+SECTION27
catalysts for social justice

TOWARDS SAFE AND DECENT SCHOOL SANITATION IN LIMPOPO:

The Most Fundamental of Dignities.

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FOREWORD

If we, as the South African state, cannot include in our list of absolute priorities the provision of dignified and safe toilets to young children attending school, what kind of democracy can we really claim to be? Surely not one which genuinely values its most vulnerable.

This is the question that underpins this comprehensive report which has been compiled by SECTION27. Despite far-reaching praise for our progressive Constitution that entrenchesthe unqualified right to basic education; despite comparatively large monetary allocations to address apartheid school infrastructure backlogs since the dawn of democracy; despite promises and statements about the importance of basic education for alleviating poverty and inequality; the South African democratic state has failed to make toilets in schools safe for school children. This is gut-wrenchingly disappointing. But beyond this, it is enraging.

The report provides an honest and insightful overview into the state of school sanitation in Limpopo. The purpose of this is to hopefully provide a productive place for us to focus that rage, and a mechanism to trigger an honest conversation about how we have failed, and perhaps how we can begin to fix the problem, to ensure safe and decent sanitation.

SECTION27 has spent a great deal of time monitoring the state of sanitation in schools over the last 6 years. Our work in this area started during our campaign for the delivery of textbooks to learners in the Limpopo Province. While visiting schools in the province, we noted with horror the atrocious state of toilets which children attending Limpopo schools are expected to use. It became immediately apparent that multiple rights of young learners were being infringed on a daily basis.

SECTION27's worst fears were realised upon learning of the death of Michael Komape after he drowned in a pit toilet at his school in Limpopo in January 2014. At the time of his death, Michael was five years old, and had just started Grade R, ready to begin the process of learning to read, write and count. Michael's mother was the first person to find his body in the pit toilet into which he had fallen. As she approached, she saw only his little hand sticking out from the excrement. He had been in the pit toilet for long enough that the skin on his feet had wrinkled.

Michael's death was not the result of an anomaly. In 2016, a five year old boy, Oratilwe Dilwane suffered severe injuries after falling into a pit toilet in his school in the North West Province. In March 2018, another five year old learner, Lumka Mketwa drowned in a pit toilet at a school in the Eastern Cape. On 11 November 2018, the City Press reported on the story of another five year old who narrowly escaped drowning after falling into a pit toilet at a school in the Eastern Cape, but survived because she managed to hang on to an old desk frame that was stuck inside the toilet. SECTION27 is also aware of the deaths of two learners in 2007 and 2013 who died when the walls of a toilet cubicle collapsed on them. All of these incidents came about because the system for providing safe and decent toilets to children in Limpopo, and indeed in South Africa, is failing our children.

In the time SECTION27 has been monitoring school sanitation, there have been a few ostensible attempts by either the Limpopo Department of Education or the Department of Basic Education to improve the situation. However, these attempts have been incomplete, poorly co-ordinated, and based on inaccurate data. Despite this being an issue known to our government as requiring urgent attention, the state of school sanitation in Limpopo remains poor, and continues to infringe on many of the rights of poor learners.

Collecting the information necessary for this report was no straightforward task. Limitations included intimidation by provincial officials, principals experiencing fatigue from constantly talking while seeing no progress from government, and researchers being unable to contact principals for long periods of time. Despite all of this, SECTION27 has compiled this very useful report as a tool to inform and guide advocacy and litigation strategy on this issue. It attempts to draw together all of the important threads of information, in order to comprehensively highlight how the learners of Limpopo are being failed. It does so very effectively.

The report begins with a concise and clear explanation of the state's legal duties to provide safe and adequate toilets for learners in schools. It then moves on to contextualise the fight for safe and adequate school sanitation. This chapter shows the extensive engagement that SECTION27 has had with the government in its attempts to improve the status quo. The chapter also describes the various (and inconsistent) data sets

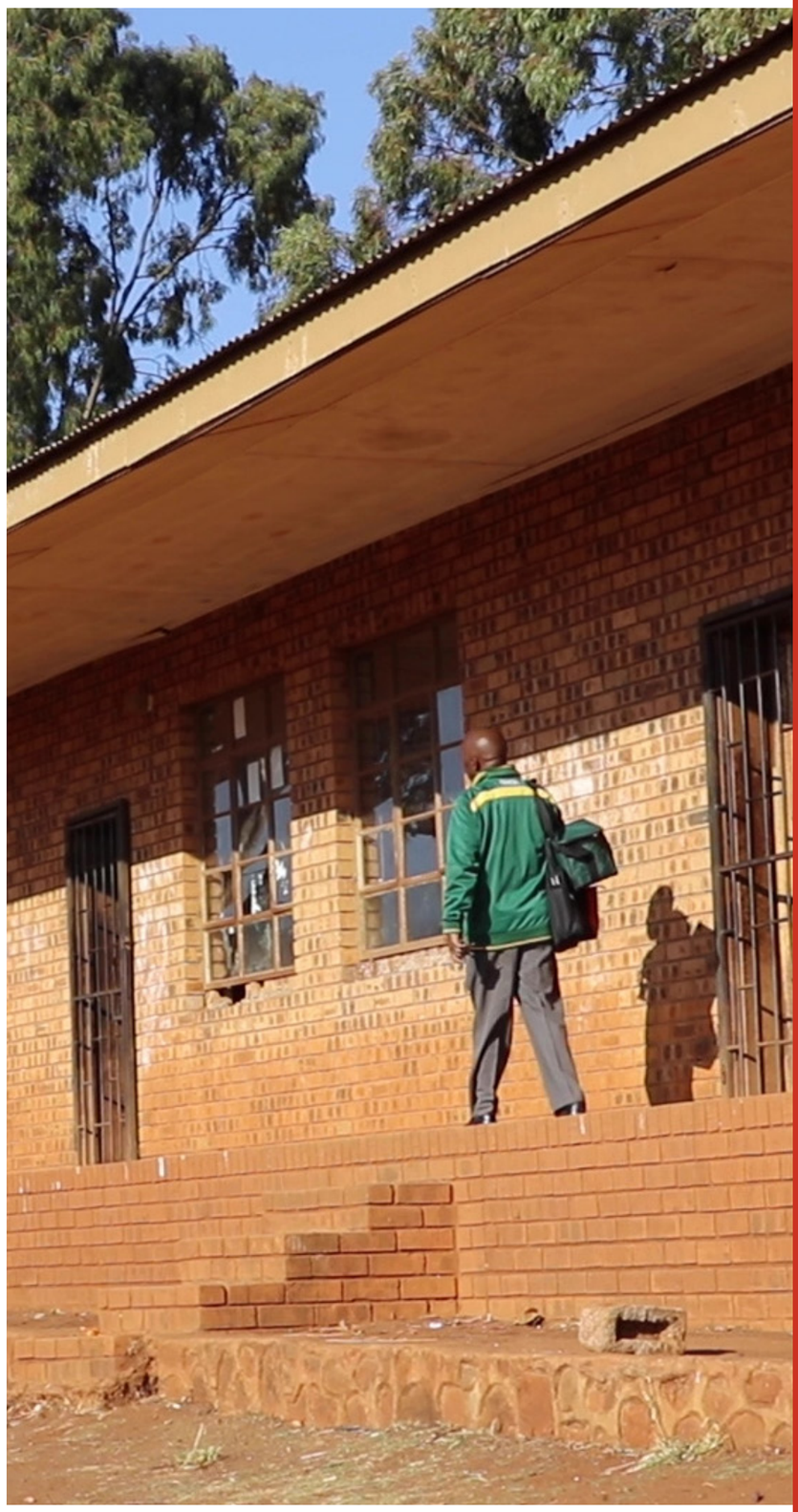
that the government has relied on in its attempts to remedy the crisis of school sanitation in Limpopo, and then discusses these attempts themselves in order to evaluate their success. The next chapter highlights starkly the impacts of inadequate sanitation facilities on learners at school. Finally, the report discusses whether, in fact, there exist sufficient resources for the state to prioritise this crisis and eliminate unsafe sanitation as a matter of urgency. The report ends with a list if very useful recommendations, based on the information discussed in prior chapters, which should be implemented without delay.

This research and the drafting of this report was led by Samantha Brener, an education attorney and senior legal researcher Thabang Pooe at SECTION27. Interviews and field research was conducted by other members of the education team including: Solanga Milambo; Tebogo Sephakgamela; Pamela Choga and Vuyisile Malinga. Zukiswa Pikoli has been responsible for ensuring the publication of this report. We extend our thanks to Megan Little of Firdale Consulting, who provided analysis of some of the data used in this report. SECTION27 would also like to acknowledge the work of Laura Grant and Alastair Otter of Passmark, a member of the Media Hack Collective, who developed an interactive infographic website highlighting and analysing the information contained in the report. The website is available at http://limpopo-schools.section27.org.za/.

This report and website are extremely useful resources in understanding the multiple concerns relating to unsafe sanitation in schools in the Limpopo province. There cannot be another death or injury to another five year old because of unsafe sanitation. I trust you will agree.

FARANAAZ VERIAVA

Head Of The Education Rights Programme At Section27



EXECUTIVE SUMMARY

SECTION27 is a public-interest law centre that uses and develops the law to promote and advance human rights, including the right to basic education. This report highlights the rights abuses suffered by learners in Limpopo schools due to a lack of safe and decent sanitation facilities. SECTION27 has been monitoring the state of sanitation in Limpopo schools since 2012. This report is intended to draw together a number of the threads of our work on school sanitation, and to put forward a real picture of the state of school sanitation in Limpopo in 2018.

A. CONSTITUTIONAL AND LEGAL FRAMEWORK

Section 29(1)(a) of the Constitution provides that "*everyone has the right to a basic education, including adult basic education*". This right has been described as an 'unqualified' socio-economic right, because it is not subject to the qualifiers 'progressive realisation' and 'within the state's available resources' that characterise the other socio-economic rights in the Constitution. These include the rights to further education, health care, food, water and social security.

Thus, the Constitutional Court in *Juma Musjid Primary School and Another v Ahmed Asruff Essay NO and Others* distinguished the unqualified right to basic education from qualified socio-economic rights and established the **immediate realisation** principle, requiring that government immediately fulfil the right. The provision of a reasonable plan to fulfil the right is not enough – the actual components of the right must be provided immediately.

In *Equal Education and another v Minister of Basic Education and others*,[1] the court explicitly suggested that the right to basic education includes the right to adequate infrastructure. It acknowledged in its judgment that parties had agreed that the provision of basic school infrastructure is an integral component of the right to basic education.[2] It stated also that "*it is indisputable that basic school infrastructure plays a significantly high role in the delivery of basic education*"[3] and that "it is that case that … [the right to basic education] is multi-faceted; it includes the provision of proper facilities".[4]

More specifically, in the case of *Komape and Others v Minister of Basic Education*, the High Court has concluded explicitly that "*the right to basic education includes provision of adequate and safe toilets at public schools for learners*".[5]

The government has a clear obligation, in terms of the right to basic education, to provide safe and decent school sanitation, immediately, to all learners. A failure to do so is not only an infringement of the right to basic education, but also implicates learners' rights to an environment that is not harmful to health or well-being, the right to equality, the right to dignity, and the right to have a child's best interests treated as paramount.

The state also has the constitutional obligation to ensure public administration is governed in accordance with the principles of efficient, economic and effective use of resources, as well as those of transparency, responsiveness, and accountability, set out in section 195 of the Constitution, to budget effectively in order to ensure that adequate sanitation is financially provided for, and to provide school sanitation in accordance with the Norms and Standards for School Infrastructure.[6] In terms of these Norms and Standards, sufficient numbers of safe and decent toilets must be provided, and pit toilets must be eradicated.

B. THE CONTEXT OF THE FIGHT FOR SAFE AND DECENT SCHOOL SANITATION

SECTION27 has a history of engagement with the Department of Basic Education (DBE) and Limpopo Department of Education

1. (276/2016) [2018] ZAECBHC 6 (19 July 2018) ("*Norms and Standards Judgment*").
2. *Norms and Standards Judgment* para 47
3. *Norms and Standards Judgment* para 170.
4. *Norms and Standards Judgment* para 176. Kollapen J, in SECTION27 and others v Minister of Basic Education and another, stated specifically that there have been compelling arguments that the right to basic education "must and should, in order to be meaningful, include such issues as infrastructure".
5. *Komape and Others v Minister of Basic Education* (1416/2015) [2018] ZALMPPHC 18 (23 April 2018) para 63 ("*Komape*").
6. GN R920 GG 37081 of 29 November 2013.

(LDE). Since 2012, we have drawn attention to the dire state of sanitation in Limpopo education. Although there have been some positive steps made by the state to address this situation, many of our attempts to engage have been met with silence. We believe that with the necessary political will, proper planning and effective budgeting, the situation could be alleviated.

i. Data sets

One of the major difficulties that has repeatedly reared its head in SECTION27's campaign for improved school sanitation has been a long line of data sets and audits, ostensibly setting out the basis for intervention. However, these various data sets have been inconsistent with one another, and have failed to explain how they link together and how they form part of a broader strategy for the provision of school sanitation. Obviously, this is immensely problematic – it goes without saying that without accurate data on the state of school sanitation, it is impossible for the government put in place effective measures to address problems.

This report anayses the reports from the National Education Infrastructure Management System (NEIMS), the Norms and Standards Reports, and the Council for Scientific and Industrial Research (CSIR) Condition Assessment. From these, the following important information emerges:

NUMBER OF LEARNERS PER TOILET:

In 2009, 50% of schools in Limpopo had between **18 AND 57** *pupils per toilet*

Nearly 10% of schools had over 100 learners per toilet.

By 2015, 50% of schools in Limpopo had between **11 AND 28** *pupils per toilet*

Only 1% of schools had over 100 learners to a toilet.

This reflects a marked improvement. However, in terms of various other metrics, the picture looks more bleak.

THE TOILET SEAT GAP:

In 2015, the data showed that **70%** *of schools in Limpopo had some degree of toilet deficit (measured by the requirements of the Norms and Standards).*

PIT VS NON-PIT TOILETS:

In 2015, **37%** *of toilets across schools in Limpopo were pit toilets, and* **63%** *were non-pit toilets.*

Toilet types varied widely across the schools, with 24% of schools having only pit toilets, and 23% having no pit toilets at all

CONDITIONS OF TOILETS:

Across all the schools, the average condition of toilets was classed as bad enough that rehabilitation was required.

