a previous death of a learner at Nyati. Mr Knoetze stated that there was an incident in 2008, and that a child had drowned in the swimming pool. He informed the HNM Investigation Team that he was not the manager of Nyati at the time of the incident. Mr Eloff indicated that Mr Knoetze's father had more details regarding the death of this learner and undertook to provide the HNM Investigation Team with a statement in this regard. This statement was not provided to the HNM Team.

On 26th January 2020, it was brought to the attention of the HNM Investigation Team in an article in *The Sunday Times*, entitled “*Schools urged to tighten policies after deaths*” that there were allegations of previous deaths of learners at Nyati.

In a letter dated 3 February 2020, addressed to Mr Eloff, the HNM Team requested, amongst other things, a statement in relation to allegations of previous deaths of learners at Nyati, as it had been alleged that:

“In 1999, Portia Sowela drowned in the river at Nyati;

In 2002, Thuso Moalusi drowned in the river at Nyati;

In 2009, Thumi Mokomane drowned in the swimming pool at Nyati; and

In 2010, Mellony Sias drowned in the river at Nyati.”

In his response to the HNM Investigation Team, dated 4 February 2020, Mr Eloff wrote that “*All of the listed incidents involved activities that were outside of the scheduled program of the visiting groups. Moreover, in all of the listed incidents the police conducted thorough investigations and found that no party was criminally liable.*”

It must be noted that HNM and the GDE never requested information and / or documentation from Adamantia High School in relation to the death of Mellony Sias, as the school is located in Kimberley, which falls outside the jurisdiction of the GDE’s authority. It was reported in the Sunday Times article that Mellony Sias drowned in the Crocodile River at Nyati, in 2010. It is alleged that her tube capsized in the river and she was swept away by the current. The article further states that her body was found 10km downstream from Nyati by a farmer.

5.7.1. The death of Thuso Moalusi

On 4 February 2020, HNM sent a letter to the principal of Malvern High School, Mr Ronald Nyathi (“**Mr Nyathi**”) requesting, amongst other things, the following information and / or documentation in relation to the death of Thuso Moalusi:

“4.1 Was an investigation conducted into the death of Thuso Moalusi?”

4.2 Was the death of Thuso Moalusi reported to the Department?

4.3 Was the death of Thuso Moalusi communicated to parents of the school?”

Mr Nyathi responded in a letter dated 6 February 2020. In this letter, Mr Nyathi confirmed that Thuso Moalusi had drowned at Nyati in 2002. He stated, amongst other things, that he was not the principal at the time of the death of Thuso Moalusi and that the acting principal at the time, Ms Razia Ghanchi, no longer served at the school. He further stated that the School Management Team (“**SMT**”) and the SGB which were working at the school at the time of the incident, no longer served at the school. He stated:

“...Ms.Ghanchi, can share some more light into the incident particularly confirming whether there was any investigation conducted and/or whether the death of Thuso Moalusi was reported to the department.”

Mr Nyathi further confirmed the following:

“That we can confirm however, that the death of the learner was not formally communicated to the parents of the School, i.e. there was no Parents meeting convened to communicate this tragedy or a formal newsletter to Parents informing them about the death.”

On 6 February 2020, the HNM Investigative Team also conducted an interview with Mr Zithulele Tshomela (“**Mr Tshomela**”), a past learner at Malvern High School who had attended the same camp as Thuso Moalusi in 2002, for the purposes of providing information regarding the death of his friend on that camp.

Mr Tshomela confirmed that, in or around March 2002, the Grade 10 students from Malvern High School attended a camp at Nyati.

Mr Tshomela stated that on the day before the students were supposed to return back to school, the facilitators and / or teachers had arranged an activity for that day, known as “The Marathon”. Mr Tshomela stated that this activity, in which all learners partook, comprised of various activities which commenced with a run through a dense area of mud, an obstacle course, a swim in the dam and concluded with a zip-line slide into the river.

Mr Tshomela stated that the students were not informed about any safety procedures nor were they provided with life jackets. Mr Tshomela stated that when the students reached the last activity by the river, they were provided with rubber tyres.

