

DA Federal Executive resolves to formally charge de Lille in the interest of good governance

by **Mmusi Maimane** - Leader of the Democratic Alliance

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Today the Federal Executive of the Democratic Alliance met to deliberate on matters relating to the Mayor of Cape Town, Patricia de Lille.

In its deliberations, the Federal Executive was guided by the best interests of all the people of Cape Town and by our deep and abiding commitment to delivering clean, accountable and transparent government wherever we may govern. It is the value of the organisation that all South Africans are equal before the law and that all rights must be upheld, regardless of race and gender. The deliberations occurred in the context of an unprecedented drought and the need to deal with its consequences as comprehensively and decisively as possible.

The true test of any political party is what it does when confronted with serious allegations of political dysfunction, maladministration and governance failures. And the DA, unlike many of our political competitors, stands largely alone in acting with resolve in confronting such matters, even when those decisions may carry a possible political cost. We understand that no political party is perfect in the execution of its functions, but for us, our principles and values, and the overarching imperative to act in the best interests of the citizens is what guides us at times like these.

It is also for this reason that the DA has sought to uphold due process and the rights of Mayor de Lille and a number of councillors throughout this evolving matter. We have as a result sought to limit our public communication out of respect to the rights of all involved and the issues concerned. This has created some sense of public confusion as to the reasons why a number of decisions and actions have been taken with regards to Mayor de Lille.

It is disappointing that Mayor de Lille has not displayed a similar regard for the best interests of the Party, or indeed a similar level of respect for due process, as evidenced by her making a number of misleading and often distortionary public statements throughout this process; both with regard to DA procedures, as well as to a variety of

Council initiatives that have sought to probe her conduct, amongst other matters. In so doing she has compounded an already difficult situation and the party was thereby brought into disrepute.

Let us be clear that we reject, with absolute contempt, any claims that the concerns arising from the conduct of Mayor De Lille relate in any way to a disagreement over the need for spatial transformation in Cape Town. This was a key manifesto commitment of the DA in the local government elections of 2016 and thus it is a mandate of the Party, and not the preserve of any one individual, as some have falsely claimed, including Mayor de Lille.

The Federal Executive mandated John Steenhuisen to lead a sub-committee to investigate and report back on the evident tensions and divisions within the caucus. The sub-committee also included Gauteng Provincial Leader, John Moodey, Free State Provincial Leader, Patricia Kopane and ADAC Chair Karen Smith. All leaders within the DA with significant experience and sufficient distance from the internal dynamics of the Cape Town caucus.

The aim of the process was to inquire into the growing divisions in the City of Cape Town DA caucus under the leadership of Mayor de Lille, as well as a growing list of substantive complaints about the nature and style of the Mayor's internal leadership. This was a process of exercising political judgment, in response to political problems and issues, rather than seeking to approach the matter as though it were a narrow legal question or issue.

The sub-committee held many days of hearings and heard testimony from a large number of councillors. The Mayor was invited to appear before the sub-committee. She declined the invitation, and instead, as was her right, chose to communicate to the sub-committee through her legal representatives. She was given a lengthy extension to do so, in order to ensure that her procedural rights were respected.

The report of the sub-committee, together with Mayor de Lille's representations, were considered at length by the Federal Executive at a meeting on 10 December.

The sub-committee made a number of observations that now need to be tested by the FLC. Amongst a number of issues arising, the Federal Executive deliberated on the following aspects:

- Evidence of deep divisions within the caucus of the City of Cape Town. These

divisions were shown to have been a result of the Mayor's particular leadership style which is overwhelmingly viewed as unnecessarily autocratic, divisive and misaligned to democratic principles of openness and tolerance. It became clear that this had contributed to creating a paralysing culture of fear among both elected public representatives, as well as officials in the City of Cape Town. The consequence of which was a material impact on rational, accountable and transparent decision making in the City.

- The organisational restructuring led by the Mayor appears to have been used in certain instances to remove experienced officials in the City, with a view to replacing them with officials whose loyalty to the Mayor was prized over all else.
- Under the Mayor's leadership key decision making structures had been stripped of powers and functions, seemingly with a view to centralise overwhelming power in the Mayor, undercutting the authority and democratically enshrined role of the Mayoral committee, portfolio committees and sub-councils, as well as the DA's commitment to bringing government as close to the people as possible.
- It appears that the Mayor interfered with and manipulated appointments at a senior management level within the City and some of its entities.
- A growing sense of a loss of confidence by the caucus in the leadership of the Mayor which affected governance in the City negatively and undermined effective service delivery.
- In particular, the Mayor's often irrational, autocratic and divisive leadership style was seen as especially problematic, and it was claimed saw her often overstep the boundaries of her authority and personally direct operational decisions such as the specification, awarding and timing of tenders, in an ad-hoc and highly inappropriate fashion.
- This, in turn, had created the real risk of an impending loss of senior and skilled technical staff from the organisation, as a result of often intolerable working conditions for professionally qualified and legally mandated officials.
- The claims made in a Protected Disclosure by Craig Kesson, the Executive Director in the Directorate of the Mayor, as it related to allegations of maladministration and serious governance irregularities, and the Mayor's alleged

role therein.