35% *of schools had toilets that were in such poor condition that they needed to be replaced.*

Very few schools had toilets that could be categorised as 'good' or 'very good' (LESS THAN 10% OF SCHOOLS, IN FACT).

The report also analyses data provided in terms of the SAFE Initiative Audit, and from a recent affidavit provided pursuant to the court order in *Komape and others v Minister of Basic Education and others* (23 April 2018). The data from both of these sources is incomplete, inconsistent and unreliable.

ii. State interventions

The government has attempted to implement various measures for improving school sanitation in Limpopo. These have included:

- the Accelerated Schools Infrastructure Development Initiative (ASIDI), a conditional grant aimed at replacing schools constructed from inappropriate materials (mud, planks and asbestos) and eradicating the backlog in schools without water, sanitation or electricity;[7]
- the Education Infrastructure Grant (EIG), a conditional grant provided to assist with (among other things) accelerating the construction, maintenance and upgrading of new and existing infrastructure in education, and enhancing the capacity to deliver infrastructure in education;[8]
- the 2013 Plan, provided by the DBE after months of correspondence and meetings with SECTION27, which omitted a number of schools that had dangerous or no sanitation facilities; and
- the SAFE Initiative, launched by the President on 14 August 2018, which contains serious gaps and requires much work before it can be considered an adequate and constitutionally compliant plan for the provision of safe and decent sanitation in schools.

While there has been some improvement driven by some of these measures, none have managed to have a substantial impact on the sanitation crisis.

iii. Conclusion

Whether one makes use of the SECTION27 analysis of the CSIR data, the government's Norms and Standards and NEIMS reports, the data provided in terms of the SAFE Initiative or the affidavit in *Komape*, a number of observations can be made:

- The government's reporting of its own statistics varies by source, and it is thus impossible to establish which source (if any) is correct.
- This has a fundamentally detrimental effect on the government's ability to provide sufficient safe and decent school sanitation in Limpopo, and therefore on its fulfilment of the right to basic education – if it does not **know** what is required, it is impossible to **provide** what is required.
- Various interventions have been attempted by the government to solve the crisis; however, none of these have managed to substantively impact the status quo of systemic dysfunction and serious rights violations.
- Although there have been some improvements in sanitation provision between 2009 and 2015, the presence of pit toilets persists, the condition of school toilets is very poor, and there continue to be violations of the rights of children, who are forced through circumstance to use such facilities.
- There is clear legislative non-compliance, at the very least inasmuch as there remain plain pit toilets in schools in Limpopo. Thus, there remains a **very** serious problem of unsafe sanitation in schools in Limpopo.

C. FINDINGS AND IMPACT

SECTION27 collected data from 86 schools in the Limpopo province. Our data revealed the following:

It is abundantly clear that all is not well with the systems for the provision of safe and decent sanitation in schools in Limpopo. Our data shows that learners' rights to dignity, privacy, equality and a healthy environment are being violated by poor sanitation conditions. With every day that these conditions persist, these rights will continue to be violated.

00 *Schools with no sanitation facilities*

33 *Schools with plain pit toilets and unacceptable sanitation*

10 *Schools with new sanitation and old pit toilets not demolished*

35 *Schools with inadequate toilets (insufficient for the number of learners)*

03 *Schools with toilets that are not fit for purpose (not age appropriate or disability friendly)*

11 *Schools with poorly maintained toilets*

7. See https://www.education.gov.za/Programmes/ASIDI.aspx (last accessed 12 October 2018).
8. See National Treasury presentation to the National Council of Provinces on 30 May 2018 '*School Sanitation Audit; Education Infrastructure Expenditure; with Minister*' (available here: http://pmg-assets.s3-website-eu-west-1.amazonaws.com/180530_EIG_NT.pdf), on page 2.

Within these categories there are other challenges, including sanitation facilities with no doors, no bins for disposal of sanitary pads, no toilet paper, and no hand-washing facilities nearby. The impact of this on learners is discussed at length in this report, through experiences shared by learners during interviews conducted for the report.

The law provides clear guidance on what adequate sanitation in schools must look like. It must be easily accessible to all learners and educators, provide privacy and security, promote health and hygiene standards, be maintained in good running order, and be in compliance with all relevant laws. Put simply, sanitation in schools must be safe, clean, private, well ventilated, age appropriate, and well maintained; and should have access to hand-washing facilities nearby, and sanitary bins for the disposal of sanitary pads for female learners.

However, many of the schools in Limpopo do not have sanitation facilities that meet these basic standards. Every one of the schools contacted for the purposes of this report was lacking in one respect or another. Most fell into one of the following categories: no sanitation at all; plain pit toilets and unacceptable sanitation; old pit toilets not demolished; inadequate toilets (insufficient for the number of learners); not fit for purpose (not age appropriate, or disability unfriendly); or poorly maintained.

D. BUDGETING FOR SAFE AND DECENT SANITATION

The pool of available resources for improving education, which includes providing sanitation facilities, has decreased in recent years as a result of government's austerity policy.[9] However, there are a number of steps that provincial and national departments can (and must) take to ensure that improving school sanitation continues to be prioritised in the budget, and that allocated funds are spent effectively. This section of the report shows how that can be done, and that the state does have enough money to eradicate dangerous sanitation facilities quickly.

i. The state must make effective use of existing resources

The LDE can use the money allocated to it for improving school infrastructure more effectively by:

- identifying and implementing best practice in the delivery of school infrastructure. This can be done through examining and understanding models that have worked and models that have failed to date;
- ensuring that it meets the minimum requirements necessary to receive additional 'incentive funds' that are available for school infrastructure from the National Treasury;
- along with the DBE, putting in place stronger contracting and accountability measures when it engages in public-private partnerships;
- eliminating fruitless and wasteful expenditure; and
- eliminating irregular spending, which could indicate possible corruption.

ii. The state can increase the resource envelope for school infrastructure through creative thinking

In addition to finding ways to spend existing financial resources more effectively (as we have discussed above), it remains open to (and indeed, incumbent upon) provincial and national governments to find ways of increasing their available resources for improving school sanitation.

This can be done through budgeting based on need, and through reallocation of funding from other, less critically urgent endeavours. In particular:

- The equitable share formula can be reformed to take greater account of the unequal starting points of schools in these provinces as well as the unequal costs of providing education (including, especially, education infrastructure) in rural and urban settings.
- Provinces with school infrastructure backlogs can allocate more of their equitable share allocation to education infrastructure development.
- Provinces can also allocate a greater portion of their infrastructure development budget to sanitation projects.

E. CONCLUSION AND RECOMMENDATIONS

Below, we set out key recommendations, based on the evidence in this report together with our experience of working on sanitation issues in Limpopo province. Many of these recommendations were set out in our 2013 report and have been developed further in this report, based on new challenges. These challenges exist in part due to the Department's failure to respond to and address the recommendations made in 2013.

9. Austerity is a controversial policy that is focused on reducing non-debt expenditure (such as on education) in order to reduce the budget deficit (the difference between spending and revenue). It thus prioritises debt repayments over social and economic expenditure, which can have the consequence of reducing demand in the economy, further depleting revenue collections and thus requiring further spending reductions, in a vicious cycle that has been called 'death by a thousand cuts'.

KEY RECOMMENDATIONS

Development of a rigorous audit and a database of schools' sanitation needs

Since the start of SECTION27's involvement in monitoring school sanitation in Limpopo, we have raised concerns about the accuracy of the data used to determine the needs of schools. These concerns are reiterated in this report. Without a complete and accurate data set, full delivery of school sanitation – as required in terms each learner's right to basic education – is not possible. There are obvious negative consequences for planning and budgeting when the government's data on schools is incorrect. Further, it is not reasonable for the LDE and DBE to justify limiting the immediate realisation of the right to education if they do not have accurate data to enable them to make such a justification.

We recommend the consolidation of data sets; and crucially, the removal of the discrepancies between the data sets mentioned in this report. It is essential that the data used for making decisions in order to comply with legal obligations for safe and decent school sanitation is an absolutely accurate reflection of the situation on the ground.

Together with this, we recommend the creation of a live database system, incorporating the audit of school needs. This system should meet the following criteria:

- It should contain consistently accurate data, reflecting changes as circumstances change.
- It should contain clear mechanisms for the updating of information and the correction of errors.
- Independent verification must be conducted periodically to ensure accuracy of data.
- It should be freely and publically available for any interested party or stakeholder to access and analyse, in accordance with the value of transparency required in terms of section 195 of the Constitution.

Accessibility of CSIR data in terms of section 195 of the Constitution

Subsequent to our recommendation of an independent audit in 2013, it became apparent that the CSIR had been engaged to undertake a "condition assessment" of all schools in Limpopo in 2014.[10] While this may provide the independence we called for in 2013, it has proven difficult to obtain access to the information collected by the CSIR. In order to obtain access to this information, SECTION27 was required to subpoena the information (as part of the Komape trial) directly from the CSIR towards the end of August 2016. Affidavits provided to SECTION27 in August 2018 by the DBE and LDE note that this condition assessment has "*been concluded with timeous updates on data collected by CSIR*".[11] This suggests that the CSIR's data set is being updated on an ongoing basis – as it should be. However, SECTION27 does not have access to the additional data collected subsequent to our subpoena in 2016.

In order to ensure transparency and accountability, as required by section 195 of the Constitution, we recommend that the data collected on the condition of schools in Limpopo be made immediately and publically available. We also recommend that the LDE and DBE make publicly available the terms of the agreement between the LDE and the CSIR, as well as all relevant information on data collection methodology, so that the public may assess the accuracy of the information being collected.

Responsiveness of district and circuit officials in the LDE

A common complaint recorded in our 2013 report was that although schools had referred challenges to the LDE, in numerous instances they simply did not receive a response. In most cases, the LDE only responded on receipt of a letter threatening litigation.[12] This is one of the reasons for the poor quality of the data that is relied on to eradicate unsafe structures. The lack of responsiveness is contrary to the value of responsiveness as required by section 195 of the Constitution.

We recommend that lines of communication be opened between schools and the district and circuit officials of the LDE, and that officials in these offices be ordered to respond timeously and appropriately to communications from schools. Failure to do so should be considered a disciplinary matter.

This must be accompanied by an immediate investment in improving the technology available for internal communication in the LDE, and for communication with schools.[13]

Protection for whistle-blowers

Our report of 2013 noted the challenge of the intimidation by LDE district and circuit officials of principals, teachers and school governing body members who report problems at their schools. Not only did this have a detrimental impact on the lives of those concerned, it also discouraged others from reporting violations of the right to basic education. Incidents of intimidation have occurred subsequent to our 2013 report.

10. 2016 N&S Report page 4. *Komape Affidavit* para 7.2.
11. *Komape Affidavit* para 7.3.
12. This happened again more recently in the case of *School Governing Body of Makangwane Secondary School v Member of the Executive Council, Limpopo Department of Education and others* (Case No: 3158/2018).
13. Similar recommendations were made in a report compiled by Mary Metcalfe, during her investigation of textbook non-delivery in Limpopo.

We continue to recommend the creation of a clear complaints mechanism (including timeframes for responses) and the protection of whistle-blowers, in order to begin to address these issues.

An effective plan for school sanitation in Limpopo

The SAFE Initiative is not an effective plan for the provision of safe, decent and lawful school sanitation.

We recommend that the President and Minister for Basic Education spearhead the creation of a carefully coordinated roadmap, based on accurate information, with concrete, measurable, time-bound, and budgeted-for steps for alleviating the sanitation crisis at schools. Such a roadmap should be binding on Provincial education departments. A clear plan such as this is a constitutional and legal obligation on our government, as our Constitution guarantees the right to basic education, and the Norms and Standards for School Infrastructure provide a clear mechanism for infrastructure upgrades, if seriously implemented. The plan should include monitoring and evaluation plans, reporting mechanisms and schedules.

In the event that temporary measures must be put in place, the plan must provide interim solutions to ensure the safety of learners. This should be coupled with a protocol for learners still using dangerous facilities, such as teacher supervision in primary schools.

BUDGET RECOMMENDATIONS

Here, we provide a very concise summary of our budget recommen dations for both national and provincial government. A detailed discussion of these recommendations is set out in Section E.

1. Increase the resources available at national level to allocate to the fulfilment of constitutional rights, including the right to basic education, by:

- adopting economic and fiscal policy that prioritises the state's duty to realise socio-economic rights;
- taking steps to match revenue targets to need;
- combating corruption

2. Allocate the resources that are necessary to meet minimum uniform norms and standards for school infrastructure at all schools without further unreasonable delay. This will require reprioritisation of existing funding (as well as additional funding), including but not limited to:

- At national level: reforming the equitable share formula so that a greater share is provided to rural provinces with higher levels of poverty and low educational achievement. Ensure that conditional grants for education infrastructure are sufficient – together with equitable share funding – to eradicate sanitation backlogs as rapidly as possible.
- At provincial level: allocating a greater portion of the equitable share allocation to education infrastructure development, and increasing the proportion of the infrastructure budget devoted to sanitation.

3. Audit skills available and capacitate provincial education departments to ensure that all are able to meet the minimum planning criteria required for the incentive component of the education infrastructure grant.

4. Identify and implement best practice in the delivery of school infrastructure, focusing on sanitation. This will improve efficiency and use of available funds.

- In order to improve the efficiency and effectiveness of the building of school infrastructure, the DBE and the nine Provincial Education Departments (PEDs) must look at the best-practice implementation models that have been developed over the past 20 years, and aim to replicate them. This will involve examining – in detail – what has worked well and what has not, and compiling this into a Best Practice Manual, which should then be applied to all infrastructure projects going forward. The model used for the implementation of the EIG appears to be more effective than that used to implement ASIDI. Thus, the capacity of PEDs to implement school infrastructure upgrades developed in the past decade must also be harnessed and shared among the PEDs. This will involve the active instigation of training and information-sharing opportunities. New technologies that have the potential to provide safe and decent sanitation at a lower cost than traditional toilets should also be explored.

5. Eliminate fruitless and wasteful expenditure, irregular expenditure and underspending at national and provincial levels.