According to Mr Tshomela, Thuso Moalusi was in first place, until he reached the dam.

At the dam, a teacher, Ms Boshoff, had been tasked with supervising this stage of the activity. He stated that when Thuso Moalusi and another student, Siphon, reached the dam they

complained to Ms Boshoff that the water in the dam was too deep and that they were struggling to swim. Mr Tshomela was asked what was Ms Boshoff's response to this situation. He stated: *"she said [Ms Boshoff] that they must continue and go right round the roots [algae]."*

Mr Tshomela stated that, thereafter, he and another student swam past Thuso Moalusi and Siphoh, and continued to swim around the reeds to exit the dam. He stated that, when he passed Thuso Moalusi in the dam, he noticed that he was clearly struggling to swim.

Mr Tshomela stated that Siphoh tried to assist Thuso Moalusi as he appeared to be drowning, but he was unable to, as Thuso Moalusi attempted to latch onto Siphoh and force him under the water. As a result, Siphoh was forced to leave Thuso Moalusi to drown. When asked if Ms Boshoff attempted to rescue Thuso Moalusi, he stated that *"she never went into the water."*

Mr Tshomela stated that Thuso Moalusi was taken out of the dam by one of the camp facilitators who attempted cardio-pulmonary resuscitation but was unsuccessful.

Mr Tshomela was asked whether after Thuso Moalusi's death he had heard about any investigations or criminal charges into the death of Thuso Moalusi, and he replied that he was never informed about any investigation or criminal charges lodged in relation to Thuso Moalusi's death.

5.7.2. The death of Tumi Mokomane

On 4 February 2020 the GDE sent a letter to the principal of Laerskool Welgedag, Ms Sithole, requesting, amongst other things, the following information and/or documentation in relation to the death of Tumi Mokomane:

"4.1 Was an investigation conducted into the death of Tumi Mokomane?"

4.2 Was the death of Tumi Mokomane reported to the Department?"

4.3 Was the death of Tumi Mokomane communicated to parents of the school?"

Ms Sithole responded in a letter dated 5 February 2020. In this letter, Ms Sithole confirmed that Tumi Mokomane had drowned at the camp. Ms Sithole stated, amongst other things, the following:

"The drowning that lead to the death of Tumi Mokomane was firstly reported verbally to the District office by the Principal of Laerskool Welgedag Primary and shortly followed by a written

report as instructed by the then IDSO, Mr. V. Madonsela, and his supervisor, the late Mr.E. Nkosi.”

Ms Sithole further stated the following:

“4.3.1. I, as the school Principal, having driven the family to the mortuary to view the corpse, was told by the Police in Brits that the matter was under investigation, to date we have not received any feedback for them.

4.3.2. No educators from Laerskool Welgedag Primary who had accompanied the learners to the camp, were disciplined in relation to the incident, same for the principal of the above said school.”

Ms Sithole further stated that she was unable to provide any hardcopy documents relating to this incident as they were allegedly stolen from the school’s ‘strong room’.

5.7.3. The death of Portia Sowela

On 4 February 2020, HNM sent a letter to the principal of Northview High School, Mr Brian Downey, requesting, amongst other things, the following information and / or documentation in relation to the death of Portia Sowela:

“4.1 Was an investigation conducted into the death of Portia Sowela?

4.2 Was the death of Portia Sowela reported to the Department?

4.3 Was the death of Portia Sowela communicated to parents of the school?”

We did not receive any response from Northview High School in this regard. The GDE also made an effort to obtain answers from Northview High School however its attempts were unsuccessful.

5.7.4. Analysis of the evidence

When the HNM Investigation Team was alerted to the allegations that there had been four previous deaths of learners at Nyati, they requested Mr Knoetze’s attorney to obtain a statement from Nyati in relation to these alleged deaths.

Mr Knoetze's attorney stated that the previous deaths of the learners at Nyati occurred "*outside of the scheduled program of the visiting groups.*" He further stated that "*in all of the listed incidents, the police conducted thorough investigations*" and that no party had been found to be criminally liable. These two statements read together confirm that the previous deaths of learners, referred to above, at Nyati, did in fact occur.