After careful consideration of these primary points of concern, the Federal Executive at the time asked the Mayor to provide reasons as to why she should not resign. The need to act with dispatch was heightened by the prolonged drought and our desire to ensure that there was unity of purpose within both the political and administrative leadership of the City to effectively govern Cape Town and respond to this issue.

The Mayor was again afforded a lengthy extension so as to be given sufficient time to make her representations to the Federal Executive on why she should not resign. This submission, as well as the Mayor's oral representations to the Federal Executive, have today, been further carefully considered, debated and discussed.

In its deliberations, the Federal Executive could not ignore the fact that for the first time in Cape Town's history, a Council-mandated independent investigation took the view that the sitting Mayor had demonstrated behavior and actions which, on the basis of extensive evidence before them (including the Mayor's own representations), *prima facie* constituted gross misconduct, gross dereliction of duty, and conduct that amounted to deceiving Council.

These concerns relate to a range of extremely serious governance failures, including the MyCiti Bus service and the foreshore development projects, and her apparent role in actively covering up these failures. Her alleged improper conduct includes, but is not limited to, actively obstructing remedial and disciplinary action being taken for losses from the MyCiti system which at this stage are conservatively estimated at R36 million but could be far greater due to inherent problems with City systems and data preventing precise reconciliations while the Foreshore Freeway Project is potentially worth billions of rands.

It is further particularly disturbing that the Mayor sought to personally target the officials who originally brought these allegations to the fore and tried to prevent an independent investigation from occurring. She personally authorised multiple reports against Kesson at the Special Council meeting of 21 November that aimed to prevent the investigation into the City Manager and TDA Commissioner Melissa Whitehead. Those recommendations have her signature and her approval of the Council agenda. The Mayor's desires were overturned because the DA caucus (not the Mayor) called for an independent investigation.

The Mayor has at all times sought to defend not only her conduct but also that of the City Manager and the Commissioner for TDA, Melissa Whitehead. This despite the fact that these officials are currently the subject of a Council approved disciplinary and suspension processes.

Whilst these processes must run their fullest course, the Mayor, as she herself has avowed, must take ultimate political responsibility for these profoundly serious allegations which have happened under her watch, and in many instances with her active participation. And in this regard, it is noteworthy that the City Manager has independently claimed, as reported in the media, that the Mayor has prevented the proper conduct of Council business.

Whilst there is indeed more work for the investigators to undertake, as it relates to pursuing additional information and leads, and that the disciplinary processes into the officials concerned must be allowed to run their full course, it remains deeply problematic that only certain sections of the report were made public.

This is despite the fact that the entire caucus voted for the adoption of the recommendations and that the report had a confidential status.

As a consequence of these governance failures, the Auditor-General has twice been forced to delay issuing the City's final audit status – these are massive and novel risks for Cape Town.

Finally, the Mayor ill-advisedly in her public communication has sought to prosecute a false and disingenuous narrative as to the motives of the Federal Executive in pursuing this course of action. This is deeply regrettable as it has misled the public and masked the very serious concerns as they relate to her leadership and effective governance of the City.

The DA is determined that we do everything possible to bring unity of purpose and cohesion to the City of Cape Town. To build on the successes that have previously been achieved, and most importantly, in the current context do everything we can to manage the current water shortages, in collaboration with provincial and national government, who share the responsibility of ensuring that everything humanly possible is done to ensure that Cape Town does not run out of water. This must and will be the most pressing priority of the administration of Cape Town and thus it is essential that we act swiftly.