6. Ensure any new public-private partnerships are based on legally sound and best-practice contractual arrangements that include effective accountability mechanisms and ultimately strengthen the ability of PEDs, together with schools, to deliver and maintain infrastructure on their own.

CONCLUSION

The sanitation crisis in Limpopo schools is an egregious manifestation of a lack of political will and a lack of understanding of the duties that stem from the right to basic education. In order to remedy this, there is an urgent need for a new political approach that views every policy, budget and practice as one which is founded on this core constitutional duty.

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GLOSSARY OF IMPORTANT TERMS AND CONCEPTS

ASIDI – Accelerated School Infrastructure Development Initiative

Conditional Grant – a specific amount of money allocated to a province, in addition to its equitable share funding, to be used for a specific purpose as set out by National Treasury

CSIR – Council for Scientific and Industrial Research

DBE – Department of Basic Education

EIG – Education Infrastructure Grant

Equitable Share Funding – the amount of revenue (collected through raising taxes) allocated by National Treasury to each of the provinces every year, in terms of section 227(1)(a) of the Constitution

Fiscal Year – the year used for fiscal and budget purposes, which in South Africa runs from 1 April to 31 March

Inflation – a general increase in prices and fall in the purchasing value of money. The Consumer Price Index (CPI) measures the average rate of inflation in the economy

Infrastructure Norms and Standards – The Minimum Uniform Norms and Standards for Public School Infrastructure GN R920 GG 37081 of 29 November 2013, published in terms of the South African Schools Act 84 of 1996

LDE – Limpopo Department of Education

PED – Provincial Education Department

Quintiles – a classification given to every public school in South Africa, based on the socio-economic circumstances of the area surrounding the school. There are five quintiles. The poorest public schools are in quintile 1. The richest public schools are in quintile 5

SAFE – the Sanitation Appropriate for Education initiative

SIBG – School Infrastructure Backlogs Grant

SECTION

A

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INTRODUCTION

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INTRODUCTION

SECTION27 is a public-interest law centre that uses and develops the law to promote and advance human rights, including the right to basic education. A large part of our work on basic education is the representation of school governing bodies, parents, learners and communities who seek assistance in securing remedies to address the ongoing education crisis. We have been assisting and continue to assist these clients on issues including access to school infrastructure, and in particular, access to safe and decent school sanitation.

Our work in Limpopo began early in 2012, shortly after the intervention by the national executive in terms of section 100(1)(b) of the Limpopo Department of Education (**LDE**). The result of this intervention was that the national Department of Basic Education (**DBE**) assumed responsibility for the functions of the LDE. On 30 July 2014 the national executive announced its withdrawal from the LDE, and all powers were handed back.

Since 2012 we have continuously monitored the state of sanitation in schools in Limpopo, and we continue to do so. In September 2013 we completed and distributed to senior officials a report detailing our work on school infrastructure and sanitation in Limpopo. This second report is an attempt to build on our 2013 report, to draw together a number of the threads of our work on school sanitation, and to put forward a real picture of the state of school sanitation in Limpopo in 2018.

We continue in our campaign for the provision of safe and decent sanitation for learners because we believe this to be a most fundamental dignity, which our state can and must provide. The current state of sanitation at schools in Limpopo poses a daily threat to the health and lives of learners. They are at risk of falling through openings or into uncovered pits and drowning. They are at risk of rickety toilet cubicles falling on top of them. Unhygienic sanitation is almost guaranteed to result in health problems for those who use it. We do not speak hypothetically when discussing these risks: a number of them have been suffered by our clients.

Our hope is that this report will go some way towards highlighting and alleviating these ongoing dangers and indignities.

a. Purpose of this report

We have decided to compile this report for several main purposes:

01 to develop our own sample audit of the conditions in Limpopo schools, to be used to verify information provided by the Limpopo Department of Education;

02 to inform and guide legal and advocacy strategy;

03 to serve as a tool to be used hand-in-hand with advocacy on improved school sanitation facilities; and

04 in line with the purposes of our 2013 report, to present to key stakeholders the evidence at our disposal in relation to the varied violations of the right to basic education that occur when school sanitation is neither safe nor decent.

We repeat here what we said in our 2013 report – it is clear that the problems with school sanitation in Limpopo are systemic. While we acknowledge the progress that has been made, this has not been sufficient to ensure that the dangers to children of unsafe or inadequate toilets have been eliminated. There is thus much work to be done to ensure that learners' rights are no longer trampled on in schools in Limpopo.

b. Information collected by SECTION27

SECTION27 has been collecting information on the conditions of toilets in schools in Limpopo since June 2012. We have consistently engaged with LDE in an attempt to highlight the problems in the province, share our knowledge, and generally contribute to improving school sanitation in the area. A detailed description of this engagement has been set out in SECTION C.

Through our work, we have been able to build relationships with schools across Limpopo and collect much information from them about this aspect of the fulfilment of the right to basic education.

In 2018, we embarked on an information-gathering exercise in an attempt to document for ourselves the conditions of sanitation in schools. This was driven in part by a well-established tendency by the LDE and the DBE to be inaccurate and inconsistent about important basic data. How many schools are there in Limpopo? How many toilets are there in Limpopo? How many of these are pit toilets? How many of these are lawful and decent toilets? How many sanitation facilities in Limpopo need attention urgently?

These are all questions that the provincial and national education departments, by virtue of their responsibilities to govern the education sectors effectively and plan for their futures, should be able to answer immediately. However, our engagements on this issue have shown that this has not been and is still not the case.

The other reason for our information-collection project was to give the schools themselves an opportunity to describe to us their sanitation conditions and needs. In a public education system that is as large and unequal as South Africa's, the poorer (and often rural) schools tend to be pushed aside, ignored and forgotten. The Constitution provides protection as much to these schools as to any other. Through our methodology of contacting each of these schools individually, we provided them an opportunity to have their individual concerns heard.

The results of this exercise are captured in **Annexure A** to this report. They reveal a dire reality, explained in SECTION D below.

c. Methodology

This report consists of information gathered in a number of ways. We conducted a desktop study into existing data on school sanitation conditions, to gain a broad picture of the status quo beyond the limits our data could reach. We also conducted a budget analysis, in order to gain specific insight into whether there are in fact sufficient resources available to ensure the rapid provision of safe and decent school sanitation.

Our raw data collection process consisted of a mixed method to gather all the data we needed to compile the table set out in **Annexure A**. We allocated three of our researchers to making calls to principals and school governing bodies, to ascertain the condition of the sanitation in their schools. Thirty-eight of the total of 86 schools in our table were visited, either by our own field researchers or by Basic Education for All (BEFA) – our partner organisation, which is based in Limpopo and is fighting for better access to education for Limpopo learners. The information collected about these schools was verified through calls made by our field researchers. All of our data was verified by at least one and in some cases two follow-up phone calls.

Although our data-collection methodology was unavoidably limited by the lack of resources (human and other) at our disposal, this does not negate the clear picture of systemic dysfunction that emerges from our data set. The patterns emerging are discussed further in SECTION D below.

Limitations on our data collection ability included intimidation of a principal by provincial officials, principals experiencing fatigue from talking to us while seeing no progress from the government, a principal refusing to verify data and referring us to the district, and our researchers being unable to contact principals for long periods of time.

d. The structure of this report

This report is made up of six sections, each dealing with a different aspect of the fight to ensure safe and decent sanitation for learners at schools in Limpopo.

Section A sets out the introduction to the report, describing the reasons for and methodology behind its compilation.

Section B discusses the legal and constitutional framework that underpins (and anchors) the state's duty to provide safe and decent sanitation in schools.

Section C puts these legal obligations in context. It describes SECTION27's history of engagement with the state on this issue. It discusses the various (and inconsistent) data sets that have ostensibly been relied on to describe problems of school sanitation, and then moves on to discuss various attempted interventions by the state to mitigate the crisis.

Section D we describe and analyse the information SECTION27 has collected on this issue, showing clearly the degrading impacts of poor sanitation on individual learners.

In ***Section E*** we analyse the available resources for improving the state of sanitation in schools, showing clearly that existing resources can be more effectively used, and that the available resource envelope can be expanded in order to address this problem.

Section F sets out SECTION27's recommendations going forward, in light of the contents of this report.

B

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CONSTITUTIONAL AND LEGAL FRAMEWORK

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CONSTITUTIONAL AND LEGAL FRAMEWORK

A. INTRODUCTION

This section discusses the constitutional and legal framework, setting out the state's obligations to provide safe and decent sanitation for all learners. The purpose of this is to provide a framework for analysing the extent to which the state has complied with this obligation in schools in the Limpopo Province, and in particular, in those schools that have been the subject of this school sanitation audit.

B. THE RIGHT TO BASIC EDUCATION INCLUDES SAFE AND DECENT SCHOOL SANITATION

Section 29(1)(a) of the Constitution provides that "everyone has the right to a basic education, including adult basic education".

This right has been described as an 'unqualified' socio-economic right because it is not subject to the qualifiers 'progressive realisation' and 'within the state's available resources' that characterise other the socio-economic rights in the Constitution. These include the rights to further education, health care, food, water and social security.

In the Constitutional Court case of *Juma Musjid Primary School and Another v Ahmed Asruff Essay NO and Others ('Juma Musjid'), in an often-quoted passage, the Court stated:*[14]

> *It is important, for the purpose of this judgment, to understand the nature of the right to a basic education under section 29(1)(a). Unlike some of the other socio-economic rights, this right is immediately realisable. There is no internal limitation requiring that the right be 'progressively realised' within 'available resources' subject to 'reasonable legislative measures'. The right to a basic education in section 29(1)(a) may be limited only in terms of a law of general application, which is 'reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom'. This right is therefore distinct from the right to 'further education' provided for in section 21(1)(b). The state is, in terms of that right, obliged, through reasonable measures, to make further education 'progressively available and accessible.* (our emphasis).

The Court then went on to identify 'access' as one of the 'necessary' components of the right to basic education.[15]

Thus, the Court distinguished the unqualified right to basic education from the qualified socio-economic rights and established the **immediate realisation** principle, requiring that government immediately fulfil the right. The provision of a reasonable plan to fulfil the right is not enough – the actual components of the right must be provided immediately. It further laid the foundation for a substantive approach to the interpretation of the right to basic education; this means the different components of the right to basic education must be identified.

The fact that a right is **immediately realisable** means that the right to basic education can only be limited through the law of general application as long as it is in line with requirements of section 36 of the Constitution. It is therefore not sufficient for the government to justify a policy for providing an education resource as 'reasonable', which is the standard that applies in respect of the qualified rights. It must do more. It must meet a higher threshold of immediate realisation when it acts to fulfil the right to basic education.[16] The only circumstances in which it would be lawful for the government to fail to fulfil an aspect of the right to basic education would be where a court finds that it is reasonable and justifiable in an open and democratic society, based on human dignity, equality and freedom, and taking into account all relevant factors, for it to do so.

Subsequent to *Juma Musjid*, there has been a string of cases dealing with the provision of various physical

14. 2011(8) BCLR 761 (CC) para 37.
15. Para 43.
16. McConnachie & McConnachie 'Concretising the Right to a Basic Education' 129 SALJ 554 at 579.

inputs to education, each predicated on the underlying notion that the inadequate provisioning of specific items – such as school infrastructure,[17] textbooks,[18] teacher post provisioning,[19] furniture[20] and transport[21] – at historically disadvantaged schools constitutes violations of the right to a basic education. The jurisprudence in respect of these cases has established that these specific inputs are all necessary components of the fulfilment of the right to basic education.

In Equal Education and another v Minister of Basic Education and others,[22] the court explicitly suggested that the right to basic education includes the right to adequate infrastructure. It acknowledged in its judgment that the parties had agreed that the provision of basic school infrastructure is an integral component of the right to basic education.[23] It stated also that "*it is indisputable that basic school infrastructure plays a significantly high role in the delivery of basic education*",[24] and that "*it is that case that … [the right to basic education] is multi-faceted, it includes the provision of proper facilities*".[25]

More directly, on the issue of safe and decent school sanitation, in the case of Komape and Others v Minister of Basic Education, the High Court concluded explicitly that "*the right to basic education includes provision of adequate and safe toilets at public schools for learners*".[26]

There is therefore a clear obligation, in terms of the right to basic education, for government to provide safe and decent school sanitation, immediately, to all learners.

Put slightly differently, the provision of safe and decent sanitation in schools is a necessary condition, without which the right to basic education cannot be exercised.

It must be noted that the right to basic education is not only important in its own right, but also plays an important role as a vehicle for realising other rights. It is essential for empowering women, safeguarding children, promoting human rights and democracy, and protecting the environment.27 A denial of the right to basic education amounts to a denial of these rights also.

C. OTHER RIGHTS IMPLICATED IN A FAILURE TO PROVIDE SAFE AND DECENT SCHOOL SANITATION

When school sanitation is inadequate or unsafe, a number of other rights in addition to the right to basic education are implicated, including the right to an environment that is not harmful to health or well-being (section 24), the right to equality (section 9), the right to dignity (section 10), and the right to have a child's best interests treated as paramount (section 28).

Section 24(a) of the Constitution provides that everyone has the right to an environment that is not harmful to their health or well-being. When appropriate sanitation in schools is absent, children face extreme and unnecessary safety risks. The Limpopo High Court in

17. *Centre for Child Law and Seven Others v Government of the Eastern Cape Province and Others* Eastern Cape High Court, Bhisho Case, Case No 504/10 of 2011, *Equal Education and Others v Minister of Basic Education and Others* Eastern Cape High Court, Bhisho Case, Case No 81/2012.
18. *Minister of Basic Education and Others v Basic Education for All and Others* [2016] 1 All SA 369 (SCA).
19. *Centre for Child Law and Others v Minister of Basic Education and Others* [2012] 4 All SA 35 (ECG). See too *Linkside and Others v Minister of Basic and Others* ('Linkside') (3844/2013) [2015] ZAECGHC (26 January 2015).
20. *Madzodzo and Others v Minister of Basic Education and Others* 2014 (3) SA 441 (ECM).
21. *Tripartite Steering Committee and another v Minister of Basic Education and others* 2015 (5) SA 107 (ECG).
22. (276/2016) [2018] ZAECBHC 6 (19 July 2018) ("Norms and Standards Judgment").
23. *Norms and Standards Judgment* para 47.
24. *Norms and Standards Judgment* para 170.
25. *Norms and Standards Judgment* para 176. Kollapen J, in *SECTION27 and others v Minister of Basic Education and another*, stated specifically that there have been compelling arguments that the right to basic education "must and should, in order to be meaningful, include such issues as infrastructure".
26. *Komape and Others v Minister of Basic Education* (1416/2015) [2018] ZALMPPHC 18 (23 April 2018) para 63 (**'Komape'**).