Mr Nyathi's version further confirmed the death of Thuso Moalusi at Nyati in 2002; however, he was unable to provide any substantive details surrounding the circumstances which led to his death as he was not the principal of the school at the time of the incident, and the principal, the SMT and the SGB present at the time of the incident, no longer serve at the school.

Mr Tshomela's evidence stands in stark contrast to the version proffered by Mr Knoetze, as Mr Tshomela's recollection of the events which transpired at Nyati in 2002 indicates that the death of Thuso Moalusi was a direct result of his involvement in an activity planned by the teachers and / or camp facilitators. He further stated that he was unaware of any criminal investigations into the death of Thuso Moalusi. In this regard, two conflicting versions have been presented and further investigation would be required to assess each parties' version.

On the version of Ms Sithole, the police are currently conducting an investigation into the death of Tumi Mokomane, and she has not received any information from the police regarding the criminal liability of any individual in relation to the death of Tumi Mokomane.

The HNM Investigative Team was not provided with any evidence from Northview High School in relation to the death of Portia Sowela.

5.7.5. Findings

It must be noted from the outset that, despite request, the HNM Investigation Team was not provided with any details from the schools in relation to the circumstances surrounding the activities which led to the previous deaths of learners at Nyati. If any further evidence should come to light in this regard, HNM will supplement its findings and recommendations accordingly.

It is found that the version given by Mr Knoetze's attorney, Mr Eloff, in his letter dated 4 February 2020, confirms that the allegation of previous deaths of learners at Nyati is substantiated.

In respect of the submission by Mr Knoetze's attorney that the previous deaths at Nyati occurred outside a scheduled program, we are of the view that this claim requires further investigation, as the HNM Investigative Team only received the evidence of Mr Tshomela in relation to circumstances surrounding the death of Thuso Moalusi. However, it must be noted that the evidence of Mr Tshomela, on the face of it, challenges the assertion by Mr Eloff that the four previous deaths occurred outside a scheduled programme.

It is recommended that further investigation take place into the previous deaths at Nyati, namely the deaths of Portia Sowela, Thuso Moalusi, Tumi Mokomane and Mellony Sias, in order to ascertain the exact progress of the police investigations into the aforementioned deaths, and whether in the circumstances any liability for those deaths can be attributed to Nyati or any other individuals, including educators from the affected schools.

5.8. THE SCHOOL LEGACY AND ISSUES ARISING THEREFROM

In 2018, HNM was instructed by the GDE to conduct an investigation into the allegations made against the School and review reports by Fasken Martineau dealing with similar issues ("**2018 Investigation**"). The report, which was submitted to our client, the GDE, on or about 15 August 2018 ("**2018 Investigation Report**"), contained several findings and recommendations that required action from a variety of stakeholders.

HNM is of the view that the nature of the allegations, in response to which the GDE commissioned the 2018 Investigation, and the allegations and circumstances of this investigation are quite distinct. Notwithstanding this fact, there are recommendations and findings made in the 2018 Investigation Report, that HNM deemed relevant for this investigation.

Much like the drowning of Enock Mpianzi which is the subject of this investigation, the allegations that led to the 2018 investigation attracted an immense amount of media attention, accompanied by much speculation and tainting of the reputation of the School. Having endured this volatile time, it is expected that moving forward, the SGB and SMT would act proactively to ensure that the School regains the trust of its community and repairs its reputation in the public eye.

It is the view of HNM that this expectation should manifest in the SGB and SMT feeling a heightened sense of responsibility towards the School, its learners and the parents and in addition to implementing the recommendations set out in the 2018 Investigation Report, every

possible measure should have been put in place to ensure that the health, safety and security of every learner was not compromised in the way it had been in the past.

Two aspects of HNM's 2018 Investigation Report are of significance:

First, in respect of the Grade 8 Camp, HNM was informed that it had been discontinued and commended this measure in its report (p 72; p 27 of the Executive Summary).