The Federal Executive has thus resolved that the Mayor be formally charged and

investigated by the Party's Federal Legal Commission. The charges that will be brought against her are the following:

That she is guilty of alleged misconduct in terms of the following sections of the Federal Constitution:

2.5.4.2 deliberately acts in a way which impacts negatively on the image or performance of the Party;

2.5.4.4 fails to carry out his or her duties and/or responsibilities according to standards set by the Federal Council of the Party or of the relevant Provincial or Regional Council, or to standards required by any statutory rules of conduct required by the public office he or she holds;

2.5.4.5 brings the good name of the Party into disrepute or harms the interests of the Party;

2.5.4.6 acts in a manner that is unreasonable and detrimental to internal co-operation within the Party;

2.5.4.7 unreasonably fails to comply with or rejects decisions of the official formations of the Party;

IN THAT SHE:

- acted in an improper and unlawful manner in respect of the reappointment of the City Manager of the City of Cape Town by unduly influencing members of the Selection Panel responsible for the scoring of those candidates shortlisted and interviewed by sending members/a member of the Panel a text message reading ***"I want to keep Achmat so score him highest. Thanks."***
- acted in an improper and unlawful manner in respect of the appointment of Limia Essop to the Stadium Management Board by *inter alia* exercising her authority to finalise the shortlist of candidates to be interviewed in such a manner as to unduly benefit Ms Essop and consequently in an improper manner involving herself with the finalisation of selection and appointment of members of the Board ostensibly to ensure the appointment of Ms Essop.
- acted in an improper manner, alternatively failed to exercise her duties as Executive Mayor while displaying sound judgment by failing and/or refusing to

ensure that the performance of the incumbent Commissioner for the Transport Development Authority of the City of Cape Town, Ms Melissa Whitehead, and more specifically allegations of poor performance be properly investigated and taken into account before the appointment process that lead to the reappointment of Ms Whitehead.

- failed to perform her duties and/or responsibilities according to the Finance Management Act and the Municipal Systems Act in that she failed and/or refused to report and properly account to the Council of the City of Cape Town regarding irregularities and financial losses reported to her in respect of the contract the City entered into regarding the operation of the MyCity bus project.
- failed to perform her duties and/or responsibilities according to standards set by the Federal Council of the Party and/or the Municipal Finance Management Act and the Municipal Systems Act in that she failed and/or refused to report and properly account to the Council of the City of Cape Town regarding irregularities with the Bid Evaluation process in respect of the so-called Foreshore Housing Project.
- failed to perform her duties and/or responsibilities according to standards set by the Federal Council of the Party and/or the Municipal Finance Management Act and the Municipal Systems Act in that she failed and/or refused to take all reasonable remedial and corrective steps to ensure that the City of Cape Town performed its constitutional and statutory functions by refusing and/or failing to act in a reasonable and/or proper manner in respect of the financial losses incurred through the contract in respect of the Myciti bus project, as well as the Volvo Chassis matter.
- acted in an improper and/or abusive manner in providing leadership to the Caucus of the Party in the City of Cape Town by, through her words and actions, intimidating and belittling caucus members who did not agree with her.
- refused to accept an official decision of the Party by informing the Caucus of the City of Cape Town, upon the election of Ald JP Smith as deputy leader of the Caucus, that she refused to work with him.

We have determined that the FLC conclude their investigations expeditiously so that this

matter can be brought to a resolution as soon as reasonably possible, whilst at all times respecting procedural fairness and the dictates of natural justice.

The FLC will also look into the charges laid by the Mayor against some of the councillors.

We are however acutely mindful as stated throughout of the need to ensure stable and effective governance in the City of Cape Town, and that there is as little distraction as possible from the government serving all the people of Cape Town, whilst these formal processes are allowed to run their course.

We will thus recommend to the Caucus that they formally bring a resolution to Council that removes the Mayor from any role in managing and directing the City's response to the prolonged drought during the period of these investigations. Instead, Deputy Mayor, Ian Neilsen, and the Mayoral Committee member for Water, Informal Settlements and Waste Services, Councillor Xanthea Limberg will assume overall political leadership and control of the City's response plan. They will be asked, in particular, to actively engage with the Western Cape Provincial Government and the national government to ensure that they too play their mandated role in contributing to solutions to the crisis, both operationally and financially. They will also be requested to present, with far greater clarity, the City's proactive measures to manage the effects of the drought, the need to reduce demand further and the prerequisite to source additional funding for revenue losses and to fund augmentation through the use of tariffs and related charges.

In addition, the Caucus will be requested to ensure the Council resolves that the operational response plan be lead and directed by the Executive Director of Informal Settlements, Water and Waste Services, along with the relevant officials with the delegated authority to manage and determine water restriction levels and water management related matters.

Further, the Caucus of the City of Cape Town will be asked to review the delegations in the City, to restore the proper decision-making authority and functioning of the Mayoral committee, Council committees and sub-councils. That the organisational restructuring is reviewed is looked at so that changes so required to ensure governance that makes progress possible for all residents.

We simply have no time to waste, and are confident that with these measures in place that governance in the interim will be stabilised in the City of Cape Town, and that we have the best chance possible to avoid day zero.

Media Enquiries

Mmusi Maimane

Leader of the Democratic Alliance

Portia Adams

Spokesperson to the DA Leader

[082 319 6666](tel:0823196666)