Polokwane has held that section 24(a) applies to all children in the Limpopo Province faced with the dangerous and harmful effects of inadequate or non-existing sanitation in schools.[28] Providing adequate toilet facilities at schools *"provides for a healthy environment where the children spend their days"*.[29]

Section 9(1) of the Constitution provides that everyone is equal before the law, and has the right to the equal benefit of the law. Section 9(2) provides that equality includes the full and equal enjoyment of all rights and freedoms. However, *"full and equal enjoyment of rights and freedoms"* is not a reality in the existing public schooling system. The apartheid regime's legacy of discrimination in school resourcing has led to poor infrastructure in schools, predominantly at schools catering for African learners in rural areas. The lasting effect of this apartheid discrimination is that by and large, poor black learners bear the brunt of unsafe and inadequate sanitation in Limpopo schools (and schools across the country).

It is also worth noting that female learners are particularly vulnerable when the condition of sanitation facilities is poor. They are especially at risk when forced to walk long distances to use bushes to relieve themselves, and their needs are higher when they are menstruating. The impact of poor infrastructure therefore affects them disproportionately. In order to achieve equality in the education system, the government must ensure that these disparities, which are evident in the condition of school sanitation facilities in rural Limpopo, are addressed with haste.

Section 10 of the Constitution states that everyone has inherent dignity, and the right to have their dignity respected and protected.[30] Our courts have stated specifically that the ability to make use of safe toilets has an impact on dignity and self-worth. In *Beja v Premier of the Western Cape*[31] it was held that filthy, underserviced and poor toilet conditions violate a person's dignity.[32] In *Komape*, the High Court decided that both a *"systemic practice or policy, not to take active steps to equip schools in rural areas with safe and adequate toilets"* and *"allowing [a] lack of adequate sanitation to persist in … schools is … a breach of [the right to] human dignity"*.[33]

Section 28(2) of the Constitution provides that a child's best interests are of paramount importance in every matter concerning the child. Our courts have held that "…the failure [to provide adequate and safe toilets at public schools for learners] compromised the best interests of the children referred to in section 28(2) of the Constitution."

D. THE CONSTITUTIONAL DUTY OF EFFECTIVE PUBLIC ADMINISTRATION

Section 195 of the Constitution sets out the principles that govern public administration. It notes that public administration must be governed by the values and principles enshrined in the Constitution, including the promotion of efficient, economic and effective use of resources, as well as transparency, responsiveness to people's needs, and accountability.

In Section E below, dealing with the budget process of the LDE, we have set out how in multiple respects it has failed to uphold these principles when dealing with public resources. The principles set out in section 196 of the Constitution form the basis of many of our recommendations presented in Section F below.

E. THE LEGAL DUTY TO BUDGET EFFECTIVELY TO ENSURE THAT ADEQUATE SANITATION IS FINANCIALLY PROVIDED FOR

In addition to the obligation in terms of section 195 of the Constitution to manage resources efficiently and effectively, the state has specific obligations in terms of our socio-economic rights jurisprudence to ensure it budgets properly, in order to ensure it can fulfil its socio-economic rights obligations.

In the case of City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd and another, it was held that

> *"The Court's determination of the reasonableness of measures within available resources cannot be restricted by budgetary and other decisions that may well have resulted from a mistaken understanding of constitutional or statutory obligations. In other words, it is not good enough for the City to state that it has not budgeted for something, if it should indeed have planned and budgeted for it in the fulfilment of its obligations."*[35]

27. International Covenant on Economic, Social and Cultural Rights, General Comment 13: The Right to Education, at para 1.
28. *Komape* para 62
29. *Komape* para 63
30. Constitution Section 1(a)
31. 2011 (10) BCLR 1077 (WCC) ("Beja").
32. *Beja* para 30.
33. *Komape* para 61.
34. *Komape* para 63.
35. 2012 (2) SA 104 (CC) para 74.

This standard was laid down in relation to progressively realisable rights. It is thus without question applicable to the even higher threshold of immediate realisability relevant to the right to basic education. The South African state is under an obligation to plan and budget for the provision of safe and adequate school infrastructure, which includes adequate sanitation facilities, on the basis that they are obliged to provide this infrastructure in full and immediately.[36]

F. THE STATE'S OBLIGATIONS IN TERMS OF THE NORMS AND STANDARDS FOR SCHOOL INFRASTRUCTURE

The Minimum Uniform Norms and Standards for Public School Infrastructure ('Norms and Standards')[37] provide that schools must have sufficient sanitation facilities.[38] These sanitation facilities must be "easily accessible to all learners and educators, provide privacy and security, promote health and hygiene standards, comply with all relevant laws and [are] maintained in good working order".[39] The Norms and Standards also prescribe the minimum number of sanitation facilities schools ought to have, according to their enrolment numbers.[40] For example, in primary schools where enrolment is between 13 and 33 there must be a total of 6 toilets, including 2 for girl learners and 1 for boy learners.

The full set of required learner:toilet ratios in terms of the Norms and Standards are as follows:

Annexure G

Norms for School Sanitation

PRIMARY SCHOOL

Enrollment range	*Enrollment range per gender*	*Girls' Toilets*	*Girls' Basins*	*Boys' Toilets*	*Boys' Urinals*	*Boys' Basins*	*Unisex Grade R Toilets*	*Grade R Basins*	*Unisex Disabled toilets & basins*	*Female Staff Toilets*	*Female Staff Basins*	*Male Staff Toilets*	*Male Staff Urinals*	*Male Staff Basins*	*Total Toilets*
0-25	0-13	2	1	1	1	1	0	0	1+	0	0	1	0	0	**6**
26-65	13-33	2	1	1	1	1	0	0	1+	0	0	1	0	0	**6**
66-134	33-67	3	2	1	2	1	2	1	1	1	1	1	0	1	**11**
135-310	68-155	6	4	2	4	2	3	2	1	2	1	1	1	1	**20**
311-620	156-310	8	6	4	4	2	4	3	1	2	1	1	1	1	**25**
621-900	311-465	10	6	4	6	3	5	3	2	3	2	1	2	2	**33**
901-2140	466-620	12	6	6	6	4	5	3	2	3	2	1	2	2	**37**

NB: For the above table it is assumed that the number of learners are spread equally between grades, therefore, the Grade R enrolment = % of total enrolment

36. The following paragraph in Madzodzo and others v Minister of Basic Education and others 2014 (3) SA 441 (ECM) is also relevant:
"As already indicated the respondents have been **aware** since at least May 2011 that there is a **very serious shortage** of furniture in public schools **and** that this **lack** of furniture **constitutes a serious impediment to the enjoyment of the right to basic education** that the Constitution guarantees. Accordingly, the **respondents have been well aware for a considerable time that proactive steps need to be taken to address this shortage** and to fulfil the right to basic education as required by sections 7 and 29 of the Constitution. **In these circumstances it is not good enough to state that inadequate funds have been budgeted** to meet the needs and that the respondents therefore cannot be placed on terms to deliver the identified needs of schools within a fixed period of time. Nor is it good enough to state that the full extent of the needs is unknown. The information available to the respondents from 2011 **was such that reasonable estimates of the funding required could be made and reasonable steps taken to plan for such expenditure**." (para 35, our emphasis).
37. GN R920 GG 37081 of 29 November 2013.
38. Regulation 12(1).
39. Ibid.
40. Ibid Annexure G. We note here that the meaning of Annexure G is not entirely clear in a number of factual circumstances – for example where the enrolment numbers of boys or girls indicate a different toilet ratio to that indicated by the total school enrolment, or where the total enrolment is larger than the largest category in Annexure G (both of which we encountered when compiling our table set out in **Annexure A** to this report). Annexure G is also unclear on how to deal with student enrolment numbers, which fluctuate as the school year progresses.

SECONDARY SCHOOL

Enrollment range	*Enrollment range per gender*	*Girls' Toilets*	*Girls' Basins*	*Boys' Toilets*	*Boys' Urinals*	*Boys' Basins*	*Unisex Disabled toilets & basins*	*Female Staff Toilets*	*Female Staff Basins*	*Male Staff Toilets*	*Male Staff Urinals*	*Male Staff Basins*	*Total Toilets*
0-100	0-50	2	1	1	1	1	1	0	0	1	0	0	**6**
101-200	51-100	4	2	2	2	2	1	1	1	1	0	1	**11**
201-400	101-200	6	4	2	4	2	1	2	1	1	1	1	**17**
401-600	201-300	8	6	4	4	3	1	2	1	1	1	1	**21**
601-800	301-400	10	6	4	6	3	1	2	1	1	1	1	**25**
800-1000	401-501	12	8	4	6	3	2	3	2	1	2	2	**30**
1001-1200	501-600	14	8	6	6	4	2	3	2	1	2	2	**34**

In choosing the most appropriate sanitation technology for a school, an assessment must be conducted to determine the most suitable technology.[41] The following sanitation facilities may be used in schools: water-borne sanitation; small-bore sewer reticulation; septic or conservancy tank systems; Ventilation Improved Pit toilets; and composting toilets. Plain pit toilets and bucket latrines are not allowed in schools under any circumstances.[42] They are expressly identified as unlawful, and must be eradicated and replaced. The National Education Infrastructure Management System (NEIMS) report for January 2018 indicates that 8 702 schools countrywide have pit toilets.

The Norms and Standards also provide timeframes within which these regulations must be implemented:

- Schools that do not have access to sanitation must "*as far as [is] reasonably practicable*" be provided with these facilities by 28 November 2016.[43]
- All schools must "*as far as [is] reasonably practicable*" have sufficient sanitation by 28 November 2020.[44]

These timeframes are all subject to regulation 4(5)(a), which states that the implementation of these norms and standards is "*subject to the resources and co-operation of other government agencies and entities responsible for infrastructure in general and making available of such infrastructure*". However, this qualification has been declared unconstitutional by the High Court, in the Norms and Standards Judgment.[45]

G. CONCLUSION

The government has a clear obligation, in terms of the right to basic education, to provide safe and decent school sanitation immediately to all learners. A failure to do so is not only an infringement of the right to basic education, but also implicates learners' rights to an environment that is not harmful to health or well-being, the right to equality, the right to dignity, and the right to have a child's best interests treated as paramount. The government has a clear constitutional obligation to ensure efficient, economic and effective use of resources,[46] and to plan and budget for the provision of safe, adequate sanitation facilities, on the basis that it is obliged to provide this infrastructure in full and immediately.[47] In terms of the Norms and Standards, sufficient numbers of safe and decent toilets must be provided, and pit toilets must be eradicated.

41. Ibid regulation 12(2).
42. Ibid regulation 12(4).
43. Regulation 4(1)(b)(i) read with regulation 4(3)(b).
44. Regulation 4(1)(b)(ii) read with regulation 4(3)(c).
45. And at the time of writing is before the Constitutional Court, for a decision on an application for leave to appeal.
46. Constitution Section 195.
47. *Blue Moonlight* para 74, read with *Juma Musjid* para 37.

SECTION

C

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CONTEXT – THE FIGHT FOR SAFE AND DECENT SCHOOL SANITATION

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CONTEXT – THE FIGHT FOR SAFE AND DECENT SCHOOL SANITATION

A. BACKLOG

Limpopo Province is one of the hardest-hit provinces. The most recent data provided by the Department of Basic Education illustrates this clearly.

Provinces	*Number of Schools*	Pit Latrines Girls' Basins		Grade R	Insufficient Sanitation
		Schools with pit latrines ONLY and Unacceptable sanitation	*Schools with proper sanitation but pits not demolished*	*School (Site) need of Grade R*	*School (Site) (Additional seats)*
Eastern Cape	3157	1598	323	2810	216
Free State	223	156	42	209	40
Gauteng	747	0	5	325	435
KwaZulu Natal	2842	1365	1477	2001	59
Limpopo	1360	507	853	400	614
Mpumalanga	1111	127	278	740	206
North West	192	145	47	189	119
Northern Cape	373	0	15	118	240
Western Cape	656	0	0	482	174
TOTALS	**10 661**	**3898**	**3040**	**7274**	**2103**

*** A school (site) may belong to more than 1 sub-programme hence each sub-programme to be read separately ***

Under the apartheid regime, parts of Limpopo were part of the former TBVC[48] states, and as a result were severely underfunded. Given this lack of funding, much of the school infrastructure in rural schools unofficially became the responsibility of the communities in which they were situated. Many of the schools visited by SECTION27 have pointed out that their sanitation facilities were built using donations from members of the community. After 1994, the democratically elected government inherited huge infrastructure backlogs, which were the result of fragmented apartheid bureaucratic institutions and historic underfunding.

However, this apartheid legacy is not sufficient explanation for the current state of the infrastructure in Limpopo schools. The department

48. Transkei, Bophuthatswana, Venda and Ciskei

also faces challenges related to maladministration, a lack of capacity, poor project planning and management, corruption, and a record of failing to deliver.

B. ENGAGEMENT

SECTION27 has a history of engagement with the DBE and LDE.

Since 2012, we have drawn attention to the dire state of sanitation in Limpopo education. Although there have been some positive steps made by the state to address this situation, many of our attempts to engage have been met with silence. We believe that with the necessary political will, proper planning and effective budgeting, the situation can be alleviated.

Below, we detail our key moments and correspondence with the government on the crisis in school sanitation.

Timeline

2011

05/12/2011

The Limpopo Department of Education is placed under administration in terms of section 100(1)(b) of the Constitution.

2012

2012

SECTION27 responds to the Limpopo textbooks crisis. During this involvement it becomes clear that sanitation requires urgent attention.

-/06/2012

SECTION27 conducts site inspections of 14 schools in the Vhembe, Mopani and Capricorn districts of Limpopo.

27/09/2012

SECTION27 writes to the DBE and the LDE, as well as other key government departments, to request a meeting about school sanitation in Limpopo.