Secondly, serious concern was raised in relation to the lack of supervision of learners by educators on camps. The practice of educators staying some kilometers away and leaving the Grade 8 learners in the care of the prefects was identified as cause for grave concern and in HNM's view, raised serious questions regarding their fiduciary responsibility to protect the minors in their care.

According to Mr Meintjes, he has attended the Grade 8 Camp for the past seven years. He made no mention of the discontinuation of this camp. Similarly, Ms Reynolds made reference to attending the Grade 8 and 9 camps in 2019. The only conclusion to be drawn from this is that the Grade 8 camp was not in fact discontinued even if it was the School's intention to do so.

In respect of the finding of inadequate supervision at Grade 8 camps, the fact that the educators arrived at the water activity once it was well underway, demonstrates little improvement. Furthermore, the fact that the educators who were present at the water activity consistently told HNM that they would not have been able to assess the safety of the river prior to the learners getting in and once they were there, and they did not notice any signs of distress, attests to their inexperience and lack of judgment.

HNM is of the view that, in these two respects, the School overlooked the recommendations and findings made in the 2018 Investigation Report.

As set out above, the participation of the Grade 8 learners in the water activity at Nyati on 15 January 2020, exposed the boys to foreseeable danger thereby compromising their safety and security. Moreover, the tardy response thereto demonstrates a lack of appreciation for the danger they were exposed to, even in hindsight.

In the light of the above, the SGB had an obligation to ensure that all safety measures were in place for this Camp, including the presence of experienced educators and an assurance from them that they would be present for all activities for the duration of the Camp and enforce

standard safety protocols, such as the use of life jackets in the water. The SMT had an even greater obligation to do so, due to their direct involvement in the planning of the Camp.

5.8.1. Finding

It is our finding that the SGB and SMT failed to give serious consideration to the findings and recommendations contained in the 2018 Investigation Report (which are the same findings and recommendations contained in the executive summary of that report). Accordingly, the SGB and SMT are found to have contravened the requirement to ensure adequate supervision of the Grade 8 Camp, arising from their responsibility to respond to the School's legacy and also enforce the provisions of the PBHS Safety Policy.

5.9. ISSUE OF A LEARNER NOTIFYING CAMP EDUCATORS OR FACILITATORS OF DISSAPEARANCE OF ENOCK MPIANZI AFTER THE WATER EXERCISE AND MEAL PROVIDED TO THE BOYS

In the days following the drowning of Enock Mpianzi, there were three noteworthy stories that made it into the media: a series of tweets by someone with the Twitter handle '@Zoe99539253', a radio interview with a learner who attended the Camp aired on Radio 702 and an article published by Eyewitness News quoting the Grade 8 learner's interview.

It was alleged by the learner, whose identity was protected by a "voiceover" artist, in the interview that was aired on 702, that he told a friend that he was worried that he had not seen Enock since the river activity and they then approached a camp facilitator to tell him that Enock was missing. According to this learner, the facilitator was rude and dismissed him and his friend.

@Zoe99539253 ("Zoe"), whose identity is unknown, appears to have tweeted in the past about allegations against the School. In relation to the drowning of Enock Mpianzi, Zoe published a series of tweets titled 'The Bare Bones' in 11 parts. The Bare Bones Part 7 reads "*Wed 15/1 We tell Mr William's that a boy is missing. They take a roll call. There are about 10 boys who aren't there, all of them except Encock did not come to camp. We tell Mr William's we saw the river sweep Enock away*", Zoe continues, in Part 8, "*Wed 15/1 They knew immediately that a boy had been swept away by the river. They tell us we have 2 min to get changed for the hike, we sleep in the bushes. Prefects & facilitators only, no teachers.*" (sic).

The re-occurring allegation, extracted from Zoe's tweets, the interview on 702 and the publication thereof by Eyewitness News, that Enock was reported missing by a learner/s to a facilitator only for the report of his disappearance to be dismissed, warranted investigation.

HNM made contact with an extensive number of parents or guardians of learners, telephonically, via email and SMS. Many parents or guardians did not answer our calls at all or respond to our communications addressed to them. Certain parents and/or guardians indicated their willingness to cooperate, however did not consent to their son being interviewed by HNM due to the trauma suffered at the Nyati Camp; HNM was given an indication by some of these parents that, at a later stage, they may consent to an interview with their sons.

HNM contacted the parents of one learner early on in the investigation and they too indicated their willingness to assist with the investigation. Over the phone, these parents also confirmed that their son had spoken to the media about his experience at the Camp. Accordingly, HNM was very interested in conducting an interview with their son and made several attempts to arrange same. HNM set out, in writing, the conditions under which all the interviews were being conducted. The following undertakings were made to all parents/guardians of interviewee learners:

1. The investigation team completely respects the fact that the learners have endured a traumatic experience and would not like to take any action that may jeopardise the wellbeing of any of the learners. As such, the proceedings would be conducted sensitively.
2. The interviewee learners' identity would remain confidential – neither reference to his name nor any other identifying characteristics would be made in the investigation report, should any parts of his testimony be included. Furthermore, the learner's parent/s or guardians and/or counsellors were welcome to be present during the interviews.
3. Due to the importance of the learners' testimony and considering the time constraints, notwithstanding the trauma suffered, HNM sought to interview learners before 7 February 2020.

Despite these assurances, the parents of this learner never contacted HNM again.

HNM can confirm that it was not approached by the parents or guardians of any other learners who indicated that they had gone to the media.

It should be noted that the versions reported in the media, that allege that Enock's disappearance was reported to a facilitator and/or educator and Mr Williams, were not corroborated by the learners interviewed, including those who were in Enock's group. One interviewee learner stated that during the roll call he remembers some of the boys in his group approaching a teacher or facilitator to inform them that someone was missing. Moments later in the interview, he stated that he was talking to his friends at the time and cannot remember exactly what the boys said, what the facilitator or educator looked like and what their response was.

Accordingly, HNM cannot confirm the allegations that a facilitator and/or educator ignored reports of Enock's disappearance on Wednesday, 15 January 2020. In the event that more information comes to light and we appeal for learners, parents and other members of the school community to do so, we will supplement this report at a later stage.

In his interview on 702, the learner, referred to above, also made reference to the fact that on the bush sleep out, the boys were only given chicken feet for dinner that night. All learners interviewed as part of this investigation confirmed that they were given chicken feet to cook on a fire that was made as part of an exercise and thereafter, a main meal prepared by Nyati was provided to all the boys. HNM therefore concludes that the allegation that the boys only ate chicken feet for dinner on Wednesday, 15 January 2020, is unfounded.

5.10. THE MPIANZI FAMILY

Anto Mpianzi, the mother of Enock Mpianzi and Mr Guy Intamba, the father of Enock Mpianzi were interviewed by the HNM Investigation Team. In addition to Ms Mpianzi and Mr Intamba, a number of other close relatives were also interviewed as part of the same process. These persons were as follows:

1. Mr Lokoto Kodiemoka ("**Mr Kodiemoka**");
2. Mrs Kodiemoka ("**Mrs Kodiemoka**");
3. Mr Kimwangana Salamawu ("**Mr Salamawu**")

Mr Intamba stated that in late November 2019 he had received a call from the School to say that his son had been admitted to Grade 8 at the School. He stated that, thereafter, he went to the School where he was given a letter confirming the admission of his son, Enock Mpianzi, to the School and some other documentation. He was also told that there would be a Grade

8 Camp on 15 January 2020 and that it was expected that his son, Enock Mpianzi, would attend the Camp.

Mr Intamba stated that on 15 January 2020 he and his wife and Enock's elder brother took Enock to the School and that they arrived at the School at approximately 07h00.

He stated that they were all present at the roll call which was held in the School hall and when Enock's name was called, he answered. Mr Mpianzi said that he had paid for Enock to go on the Grade 8 Camp on 14 January 2020 and that they had also given authorisation for Enock to go on the Camp. Mr Intamba stated that after the School assembly, he and his family walked Enock to the school bus where he put Enock's bag in the trailer and then placed him on the bus.