22/10/2012

The LDE writes to the DBE, acknowledging "a serious backlog in Limpopo schools with regard to sanitation", and that the majority of Limpopo schools have pit latrines, some of which "are in deplorable states and pose serious health risks". The LDE requests the DBE's intervention. The LDE acknowledges that SECTION27's sanitation campaign comes as no surprise, as the issue is "another soft target".

26/10/2012

Having received no substantive response to its request for a meeting, SECTION27 repeats its request to the DBE and the LDE for a meeting to discuss school sanitation in Limpopo.

19/11/2012

The Minister of Basic Education enters into a settlement in which she undertakes to publish a draft of the Norms and Standards for School Infrastructure regulations for public comment on or before 15 January 2013, and to promulgate the regulations by 15 May 2013.

26/11/2012

SECTION27 and the National Association of School Governing Bodies meet with the Deputy Minister of Basic Education and officials from both the DBE and the LDE. The Deputy Minister recognises the dire state of school sanitation and undertakes to provide a plan to SECTION27 by 31 January 2013 for the construction of new sanitation facilities at 111 priority schools, to be followed by a plan to eradicate all pit toilets in Limpopo.

2013

31/01/2013

Deadline for the provision of a sanitation plan by the DBE. No plan is provided.

08/02/2013

SECTION27 writes to the DBE and the LDE to request an indication as to when the sanitation plan will be provided. SECTION27 also draws the DBE and LDE's attention to three schools whose toilets have collapsed or flooded during January 2013 and require urgent intervention.

08/03/2013

DBE writes to SECTION27 undertaking to provide the sanitation plan shortly.

18/03/2013

SECTION27 writes to the DBE and the LDE requesting a list of the criteria used in identifying the priority schools to be included on the sanitation plan. This information is not provided.

02/05/2013

DBE provides an updated sanitation plan to SECTION27, including 414 priority schools. This plan does not include time frames.

06/09/2013

SECTION27 finalises a report on its work in Limpopo, including its work on infrastructure and sanitation. The report highlights attempts to engage the DBE and LDE to resolve the education crisis in Limpopo.

22/08/2013

SECTION27 writes to the DBE and the LDE once more, providing an update on the implementation of the sanitation plan. A further request is made for the criteria used to identify the priority schools for inclusion on the sanitation plan. In addition, SECTION27 draws the DBE and LDE's attention to additional schools in urgent need of new sanitation facilities. No substantive response is received.

02/05/2013

SECTION27 writes to the DBE and the LDE requesting an update on implementation of the sanitation plan and repeating its request for the criteria used to identify priority schools. SECTION27 also draws the DBE and LDE's attention to two schools not included in the sanitation plan, but in dire need of new sanitation facilities. No substantive response is received.

18/09/2013

Representatives from SECTION27 attend a meeting with the MEC and the Head of Department in the LDE, and the Head of the Intervention Team from the DBE. The Head of the Intervention Team suggests that there are no objective criteria used to identify priority schools for inclusion on the sanitation plan. He further suggests that there are no plans in place to construct new sanitation facilities at the additional schools identified by SECTION27.

29/11/2013

The Minister of Basic Education publishes National Minimum Norms and Standards for School Infrastructure. They clarify that basic pit toilets are not permitted at schools, and that all schools without lawful sanitation facilities are to be provided with these facilities by no later than 28 November 2016.

2014

20/01/2014

Michael Komape dies tragically after falling into a pit toilet at Mahlodumela Primary School in Chabeng Villiage, Limpopo.

28/01/2014

SECTION27 writes to key stakeholders in the construction industry, calling on them to intervene to provide relief in order to deal with the sanitation crisis in Limpopo.

29/01/2014

SECTION27 meets with the Deputy Minister of Basic Education and senior officials in the DBE. The DBE undertakes to address the sanitation backlog in Limpopo, and to "accelerate and intensify" its delivery plans.

09/04/2014

Limpopo MEC of Education Dikeledi Magadzi states in a television interview with ENCA Checkpoint that she "*is not the MEC of toilets*", indicating an unwillingness to be accountable for school sanitation and a lack of empathy for the lives of Limpopo learners.

30/07/2014

National executive announces the end of the section 100(1)(b) intervention – it will withdraw from the LDE over coming months.

2015

26/06/2015 [Amended 16/03/2017]

Michael Komape's father, James Komape, his wife Rosinah and two of Michael's siblings lodge a claim against the Minister of Basic Education, Limpopo's education MEC and the principal and governing body of Mahlodumela Lower Primary School in Seshego.

31/08/2015

The defendants oppose the claim by the Komape family. In their plea they deny liability for Michael's death, claiming that it was not caused by their wrongful, unlawful and negligent conduct. They deny that the toilet that Michael fell into was dilapidated and unsafe. They refer to Michael's death as an "*unfortunate accident*". They say that it was not foreseeable that any injury would occur from using the toilet, and that Michael falling into the toilet during playtime was an accident.

2016

04/05/2016

Oratile Diloane falls into an exposed pit at Tlhotlheletsang Primary School, Kanana, North West, and is severely traumatised by the incident.

30/11/2016

Department of Basic Education misses first deadline, in terms of the Norms and Standards for School Infrastructure, to eradicate all pit toilets in South African schools

2017

Between 19/09/2017 and 31/10/2017

The defendants make three different settlement offers to the Komape family. All three are refused.

13/11/2017

Komape hearing commences in the Polokwane High Court, Limpopo.

2018

14/03/2018

SECTION27, representing Basic Education For All (BEFA), are in the High Court on 14-16 March 2018, intervening as amicus curiae in Equal Education's bid to declare invalid certain regulations of the Minimum Norms and Standards for Public School infrastructure.

16/03/2018

Lumka Mketwa falls into a pit latrine at her school and dies, Luna Primary School in Bizana.

16/03/2018

President Cyril Ramphosa gives Basic Education Minister Angie Motshekga a month to conduct an audit of all hazardous school structures and three months to come up with an emergency plan to fix this, while rolling out proper infrastructure.

05/04/2018

SECTION27 writes to the President, the Minister of Basic Education and the Minister of Finance. We welcome the President's quick response to the death of Lumka Mketwa, and draw attention to certain issues, given our work on school sanitation since 2012. In another letter, SECTION27 requests access to the audit data. Basic Education Minister Angie Motshekga responds, refusing to send us the data before sending it to the President. It is never sent to us.

23/04/2018

Judge Gerrit Muller hands down judgment in the Michael Komape case in the Limpopo High Court. He orders the LDE to eradicate unsafe and unhygienic toilets at rural schools and provide the court with a report by the end of July. He also dismisses the Komape family's damages claims for emotional shock and grief, but upholds the claim for future medical expenses for Michael's two younger siblings. (Claims for Michael's funeral expenses, the plaintiffs' future medical expenses and Michael's mother's loss of earnings are settled before judgment.)

14/08/2018

President Cyril Ramaphosa launches the SAFE Initiative at the Sheraton Hotel.

-/08/2018

Department of Basic Education files bid to appeal the Norms and Standards judgment in the Constitutional Court.

31/07/2018

Limpopo Department of Education misses the deadline to provide a plan to eradicate pit toilets, in terms of the Komape judgment, and asks for a 30-day extension.

31/07/2018

Acting Judge Nomawabo Msizi of the Eastern Cape High Court in Bhisho rules that the Norms and Standards for School Infrastructure are unconstitutional and invalid.

17/06/2018

Minister of Basic Education Angie Motshekga misses President Ramaphosa's deadline for the provision of an emergency plan to eradicate pit toilets.

05/06/2018

Judge Gerrit Muller grants the Komape family leave to appeal parts of his April ruling.

30/08/2018

Limpopo Department of Education submits report in terms of the Komape structural order.

09/09/2018

SECTION27 publishes an open letter to President Ramaphosa highlighting our concerns with the SAFE Initiative.

27/09/2018

SECTION27 files a response to the LDE's report, highlighting severe inadequacies in the defendants' report.

09/10/2018

SECTION27 writes again to the President and the Minister of Basic Education, after receiving no substantive response to our open letter.

C. DATA SETS

One of the major difficulties that has repeatedly reared its head in SECTION27's campaign for improved school sanitation has been a long line of data sets and audits, ostensibly setting out the basis for intervention. However, these various data sets have been inconsistent with one another, and have failed to explain how they link together and how they form part of a broader strategy for the provision of school sanitation. This is obviously immensely problematic – it is a truism that without accurate data on the state of school sanitation, it is impossible for the government to put in place effective measures to address problems.

i. The National Education Infrastructure Management System (NEIMS) Reports

The National Education Infrastructure Management System was the first database to come to the attention of those monitoring the fulfilment of the right to basic education, particularly the provision of school infrastructure.

It is a database of public schools in South Africa. The first NEIMS report was made available in 2011.[49] The reports have been published by the DBE (almost)[50] annually since 2011, and provide an overview of the state infrastructure in each province. A select portion of the data on sanitation in Limpopo – specifically on pit toilets and Ventilated, Improved Pit toilets – is summarised in the table below.

Year	*Number of Sites*	*No sanitation facility*	*Pits and other sanitation*	*Pits and no other sanitation*	*Ventilated Improved Pits*	*Enviro-loos*
2011	3 924	36	2 857		1 122	870
2012	No Data					
2013	3 866	28	2 820		1 122	873
2014	3 829	0	2 574	1 020	1 315	1 230
2015	3 831	0	2 537	1 001	1 345	1 236
2016	3 834	0	2 529	941	1 393	1 252
2017	No Data					
2018	3 834	0	2 524	916	1 392	1 294

Note: Numbers represent numbers of school sites with the listed facility

What these numbers seem to show is that between 2011 and 2014, there was some increase in the number of Enviro-loos and Ventilated Improved Pit toilets in schools in Limpopo. During that same period, all schools without sanitation facilities were provided with them, and there was a significant decrease in the number of schools with pit toilets. However, between 2014 and 2018 these changes are far more modest.

ii. The Norms and Standards Reports

In terms of the Norms and Standards,[51] the MEC for Education in Limpopo is required, on an annual basis, to provide the Minister for Basic Education with a report describing the province's progress in the implementation of the Norms and Standards. The LDE has produced just two of these reports – one in 2016 ('2016 N&S Report') and one in 2018 ('2018 N&S Report').

In both reports, the LDE states that for the year in question, its "*focus has been placed on ensuring Health and Safety and basic services to all schools*".[52]

Both reports note that in order to "*establish the situation in the Province, the CSIR was engaged to undertake a condition assessment of all the schools in the province*". Both

49. See National Education Infrastructure Management System Reports May 2011 at page 3. Available here: http://www.thutong.doe.gov.za/administration/Administration/GeneralInformation/Statistics/tabid/3338/Default.aspx. (last accessed 15 September 2018). Updated reports have been provided almost annually since.
50. The reports for 2012 and 2017 are missing from the DBE's website.
51. Regulation 4(7)
52. 2016 N&S Report page 2 and 2018 N&S Report page 2.

2016 and 2018 reports state that precisely 4 480 facilities have been visited by the CSIR and reports have been compiled. Both also note a serious backlog of infrastructure maintenance and shortage of facilities in terms of the norms.[53]

The 2016 N&S Report records that at the time of reporting, there were 897 schools in Limpopo with pit toilets only. It notes that those deficiencies were being addressed in the Water and Sanitation programme and in the Storm Damaged Schools programme, and would be completed in the 2015/2016 financial year.[54] Worryingly, the 2018 N&S report reports that there are still 765 schools in Limpopo with pit toilets only. Thus, only 132 schools had their pit toilets replaced in the space of two years. Clearly, the promise of completion in the 2015/2016 financial year (made in the 2016 N&S report) was not kept. Again, the report states – in identical fashion to the 2016 N&S report – that these will be addressed in the Water and Sanitation programme and in the Storm Damaged Schools programme. However, this time the 2018 N&SN Report does not stipulate a completion date, and instead notes that completion would be "*based on [the] budget availability*".

Finally, it is worth noting that in the 2016 N&S Report, the LDE posits that if it utilises its full infrastructure budget to address water and sanitation issues, "*it will take at least three years*" to resolve these issues.[55] It notes further that if it continues to allocate its current proportion of 20% of its infrastructure budget to sanitation projects, it will take 10 to 12 years to complete the projects identified. The 2018 N&S Report, published two years later and presumably taking into account the development and progress that has taken place over the two years, repeats precisely the same percentages and timeframes as set out in the 2016 N&S report described above. The relevant paragraphs in the two reports are in fact so similar that we cannot help but wonder whether the relevant paragraph was simply cut and pasted from the 2016 N&S Report into the 2018 N&S Report.

iii. The CSIR Condition Assessment

In 2014, the Counsel for Scientific and Industrial Research (**CSIR**) was engaged to undertake a "*condition assessment*"[56] of all schools in Limpopo.[57] After being promised access to this CSIR information repeatedly over a number of years, SECTION27 was forced to obtain the information through the issue of a subpoena directly on the CSIR in August 2016 (as part of the Komape trial).

We engaged the services of a data analyst to assist us in extracting our own conclusions from the data contained in the condition assessment. Affidavits provided to SECTION27 in August 2018 by the DBE and LDE note that this condition assessment has "*been concluded with timeous updates on data collected by CSIR*".[58] This suggests that the CSIR's data set is being updated on an ongoing basis. We have not been provided access to the updated data set, and as such, the results provided by our analyst apply only up to 2015/16. Nevertheless, the analysis is extremely telling regarding the patterns of sanitation provision in Limpopo.

All of the graphs and conclusions that follow in this section are based on the LDE's own data, compiled by the CSIR.

NUMBER OF LEARNERS PER TOILET:

In 2009, 50% of schools in Limpopo had between
18 AND 57
pupils per toilet

Nearly 10% of schools had over 100 learners per toilet.

By 2015, 50% of schools in Limpopo had between
11 AND 28
pupils per toilet

Only 1% of schools had over 100 learners to a toilet.[59]

This reflects a marked improvement.

53. 2016 N&S Report page 4 and 2018 N&S Report page 4.
54. 2016 N&S Report page 5.
55. 2016 N&S Report page 8.
56. According to the LDE, the CSIR assessment was undertaken to provide a basis for the fulfilment of reporting obligations in terms of the Norms and Standards. Consolidated information was provided to the LDE at the end of July 2016. See Limpopo Department of Education *Infrastructure Norms and Standards Report* 2016 at page 4.
57. 2016 N&S Report page 4. See also affidavit provided in the Komape matter (case number 1416/2015) on behalf of the Minister of Basic Education and the MEC for Education, Limpopo, dated 28 August 2018 ("*Komape Affidavit*"), at para 7.2.
58. *Komape Affidavit* para 7.3.
59. Analysis by Megan Little of Firdale Consulting (firdaleconsulting@gmail.com) at pages 1 and 2.

THE TOILET SEAT GAP:

The data provided by the CSIR provides a norm, which indicates the total number of required toilet seats per school. Further information on how the norm value was calculated was not provided with the data; however, we have assumed that it is based on the total number of toilet seats per school as required by the Norms and Standards. By subtracting the number of non-pit seats actually present at a school, from the norm value, the Toilet Seat Gap is obtained. If a school has a positive Toilet Seat Gap value, it has a toilet deficit. The higher the positive value, the bigger the toilet seat deficit. If a school has a negative Toilet Seat Gap value, it has more toilets than it required by the Norms and Standards.

In 2015, the data showed that

70%

of schools in Limpopo had some degree of toilet deficit (measured by the requirements of the Norms and Standards).[60]

PIT VS NON-PIT TOILETS:

In 2015,

37%

of toilets across schools in Limpopo were pit toilets, as opposed to the

63%

were non-pit toilets.

Toilet types varied widely across the schools, **with 24% of schools having all pit toilets, and 23% having no pit toilets at all.**[61]

CONDITION OF TOILETS

The CSIR data contained maintenance reports conducted in 2015. Condition scores were allocated to school buildings, and our analyst used these scores to ascertain the average condition of sanitation facilities at schools in Limpopo.

The condition ratings were given based on the following scores:

Condition	*Action Required*	*Description*
5 VERY GOOD	*Planned Preventative Maintenance*	The component or building is either new or has recently been maintained. does not exhibit any signs of deterioration
4 GOOD	*Condition-Based Maintenance*	The component or building exhibits superficial wear and tear, minor defects, minor signs of deterioration to surface finishes and requires maintenance/servicing. It can be reinstated with routine scheduled or unscheduled maintenance/servicing.
3 FAIR	*Repairs Required*	Significant sections or component require repair, usually by a specialist. The component or building has been subjected to abnormal use or abuse, and its poor state of repair is beginning to affect surrounding elements. Backlog maintenance work exists.
2 BAD	*Rehabilitation Required*	Substantial sections or component have deteriorated badly,suffered structual damage or require renovations. There is a serious risk of imminent failure. The state of repair has a substantial impact on surrounding elements or creates a potential health or safety risk.
1 VERY BAD	*Replacement Required*	The component or building has failed, is not operational or deteriorated to the extent that does not justify repairs, but should rather be replaced. The condition of the element actively contributes to the degradation of surrounding elements or creates a safety, health or life risk.

The results are very discouraging. Across all the schools, the average condition of their toilets was 2.5 (i.e. within the 'Bad' category, where rehabilitation is required). Thirty-five per cent of schools had an average score of less than 2.0, i.e. their toilets needed to be replaced. Conversely, very few schools had toilets that could be categorised as Good or Very Good (less than 10% of schools had toilets rated 4.0 or higher).[62]

60. Analysis by Megan Little of Firdale Consulting (firdaleconsulting@gmail.com)
61. As above
62. As above.

SPENDING VS RESULTS ON TOILETS

In 2009, there was evidence for both the existing toilet seats, and the allocated budget for building additional toilets (Enviro-loos). Our analyst could therefore calculate the total number of toilet seats expected by adding the existing toilet seats to the ones budgeted for. A comparison of the expected toilet seats in 2009 with the actual number of toilet seats in 2015 showed the extent to which the government delivered on their budget promises. This comparison was possible for the 1 196 schools which had information from both 2009 and 2015.[63]

The results were somewhat encouraging – for 40% of schools, the number of expected toilets was almost equal to the number the government had committed to building in 2009. Of the total sample (including the outliers), 71% had toilets exceeding the government's commitment.

It is important to reiterate that although the government appeared to have mostly delivered on their 2009 and 2013 commitments to build toilets, the toilet gap still remained high; and most crucially, the condition of existing toilets remained very poor.[64]

iv. The SAFE Initiative Audit

We describe the SAFE Initiative in detail in SECTION C(d) below. This Initiative claims to be based on yet another audit of school sanitation, further compounding the confusion regarding the state of school sanitation on the ground in Limpopo.

THE SAFE INITIATIVE STATES THAT:

507

schools in Limpopo are making use of basic (unlawful) pit latrines;

857

schools in Limpopo have received new sanitation facilities, but the old pit toilets have not been demolished; and

614

schools in Limpopo have insufficient toilets.

The SAFE Initiative also states that providing safe and adequate toilets to learners in Limpopo will cost approximately R918 383 922.10.

63. As above.
64. As above.

These numbers are very different to those set out in the Komape Affidavit, discussed in section C(d)(v) below.

There are also major discrepancies between the SAFE audit and other data sets. For example, the latest data in the National Education Infrastructure Management System (NEIMS), published by the DBE in January 2018, states that nationally, there are 8 702 public schools that have pit toilets on the school premises. On 22 March 2018, the Minister of Basic Education stated that there were 8 679 schools with pit toilets. On 17 April 2018, the DBE stated in Parliament that there were 5 779 schools with pit toilets. On 30 May, the DBE told the National Council of Provinces that there were 7 174. SECTION 27 is very concerned that the SAFE audit, like the other audits and plans before it, does not reflect an accurate assessment of school sanitation needs in South Africa.

v. The Komape Affidavit

Subsequent to the launch of the SAFE Initiative, and pursuant to the court order in *Komape and others v Minister of Basic Education and others* (23 April 2018), the Limpopo Department of Education together with the Department of Basic Education was required to provide a detailed report setting out a programme for the installation of sanitation across Limpopo Province. A response to the requirements of the court order was provided on 31 August 2018. This response did not make a single mention of the SAFE Initiative, and was largely constitutionally non-compliant. In particular:

- It lacked clear criteria for the identification of schools "with sanitation needs";
- The accuracy of the data on which it was based was not established;
- It estimated the period required to replace all pit latrines in public schools in Limpopo to be 14 years, ending in 2031;
- It did not reflect the obligation to realise the right to basic education in full and immediately, or to justify the failure to do so; and
- It did not make provision for an interim solution for those schools whose needs are most urgent.

In clear contrast to the cost of replacing pit latrines set out in the SAFE Initiative (R918 383 922.10, as above), the response estimated the cost of replacing pit latrines with their preferred Ventilated Improved Pit system across the entire province to be R1 645 824 000. This is a discrepancy of over R700 million.

The response contained a list of all the schools in Limpopo that have pit toilets as at 18 July 2018. Of the 1 489 entries on the list of schools provided, 12 schools appear twice and one is a pre-primary school; so in fact, there were only 1 474 schools listed in the plan. This is **114 more schools with pit toilets** than were listed in the President's SAFE Initiative.

In addition, of the 86 schools that SECTION27 contacted in the compilation of this report, 41 had unlawful pit toilets on the premises. Of these, only 22 are listed in the LDE's response provided to the court order in Komape. In other words, **at least** 19 schools that we know have pit toilets on the premises were left off the LDE's plan provided on 31 August 2018. This shows firstly that the LDE and DBE's most recent information in this regard remains inaccurate, and secondly that external stakeholders can be a valuable source of critical information.

D. STATE INTERVENTIONS

The government has attempted to implement various measures for improving school sanitation in Limpopo. We describe these in the section that follows. While there has been some improvement driven by some of these, none have managed to have a substantial impact on the sanitation crisis.

i. Accelerated Schools Infrastructure Development Initiative (ASIDI)

The Accelerated Schools Infrastructure Development Initiative **(ASIDI)** is a policy development of the Department of Basic Education. It came about as a direct result of litigation in 2010 – by a number of Eastern Cape schools represented by the Legal Resources Centre – against DBE for its failure to uphold the right to basic education by providing adequate school infrastructure. The litigation in question was settled. Part of the settlement included a commitment of R8.2 billion by the DBE for the replacement of inadequate school structures across the country. This settlement amount eventually became the foundation of the ASIDI programme.[65]

ASIDI is now funded through the Schools Infrastructure Backlogs Grant. The DBE's stated objective for the ASIDI programme is to replace schools constructed from inappropriate materials (mud, planks and/or asbestos), and to eradicate the backlog in schools without water, sanitation and electricity.[66]

65. See *Ready to Learn: A Legal Resource for Realising the Right to Education* (2013) The Legal Resources Centre (available at https://eduinfoafrica.files.wordpress.com/2016/11/lrc_readytolearn_lr1.pdf) at page 20; and Fighting to Learn: A Legal Resource for Realising the Right to Education (2015) The Legal Resources Centre (available at https://eduinfoafrica.files.wordpress.com/2016/11/lrc_fighting_to_learn.pdf) at page 3.
66. See https://www.education.gov.za/Programmes/ASIDI.aspx (last accessed 12 October 2018).

Although (according to the DBE) 486 schools nationally have been provided with at least basic sanitation, the programme has been riddled with delays and missed deadlines.[67] This is discussed further in SECTION E below.

ii. Education Infrastructure Grant (EIG)

The Education Infrastructure grant is a conditional grant provided (among other reasons) to assist with accelerating the construction, maintenance and upgrades of new and existing infrastructure in education, and to enhance capacity to deliver infrastructure in education.[68]

The intention of the grant is to supplement provincial allocations and particularly to eradicate backlogs; but increasingly, provincial contributions have been dwindling and provinces have begun relying almost entirely on grant funding for spending on school infrastructure.[69] This negates the effect of introducing a grant as an intervention to speed up delivery. A short comparative discussion of the implementation of the ASIDI programme and EIG is set out below in SECTION E.

iii. The 2013 Plan

Following months of correspondence and meetings, the DBE undertook to provide SECTION27 with a plan to progressively eradicate pit toilets in Limpopo Province. The Plan listed the following concerns around sanitation, which it sought to address:

- The toilets at many schools were old and the buildings dilapidated. Some of these buildings were under threat of collapse. Some toilets had collapsed in recent rains in Limpopo, and had left the learners with no functional toilets to use.
- There were insufficient toilets for the number of learners. In many cases, learners had to line up for extended periods to relieve themselves, or miss class time to avoid having to line up. In addition, the toilets were not designed for use by such large numbers of learners, and this contributed to their unhygienic state.
- The state of the toilets was unhygienic. Waste was not disposed of efficiently. The floors and surrounding areas were soiled.
- At some schools, the pits were full, and therefore learners could not use the toilets. The only alternative for learners was to relieve themselves in the bushes, or to walk home during the school day to relieve themselves.
- Most toilets did not have toilet seats. This facilitated the spread of disease. In addition, many toilets did not have doors, and learners were not afforded the privacy they were entitled to when relieving themselves.
- Most toilets did not have any hand-washing facilities.

In terms of the Plan, by 3**0 June 2013 the following would be completed**:

- 162 priority schools throughout Limpopo would receive new sanitation facilities in terms of the provincial infrastructure budgets.
- 53 priority schools throughout Limpopo would receive new sanitation facilities under the DBE's Accelerated School Infrastructure Development Initiative.
- The toilets to be installed at these schools were Ventilated Improved Pit Latrines ('VIP' toilets). These toilets were appropriate for the rural setting, which did not have a sufficiently reliable water supply for a water-based sanitation system.
- Schools without adequate hand-washing facilities would be provided with these facilities, including infrastructure to ensure reliable water supply.
- Schools with dilapidated and structurally unsound toilets would have these existing toilets demolished, to remove the dangers of buildings under threat of imminent collapse.

The next phase of this plan would be to identify 600 schools in dire need of sanitation; and through the provincial infrastructure budget, as well as the Accelerated School Infrastructure Development Initiative, provide new sanitation facilities to these schools.

When SECTION27 studied the LDE's priority list, we noted that many of our client schools that had dangerous or no sanitation facilities were not on the list. It was clear that we and the LDE did not have a common understanding of what an 'unsafe toilet' is, and what a school with 'sanitation needs' looks like. We sent repeated correspondence to the Department seeking the criteria used to select the schools, and alerting them to other schools that were in urgent need of sanitation facilities. A few months later, SECTION27 learned of the tragic death of Michael Komape. Despite his school's sanitation facilities being dangerous, his school had not been placed on the priority list.

Since then, the 2013 plan has been reviewed, replaced, and was

67. *Ready to Learn: A Legal Resource for Realising the Right to Education* (above) at page 20.
68. See National Treasury presentation to the National Council of Provinces on 30 May 2018 "*School Sanitation Audit; Education Infrastructure Expenditure; with Minister*" (available here: http://pmg-assets.s3-website-eu-west-1.amazonaws.com/180530_EIG_NT.pdf) at page 2.
69. See National Treasury presentation to the National Council of Provinces on 30 May 2018 "*School Sanitation Audit; Education Infrastructure Expenditure; with Minister*" (available here: https://pmg.org.za/committee-meeting/26539/).

ultimately never completed. There remain schools on SECTION27's school list **(Annexure A)**, which although being listed for improvement under the 2013 plan, still have pit toilets as their only form of sanitation.

iv. Sanitation Appropriate For Education (SAFE)

Following a directive from President Cyril Ramaphosa on 16 March 2018, the SAFE Initiative was launched on 14 August 2018. The President's March directive had required that DBE conduct an audit of all learning facilities with unsafe structures, especially unsafe sanitation facilities, within a month; that the Minister of Basic Education provide a plan to rectify these challenges, as an emergency interim measure, while rolling out proper infrastructure; and that the emergency plan be produced within three months of the directive.

Following on from this, the SAFE Initiative positioned itself as the long-awaited solution to the sanitation crisis in South Africa.

The audit preceding the SAFE Initiative launch identified five categories of schools.[70]

1. No sanitation;
2. With pit toilets and unacceptable sanitation;
3. Schools with improved sanitation, but pit toilets remain undemolished;
4. Sanitation not fit for purpose (not age appropriate) – this appears to refer mainly to the presence of Grade R toilets; and
5. Schools with insufficient sanitation (this includes schools with inadequate sanitation and schools whose sanitation does not meet the Norms and Standards); this appears to refer mainly to the requirement of extra seats.