Mr Intamba stated that he next heard from the School on Thursday, 16 January 2020, at approximately 10h00 when he received a phone call from the reception at the School and they asked him whether Enock had gone on the Camp. He told them that Enock had gone on the Camp and that he had personally put him on the bus. He stated that the response was "*okay fine, if we don't call you back, it means everything is okay.*"

At approximately 16h00 on that same day, Thursday 16 January 2020, Mr Intamba received a call from Mr Williams who was at the Camp and Mr Williams asked him if he was with Enock. Mr Intamba replied with words to the effect of, "*no, that he was not with Enock as Enock was at the Camp*". He was then told by Mr Williams that Enock was missing.

Mr Intamba stated that when he was told this, he did not feel well and he gave the phone to Mr Salamawu who was standing close to him. He told Mr Salamawu to speak to the person on the other end of the phone as he did not understand what he was being told.

Thereafter, Mr Intamba called his wife, Ms Mpianzi and told her that he had received a second phonecall and had been told that Enock was missing and that they should go to the School. He stated that he then went to the School with his younger brother, Fabian Nyenge, and his wife Brigitte Nyenge.

Mr Intamba stated that other persons who accompanied them to the School were Mr Salamawu, Mrs Kodiemoka and Mr Kodiemoka and Ellie Kodiemoka, who is a cousin. Also present was Deborah Kodiemoka. He stated that after being at the School for a period of time certain of them had left for the camp in a small bus with two educators from the School, one male and one female.

Mr Intamba stated that they arrived at Nyati at approximately 21h00 to 22h00 on Thursday night, 16 January 2020, and that when they arrived they were greeted by a group of people. He stated that there was also a police van and policemen present. The family and relatives were taken into a room where a meeting was held and various introductions were made. Mr Kodiemoka stated that he asked the principal, Mr Williams, what had happened and when Enock had gone missing and Mr Williams had said that he did not know and that they had been searching the river.

Thereafter three policemen came into the meeting, including one captain as well as the "President" of the SGB and a pastor with a bible.

Mr Kodiemoka stated that the SAPS told them that "the child" had gone missing and they had started to search but that the darkness had stopped them.

Mr Kodiemoka asked those present which activities Enock had been involved in and they said there had been one activity in the river and then another one in the bush on Wednesday night, 15 January 2020.

During the meeting, Mr Williams confirmed that a learner had told him, during the course of Thursday 16 January 2020, that Enock had been on the camp and that he had sat with him at lunch on Wednesday 15 January 2020. Mr Williams stated that they had then shown a picture of Enock to the learner and the learner had confirmed that the person in the picture was Enock.

Mr Kodiemoka suggested that a picture of Enock be placed on social media and Mr Intamba then sent a picture of Enock to an educator who placed it on social media.

Thereafter, the pastor spoke for a short while and then they went to a tearoom where they were served with tea and refreshments. While taking refreshments, one of the family members present asked if someone could take their blood pressure, after which a nurse arrived and took the blood pressure of the family members.

Mr Kodiemoka stated that he had asked Mr Williams if he had seen Enock after the water activity, to which Mr Williams replied that he could not tell him more. He asked Mr Williams if he had gone with Enock to sleep in the bush and he said that he could not tell them more.

Mr Intamba had then asked for Enock's bag. He stated that it was brought to them and he opened the bag and said that as the first activity had been in water, and Enock had undertaken the activity, there should have been wet shorts in the bag, but there were not. He also stated

there was a blanket and pillow in the bag and that he would have used those to sleep in the bush. Mr Williams replied that he could not tell them more.

The family then retired to the bungalows for the night.

At approximately 07h30, the next morning, Friday 17 January 2020, MEC Lesufi arrived and introduced himself to the family.

Thereafter, Mr Intamba stated that he had gone for a walk with a family member and they had come across the learners moving towards the buses to go back to Johannesburg. He stated that he saw a learner who Enock had pointed out to him early on Wednesday morning, 15 January 2020, close to the buses that were leaving for the Camp, and that Enock had stated that this boy was his friend.