Based on this audit, SAFE provided an estimated costing for the improvement of sanitation in schools across the country. The total costing excludes projects already catered for under the ASIDI grant, and "*provincial sanitation programmes*". It estimates a total cost nationally of R6 830 117 424.38 (R7 billion). It estimates a total cost in Limpopo of R918 383 922.10 (R900 million).

However, SECTION27 believes there are serious gaps in the SAFE Initiative; and much work must be done, and many details must be provided, before it can be established that the SAFE Initiative will be adequate to ensure learners' rights are fulfilled. In particular:

- Data accuracy: there are a number of discrepancies between the data presented as part of the SAFE Initiative, and other data sets;
- Unclear definitions: the SAFE Initiative is insufficiently specific as to the reach of the categories of school sanitation requiring upgrading;
- Non-specific funding sources: the launch of the SAFE Initiative proved to be largely an appeal to the private sector to provide assistance with funding sanitation improvements in schools. Crucially, however, we have not been told how the SAFE Initiative will be funded, should it not be possible to raise all necessary costs from the private sector;
- Timeframes unclear: there have been notorious backlogs with infrastructure upgrades, and the Initiative appears not to make provision for urgent interim measures to prevent further tragedy;
- Disjuncture between SAFE and the provinces: the SAFE Initiative describes how it will require the provinces to be involved in its implementation.

More details of these criticisms are provided in our open letter to the President, attached to this report as **Annexure B**.

Without more detail being provided to us, we remain sceptical of the SAFE Initiative's ability to successfully make toilets safe for learners in Limpopo. We are of the view that in its current form, the SAFE Initiative fails to provide a carefully coordinated roadmap based on accurate information, with concrete, measurable, time-bound and budgeted-for steps for alleviating the sanitation crisis at schools.

E. CONCLUSION

Whether one makes use of the SECTION27 analysis of the CSIR data, the government's Norms and Standards and NEIMS reports, or the data provided in terms of the SAFE Initiative or the affidavit in Komape, a number of observations can be made:

1) The government's reporting of its own statistics varies by source, and it is thus impossible to establish which source (if any) is correct.

2) This has a fundamentally detrimental effect on the government's ability to provide sufficient safe and decent school sanitation in Limpopo, and therefore on its fulfilment of the right to basic education – if it does not **know** what is required, it is impossible to **provide** what is required.

3) Various interventions have been attempted by the government to solve the crisis; however, none of these have managed to substantively impact the status quo of systemic dysfunction and serious rights violations.

4) Although there have been some improvements in sanitation provision between 2009 and 2015, the presence of pit toilets persists, conditions of school toilets is very poor, and there continue to be violations of the rights of children who are forced through circumstance to use such facilities.

5) There is clear legislative non-compliance, at the **very** least, inasmuch as there remain plain pit toilets in schools in Limpopo. Thus, there remains a **very** serious problem of unsafe sanitation in schools in Limpopo.

70. The information which follows is based on a presentation made at the launch of the SAFE Initiative by the Director General for Basic Education. It is available here: https://www.education.gov.za/Portals/0/Documents/Publications/SAFE%20Presentation.pdf?ver=2018-08-14-130300-673.

SECTION

D

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FINDINGS AND IMPACT

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FINDINGS AND IMPACT

A. INTRODUCTION

In order to gain a better understanding of the trends and patterns emerging from our data on the 86 Limpopo schools, we created a classification system consisting of five categories. Every school listed in Annexure A has been allocated a colour. Paying particular attention to the safety of sanitation for learners, we have coloured the schools according to a scale of urgency of necessary interventions, with red schools being the most urgent, and blue being the least. The colour key is explained below.[71]

RED	Primary schools with pit toilets on the premises.[72] Or extremely urgent for another clear reason (here we have drawn a hard line – even if plain pits are present only for the use of teachers, a door could be left open and a small child could wander into the cubicle and fall in. In such a case, we have classed the school as a red school). Even where new Enviro-loos have been installed at a school, we have left schools as red (or orange – see below) until we are fully satisfied that the old pits have been demolished and the safety risk has been removed.
ORANGE	Secondary schools with pit toilets on the premises. Or serious non-compliance with required learner:toilet ratios as detailed in the Norms and Standards – for example, only half the number of toilets required are present.
YELLOW	Non-compliance with Norms and Standards learner:toilet ratios (for example, 4 toilets present for females when the Norms and Standards require 7). If compliance is close to the Norms and Standards, for example 4 toilets for males instead of 2 toilets and 2 urinals, then the school will be classed as green rather than yellow). Or the presence of sufficient flush toilets, but these are blocked and therefore non-functional.
GREEN	Close to compliance with the Norms and Standards learner:toilet ratios (perhaps one or two toilets too few). Mostly an acceptable toilet. Often a green if toilet is fully acceptable, but missing a bin for disposing of sanitary waste.
BLUE	Fully acceptable toilet, given the circumstances (rural, lack of bulk infrastructure, etc).

71. Where schools have infrastructure issues which place them in more than one category, we have allocated them to most urgent of the multiple categories into which they fall.
72. "On the premises" includes pit toilets that are being used by learners, as well as pit toilets which are not being used but have not yet been demolished. The rationale behind this is that in both situations the presence of pit toilets poses an immediate danger to learners.

It is critical to understand that although we have made this classification on the basis of **urgency**, it should in no way be interpreted as an endorsement, on our part, of an approach to progressively realising the right to basic education. As discussed in Section B, the jurisprudence of our courts has repeatedly acknowledged the principle that the right to basic education is immediately realisable. Our classification above serves only to illustrate that some toilets are in extremely dangerous condition and pose a significant threat to the safety of learners, while others perpetuate daily indignities and present problems in respect of hygiene. It is imperative that all of these be addressed to ensure that learners' rights are protected.

B. WHAT DOES ADEQUATE SANITATION LOOK LIKE?

Before we begin to explore the impact of poor sanitation on learners, it is important to first set out what constitutes an adequate sanitation facility.

The World Health Organisation has defined 'sanitation' as generally referring "*to the provision of facilities and services for the safe disposal of human urine and faeces as well as the maintenance of hygienic conditions, through services such as garbage collection and wastewater disposal*".[73]

Closer to home, the Norms and Standards for school infrastructure give us guidelines as to what an adequate sanitation facility might look like. The section of the Norms and Standards that speaks to sanitation reads as follows:

01 *All schools must have a sufficient number of sanitation facilities, as contained in Annexure G, that are easily accessible to all learners and educators, provide privacy and security, promote health and hygiene standards, comply with all relevant laws and are maintained in good working order.*

02 *The choice of an appropriate sanitation technology must be based on an assessment conducted on the most suitable technology for each particular school.*

03 *Sanitation facilities could include one or more of the following:*

(a) Waterborne sanitation;

(b) Small-bore sewer reticulation;

(c) Septic or conservancy tank systems;

(d) Ventilated improved pit latrines; or

(e) Composting toilets.

04 *Plain pit and bucket latrines are not allowed at schools.*"

A plain pit toilet is a latrine that consists of a hole in the ground which collects human waste. The pit is connected to a 'seat', usually comprising a concrete slab or corrugated iron. A Ventilated Improved Pit (VIP) latrine is similar to an ordinary pit latrine, but importantly, includes a vent pipe connected to the base of the pit. This ensures air flow, which removes smells. To date, the LDE has opted for the 'Enviro-loo' – a particular brand of VIP – as a replacement for pit toilets.

The Norms set the following minimum standards for adequate sanitation facilities:

Easily accessible to all learners and educators

Privacy and security

Promote health and hygiene standards

Maintained in good running order

Compliance with all relevant laws

73. WHO Sanitation <http://www.who.int/topics/sanitation/en/>; also M Langford, J Bartram & V Roaf 'Revisiting Dignity: The Human Right to Sanitation' <http://www.jus.uio no/smr/english/people/aca/malcolml/Draft%20Sanitation%20Chapter.pdf>.

Simply put, school toilets should be: safe, clean, private, well-ventilated, age-appropriate, well-maintained, and should have access to hand-washing facilities nearby. It is particularly worth noting that female learners will need sanitary bins in order to adequately dispose of sanitary pads. These characteristics are of course in line with national and international standards. Yet for many learners, they are far from the reality.

Schools in Limpopo face a number of sanitation challenges that can be categorised into the following groups:

- Schools with no sanitation facilities
- Schools with plain pit toilets and unacceptable sanitation
- Schools with new sanitation and old pit toilets not demolished
- Schools with inadequate toilets (insufficient for the number of learners)
- Schools with toilets that are not fit for purpose (not age-appropriate or are disability-unfriendly)
- Schools with poorly maintained toilets

C. SO WHAT DOES OUR DATA SHOW, AND WHAT IS THE IMPACT ON LEARNERS?

It is abundantly clear that all is not well with the systems for the provision of safe and decent sanitation in schools in Limpopo. The discussion below shows that learners' rights to dignity, privacy, equality and a healthy environment are being violated by poor sanitation conditions. With every day that these conditions persist, these rights will continue to be violated.

Not a single one of the schools on our list of 86 was suitable to be characterised as 'fully acceptable, given the circumstances'. Even those in the best condition failed to provide bins for the disposal of used sanitary towels, and thus cannot be considered to be fully acceptable.

Other findings included:

00 *Schools with no sanitation facilities*

33 *Schools with plain pit toilets and unacceptable sanitation*

10 *Schools with new sanitation and old pit toilets not demolished*

35 *Schools with inadequate toilets (insufficient for the number of learners)*

03 *Schools with toilets that are not fit for purpose (not age appropriate or disability friendly)*

11 *Schools with poorly maintained toilets*

Within these categories there are other challenges, including sanitation facilities with no doors, no bins for disposal of sanitary pads, no toilet paper, and no hand-washing facilities nearby. The impact of this on learners will be discussed below, through experiences shared by learners during research we conducted for this report.

i. Schools with no sanitation facilities

According to the CSIR condition assessment (discussed at paragraph C(c)(iii) above), and also the Norns and Standards 2016 report (discussed at paragraph C(c)(ii) above), in 2015 there were 8 schools in Limpopo with no sanitation facilities at all. The SAFE Initiative also includes a category of school with "no sanitation", which implies that the DBE itself recognizes that this category still exists. Although none of the schools in our sample is completely without sanitation facilities, where facilities are completely unusable, the impact on learners is the same as if no sanitation facilities are present at all.

One of the schools visited was Mareseleng Secondary School. Their pit toilets at the school are old and dilapidated. Parts of the walls are either cracked or have fallen off, and they have no doors or seats to speak of. Learners at Mareseleng consider themselves part of the category of schools with no pit toilets, because they cannot use their facilities.

For learners at Mareseleng there are only three options for learners. The first is to go to a house nearby and ask to use their toilets. The second is to walk to the nearest bush and relieve themselves. The last and more drastic option is to avoid going to school at all; this applies particularly to female learners during menstruation.

Kgaugelo Moloko, a former learner at the school, explained how she navigated going to a school without sanitation facilities:

> *[E]very day that I go to school, I am faced with two choices. First, I can ask the neighbours living close to the school property to use their personal toilets. I do not like to do this – it is actually very uncomfortable, because I am from another village and I do not know them well, and because they are also using pit toilets. The neighbours complain that we are filling up their toilets.*

For this reason, Kgaugelo choses to relieve herself in the bushes near to her school. This option is much more dangerous and time-consuming. As she explains;

> *I go deep into the bushes, which sometimes means walking for about half an hour. Going so deep into the bushes is also a safety risk though, so I will usually wait for a group of my friends (also female learners), and we go to the bushes in a group. The entire process is disruptive, too: it takes almost an hour to relieve myself once, because of the walk to and from the bushes. This means that every time that I relieve myself, I miss an entire lesson. I try to only go once in the day, but this becomes difficult when I am menstruating. I still come to school, but I have to make the journey to the bushes more often in a day, and so I miss even more lessons.*

Kgaugelo chooses to go to school while she is menstruating. Because it takes so long to relieve herself and manage her periods, however, she misses lessons; which inevitably has an impact on her education. This experience further violates her right to dignity and privacy. Kaugelo feels humiliated by the entire experience.

> *I never know who will pass the bush, or if boys are using a nearby area. When the boys see the girls, then that becomes a joke at the school. Without proper toilets at Mareseleng, I miss many lessons, I feel humiliated, and I become tired by the end of the day.*

Using the bush to relieve oneself also poses a safety risk to learners. Some learners report having seen snakes and other animals. For all learners, especially female learners, walking deep into the bushes in isolation for privacy also exposes them to the risks of sexual violence.

ii. Schools with sanitation facilities, but that still have plain pit structures on school premises

While we acknowledge that there has been considerable improvement, many schools still have old and often dangerous structures present on school premises. This poses a health and safety risk. The effect of this was seen earlier this year with the tragic death of Lumka Mketwa, who fell into and drowned in an unused, undemolished pit toilet.

Many schools that face this challenge report that these toilets often cause a horrible odour near them. They also attract flies and other insects. For primary schools, these toilets can pose a safety risk, because the younger learners do not know that they need to stay away from the area. Often, the schools have asked the contractors who are building the new structures if they would remove the old toilets; the contractors simply tell them that it is not part of their contract.

iii. Schools with plain pit toilets

Standard pit toilets are unlawful. All plain pit toilets were meant to be eradicated by 2016, in terms of the Regulations Relating to Minimum Uniform Norms and Standards for Public School Infrastructure. Only Ventilated Improved Pit toilets are accepted by law.

Many plain pit toilets are old and dilapidated. Others are made from inappropriate materials such as mud and corrugated iron. Many of them do not have appropriate seats, and/or the base of the seat is corroded, cracked or unstable. The design of the seat is usually a hole in the middle of a cube structure that is made from concrete or corrugated iron. The facilities do not have proper ventilation or windows, and as a result have terrible odour and are infested by insects. Most do not have a door for privacy and security. Hand-washing facilities, rubbish bins and toilet paper are non-existent.