Mr Intamba spoke to the boy who seemed very shocked. Mr Intamba asked him if he had seen Enock and he said yes. Mr Intamba asked the boy if Enock had come back with them after the water activity, to which the learner replied "no". Mr Intamba then left the learner and walked back to his family.

Ms Mpianzi confirmed what Mr Intamba had stated and that when she had received the call in the afternoon on Thursday 16 January from Mr Intamba telling her that Enock was missing she began shaking and started to pray. She stated that she had gone to the School where she found that the "office" was closed, but she had found someone in the library and after telling that person who she was, the man went away and came back and told her that the office was closed. He gave her the number of the person in charge of the Camp. Ms Mpianzi stated that at approximately 16h00 she phoned the number that she had been given and that the person on the other end of the line was Mr Williams. She introduced herself as Enock's mother and asked him what was going on. He said to her "*Yes, Enock is missing, but we are searching for him*". Mr Williams told Ms Mpianzi that the School would provide transport for them to come to the Camp and that if he had any further information he would call her.

Ms Mpianzi stated that they then left the School for the camp at approximately 17h30 in the company of two educators and that when they arrived at the camp, Mr Williams had approached her and introduced himself. She said that he had said to her "*my condolences*", but that she did not really register what he said as she was hoping that Enock would still be found alive.

Ms Mpianzi said that the next morning, Friday 17 January 2020, they went to the river and saw the level of the river, and that it was high.

Mr Kodiemoka stated that on the morning of Friday 17 January 2020 they had gone down to the river and seen that the water level was high. He stated that they proceeded down the river with the SAPS and that, while doing so, he was shouting for Enock. At approximately 10h00, the SAPS said that they were declaring the area a crime scene and that all family members should leave. The family then went back to the Camp reception and at about 12h00 MEC Lesufi came to them and said that a camera had spotted something in the water. He stated that at that point, everyone started crying.

Fifteen minutes later MEC Lesufi returned and said to the family that they had received confirmation that they had found a human body.

The family was placed in a small bus which drove across the veld to a spot near the river where they saw a mortuary services van as well as SAPS cars. Mr Kodiemoka stated that there was a body in a body bag and that he went to the body bag and identified the body as being that of Enock Mpianzi. He stated that the colour of the body appeared normal except for some clotted blood from the nose. He stated that Ms Mpianzi rushed up and demanded to see the body, and that she saw Enock.

He stated that they then left and went back to the bus where they found the mortuary van and personnel who stated that they were going to the Brits Mortuary and that the family should follow them to the mortuary. The family went to the Brits Mortuary and Mr Salamawu went into the mortuary, identified the body of Enock Mpianzi and completed the necessary formalities.

The family was asked if they felt that they had been given the necessary support by the School after the tragedy, to which they replied that they did not feel they had been given the necessary support.

The family stated they received offers of support for the funeral, as well as support in making arrangements for the funeral, by the District of the GDE, however the family had refused some of those offers.

6. RECOMMENDATIONS

Due to the fact that findings have been made in each section of this report concerning the preparation for the Camp as well as the conduct of the Camp, it is not intended to repeat these findings again.

6.1. THE PRINCIPAL, MR WILLIAMS

In relation to Mr Williams, he is found to be negligent in the following areas:

1. The issue of roll calls and the accuracy of the roll call lists relating to camp attendees.
2. The issue of safety and care of learners during the water exercise.
3. The issue of life jackets for the Grade 8 learners.
4. The issue of authorisation for the Camp.
5. Overall responsibility for the wellbeing and safety of learners on the Camp.

Mr Williams' conduct is also found to be in breach of Regulation 8 the Safety Regulations and PBHS Safety Policy.

Accordingly, it is recommended that Mr Williams be the subject of disciplinary proceedings in accordance with the Employment of Educators Act.

6.2. THE EDUCATORS

In relation to Ms Reynolds, Mr Reddy, Mr Kruger, Ms Mbuyisa and Mr Ratala, they are found to be negligent in the following areas:

1. The issue of safety and care of learners during the water exercise.
2. The issue of life jackets for Grade 8 learners.
3. Lack of control over the learners.

Mr Meintjes is found to be negligent in the following areas:

1. Failing to exercise the duty of care.
2. The issue of the roll calls and the accuracy of the roll call lists.
3. The issue of the authorisation for the Camp.

Ms Reynolds, Mr Reddy, Mr Kruger, Ms Mbuyisa and Mr Ratala are all employees of the SGB, accordingly it is recommended that the GDE direct the SGB to proceed with disciplinary action against those educators.

It should be noted that the two educators over whom the GDE has jurisdiction are Mr Meintjes and Mr de Jong. It is recommended that Mr Meintjes be the subject of disciplinary proceedings in accordance with the Employment of Educators Act. Mr de Jong is exonerated of wrongdoing in this report and accordingly no action should be instituted against him.

6.3. THE SCHOOL

The School is found to be negligent if not reckless in allowing the water exercise to go ahead when the educators knew from the agenda that the activity would end with a river swim.

It has been determined that the School is insured by Hollard (“**insurer**”). HNM recommends that the GDE engage with the School to determine its liability, giving consideration to section 60 of SASA which states that where a public school has taken out insurance and the school activity is an eventuality covered by the insurance policy, the liability of the State is limited to the extent that the damage or loss has been compensated in terms of the policy.

In view of the issues and findings contained in the sections above in this report, in relation to the role played by the Principal and educators of the School, we find that there is an element of contributory negligence in respect of the circumstances that, ultimately, led to the death of Enock Mpianzi.

The SGB is found to be responsible in relation to the Camp taking place without the requisite authorisation. In addition, given the history at the School in relation to the lack of supervision at school camps, which is so necessary, and giving consideration to the provisions of the PBHS Safety Policy, the SGB should have ensured that the School management placed the necessary emphasis on taking steps to ensure that the Grade 8 learners were supervised at all times.

Similarly, the SGB should have made the appropriate enquiries to ensure that the safety of the learners at the camp received the necessary attention. Accordingly, the SGB is found to have acted negligently in relation to the failure to obtain authorisation for the Camp and also for the inadequate oversight at the Camp.

It does however have to be acknowledged that SGB members consist largely of the parents of learners who voluntarily give of their time and services to be on the SGB. As such, they are not necessarily educationalists, or health and safety experts, with the skills and expertise to make judgments on such issues.

Notwithstanding the above, and particularly given the recent legacy of the School, the issues, referred to above, in respect of the conduct of the SGB are, to all intents and purposes, common sense, and should have been addressed by the SGB.

In the circumstances, it is recommended that the SGB should be the subject of sanction, the details of which will be left to the GDE.

6.4. LIABILITY OF THE GDE

The GDE is found to be negligent in the following area:

1. The issue of whether authorisation had been granted by the GDE for the Nyati Camp in January 2020.

HNM recommends that:

1. Those responsible for the failure to adequately consider the application of the School be the subject of disciplinary proceedings.
2. The GDE conducts a thorough investigation into the other four deaths of learners at Nyati to ensure that the interests of justice are served and to bring closure for the families of the deceased.

6.5. GENERAL

1. HNM further recommends that the GDE take action to regulate the facilities that offer services to schools for school camps and other tours. A facility such as Nyati should be known to the GDE and the GDE, or another regulatory body, ought to have jurisdiction over it to enforce a minimum standard of safety measures at such facilities.
2. The Safety Regulations enacted in terms of SASA must be amended to ensure that there are more prescriptive controls in terms of the supervision of learners and the

safety measures in place in relation to participation in any kind of water activity, in order to eliminate the possibility of such a tragedy ever taking place again.

6.6. NYATI

The Camp is found to be reckless and negligent in respect of:

1. The issue of safety and care of learners during the water exercise.
2. The route followed by the learners doing the water exercise.
3. The issue of life jackets for Grade 8 learners.

HNM recommends that Nyati should be held responsible, and liable, for its negligent and reckless actions that contributed to the circumstances that led to the death of Enock Mpianzi.

HNM INVESTIGATION TEAM

3 MARCH 2020