The effects of these pit toilets on learners vary, and depend on the specific challenges of the school. The worst impact is the one that occurred in the cases of Michael Komape, Lister Magongwa and Siyamthanda Mtunu – the tragic loss of young lives. Michael Komape died at a school that had plain, old and dilapidated pit toilets. The toilets were made of corrugated iron, which was corroded. The seat could not take even his little weight. He fell in and drowned in human excrement. In 2007, Siyamthanda Mtunu, a six-year-old boy who attended Dalasile Primary School in the Eastern Cape, was using the toilet at his school when the walls of the cubicle collapsed on him. He died while being rushed to a hospital. In 2013, Lister Magongwa, a seven-year-old boy who attended Mmushi Primary School in Limpopo province, was using the toilet at his school when, again, the walls of the cubicle collapsed on him. Lister also died while in an ambulance, on his way to hospital.

Other learners sustain serious injuries. In 2016, a five-year-old boy, Oratile Diloane, was a pupil at Tlhotlheletsang Primary School in North West province. While playing with his friends, he fell into an exposed pit at the school. As a consequence, he contracted aspiration pneumonia and was severely traumatised. He suffers nightmares and is still too scared to use a toilet, even at his home.

Some learners face indignity on a daily basis when having to use the toilet. For Sinago Mataga, a Grade 12 learner at Vhulaudzi Secondary School, going to the toilet is a terrifying experience that must be done in a group to ensure safety.

She describes her school's toilets as follows:

> *[F]irstly, in our toilets there are no windows, and inside it is very dark. It is scary. And the doors are not strong. When you enter, some are falling and others have already fallen. They no longer open properly. So when you [are] sitting inside the toilet, you find that some of the seats are broken, and they can tear your school trousers. This I'm saying from experience, because one [of] my trousers was torn while I was sitting on one of those toilets; when I was getting up, it was caught on the broken seat. So it is not safe for a learner, because while that learner is sitting, one of those falling doors may fall on her and injure her.*

Sinago goes further, explaining the experience of having to use these facilities:

> *And you can't – when you ask to go to the toilet, if it is an emergency in class – come alone; because as you can see, it is very bushy, such that you can find someone waiting for you, or there is a snake, and you get bitten by things. So we don't feel safe when we come to the toilet alone. I will not come to the toilets alone,they are very scary. So, it's either I come with one of my friends or we go when it's the three of us, so that I can feel that I am safe; and so that if am going to use the toilet, I can give them my jersey, so that I don't have to go in with it and have it smell somehow when I go out.*

The school does not have dustbins and toilet paper; as a result, the management of menstruation is difficult for learners. Sinago explains:

> *And these toilets do not have toilet paper, meaning that I have to tear my school book, if you [are] a learner and it is an emergency. It means you have to tear your school book and come with it to ease myself in the toilet. They do not provide dustbins to put our sanitary pads. You find others just throw used pads on the floor … This makes me feel that I am uncomfortable. Sometimes I can feel, even when am pressed, that I will not go to those toilets. This means that I will wait for the school to end so that I can use the one at home*

For learners who wait until they get home to relieve themselves, their concentration in class is hampered by having to hold off from using the toilets. This has a negative effect on learners' education. Avoiding using toilets when they are needed may also have negative impacts on learners' health.

iv. Schools with inadequate toilets

Some schools have many learners, but not enough facilities for all the learners. Annexure G of the Norms and Standards sets out the learner:toilet ratio required by the law. A reproduction of Annexure G is set out in Section B above.

For many schools, this is not a reality. For example, at Kungulu Primary School, learner enrolment numbers require that there be 6 toilets for female learners, and 2 toilets plus

We are 180 boys, and there are 4 toilets. They are not good for us. Because we do not get privacy, we can't dressed. They do not have doors, and they are not cleaned or safe. We want these toilets to be proper, and that proper things [are] inside the toilets. They don't have ventilation pipes or dustbins, and that is not right. And behind those toilets… they are not safe, and they cannot be fixed, and another learner can fall in. They are not safe.

4 urinals for male learners. Instead, Kululu has only 4 toilets for female learners and 2 toilets for male learners. Mankwe Secondary School should have 8 toilets for female learners, and 4 toilets plus 4 urinals for male learners. Makwe has only 4 toilets for female learners, and 4 toilets for male learners.

When asked about how many toilets his school had, Oriphulusa Ndovhe – a Grade 7 learner at Gonela Primary School – told us that:Gonela Primary School has only plain pit toilets for its learners. These are not lawful in terms of the Norms and Standards. However, even if these plain pits were lawful, the small number of toilets they have is a clear violation of the Norms and Standards.

The effect on learners is that many do not get an opportunity to use the toilet during break-time. As Phuthutshedzo, a Grade 12 learner at Vhulaudzi Secondary School, explains:

Break-time starts and ends while others have not yet relieved themselves. Because these toilets are few, and there are a lot of people. Sometimes I ask to go to the toilet in the period before break, so that I can get an opportunity to use the toilet.

Phuthutshedzo and many of her peers are forced to compromise their class time in order to go to the toilet without having to wait in line for the entire duration of their break. This means learners miss lessons in order to be able to relieve themselves.

v. Schools with toilets that are not fit for purpose

Schools that have sanitation facilities that are not fit for purpose or age-appropriate also present a challenge. Age-inappropriate sanitation facilities mean that small learners, particularly those in foundation phase, cannot use the toilets because the seats are too big, or are inaccessible to them. This also presents a threat to safety, as small learners could fall into the toilets.

Schools with sanitation facilities that are not fit for purpose are those schools that have only Grade R sanitation facilities, which are often small cubicles that have toilets with small seats and no doors. For older learners, particularly female learners, this is a challenge. Ratshibilani Ndibuza, a Grade 7 learner at Gonela Primary School, explains:

We can't even have our own privacy – like, as a Grade 7 learner, I am 13 now, I am now big. and we can't have our privacy or take out our pads if there are children there… And we don't have toilet papers. If we want to use the toilet for more than just urinating, we just take out the paper from our books or anywhere we can get a paper, then go to the toilet.

For Ratshibilani, managing her period is difficult. While her school has toilets, these are small cubicles without doors. The privacy she requires to change her sanitary towel during menstruation is non-existent.

vi. Schools with poorly-maintained toilets

Schools that are poorly maintained and unclean are common in Limpopo. Most of the learners interviewed stated that toilets are not regularly maintained or cleaned.

Our school pit toilets are full and filthy. We cannot use them anymore for our own health and hygiene. Some are completely inaccessible. We are therefore forced to use bushes when we want to relieve ourselves. We walk up to half an hour to get to the bush. The journey would actually be longer, had we not cut open the school fence to create a shortcut for ourselves.

– Thabiso Selowa, a Grade 10 learner at Bolotswi Secondary School.

What Thabiso's story demonstrates is that without proper maintenance, including regular emptying of pits as well as cleaning, facilities become unusable. This results in learners using nearby bushes to relieve themselves, at the risk of their safety and class time.

While in some cases the LDE has invested in new sanitation facilities, if they are not properly maintained, and if learners put "foreign objects such as sanitary towels, paper, and leaves", as well as other materials used as toilet paper – because there is no toilet paper – into these toilets, their lifespan is reduced.

This is true, even in respect of flush toilets. If these flush toilets are poorly-maintained or non-functional, they will carry as many health and safety risks as any other sanitation option. It is for this reason that it is essential that schools receive their allocations in terms of the Amended Norms and Standards for School Funding.[75] These norms provide that public schools must be provided an allocation to be used for (among other things) consumables such as cleaning materials, as well as services related to repairs and maintenance.[76]

All the learners interviewed confirmed that there is no school-provided toilet paper or dustbins. Most told us that they had not seen any maintenance to school toilets. In rare circumstances, some learners told us, toilets are cleaned by learners who are being punished.

D. CONCLUSION

The law provides clear guidance on what adequate sanitation in schools must look like. It must be easily accessible to all learners and educators, provide privacy and security, promote health and hygiene standards, be maintained in good running order, and be in compliance with all relevant laws. Put simply, sanitation in schools must be safe, clean, private, well-ventilated, age-appropriate, well-maintained, and should have access to hand-washing facilities nearby, and sanitary bins for disposal of sanitary pads for female learners.

However, many of the schools in Limpopo do not have sanitation facilities that meet these basic standards. Every one of the schools contacted for the purposes of this report lacked in one respect or another. Most fell into one if the following categories: no sanitation at all; plain pit toilets and unacceptable sanitation; old pit toilets not demolished; inadequate toilets (insufficient for the number of learners); toilets not fit for purpose (not age-appropriate, or disability-unfriendly) or poorly maintained.

75. GN 869 in GG 29179 of 31 August 2006 ('*Funding Norms and Standards*').
76. See *Funding Norms and Standards* section 96(iv) and (v).

SECTION

E

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BUDGETING FOR SAFE AND DECENT SANITATION

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BUDGETING FOR SAFE AND DECENT SANITATION

A. INTRODUCTION

As early as 2013, in our first report on school sanitation in Limpopo, SECTION27 noted the problems of inadequate oversight of expenditure and management of contracts with service providers. Insufficient expenditure is just one of a number of serious problems we have identified with the way the LDE has managed its education budget to date.

The pool of available resources for improving education, including providing sanitation facilities, has decreased in recent years as a result of government's austerity policy.[77] However, there are a number of steps that provincial and national departments can (and must) take to ensure that improving school sanitation continues to be prioritised in the budget, and that allocated funds are spent effectively. This section of the report will show how that can be done, and that the state does have enough money to eradicate dangerous sanitation facilities quickly.

B. AVAILABLE RESOURCES

i. Available resources for education

The amount of public funding provided to the basic education system increased dramatically after 1994, often by more than 10% annually in real terms (after the effect of inflation has been accounted for). However, in recent years these increases have slowed to a crawl, barely keeping up with inflation. Meanwhile, funding in many parts of the education system has been cut, including that provided to schools and for school infrastructure, which has actually been reduced in most cases. As a percentage of the money the state spent on all of its commitments, basic education expenditure has been reduced from **15.3%** in 2014/15 to 1**4.8%** in 2018/19, and is projected to drop further to **14.6%** in 2019/2020.

According to the National Treasury, this slowdown in overall funding translates into funding *per learner* essentially staying the same over time. However, education researcher Nic Spaull has undertaken an analysis that goes beyond simply dividing the total education budget by the number of learners in the country. Spaull found that when a spike in birth rates and school enrolments, as well as above-inflation increases to teacher compensation, are all accounted for, effective spending per learner has in fact *declined* since 2010. This is seen clearly in the graph below. Each colour represents a province, and in every province, per-learner spending has steadily gone down over time.

Figure 1: Real basic education spending per learner adjusted for teacher wage growth, 2010-2019, (constant 2017 Rands)[78]

77. Austerity is a controversial policy that is focused on reducing non-debt expenditure (such as on education) in order to reduce the budget deficit (the difference between spending and revenue). It thus prioritises debt repayments over social and economic expenditure, which can have the consequence of reducing demand in the economy, further depleting revenue collection and thus requiring further spending reductions, in a vicious cycle.

78. Spaull 'Basic Education thrown under the bus – and it shows up in test results' *Business Day* 16 April 2018. Available at: www.businesslive.co.za/bd/opinion/2018-04-16-basic-education-thrown-under-the-bus--and-it-shows-up-in-test-results/.

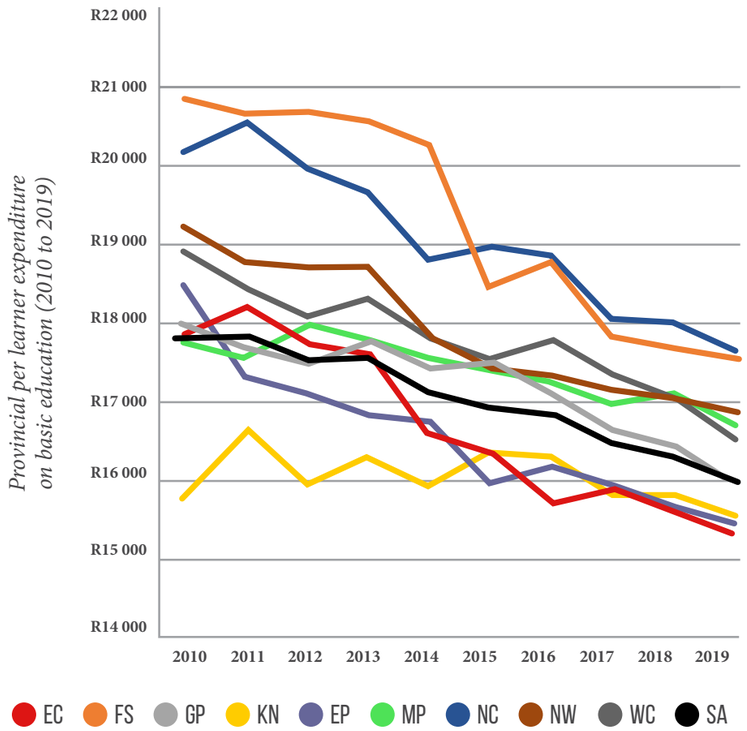

Figure 1 shows how the adjustment for teacher salary growth results in a steady decline in real per-learner funding. This is because while teacher salaries have increased well above average inflation, education funding overall has not. This has pushed provinces into spending an ever-greater share of their budget on personnel costs, well above the maximum 80% recommended by the DBE in many cases. This is forcing many departments into difficult trade-offs. Some are freezing posts in order to save on personnel costs, while others are cutting non-personnel costs, including the funding they provide to schools.

ii. Available resources for improving school infrastructure

Conditional grants for school infrastructure (the SIBG and EIG) are being slashed by National Treasury. In the February 2018 Budget, Treasury announced that R7.3 billion would be cut from school infrastructure grants over the next three years.[79] This is a very large cut; it will help National Treasury to reduce public spending, but will also significantly limit the resources available for provinces to comply with minimum norms and standards for school infrastructure.

This precarious funding environment means that strategies to ensure that safe and adequate sanitation is accessible to all learners in the shortest possible time-frame will need to be based on a combination of using existing resources more effectively, and exploring ways in which the resource envelope for school infrastructure can be increased.

C. MAKING EFFECTIVE USE OF EXISTING RESOURCES

The LDE can use the money allocated to it for improving school infrastructure more effectively by:

- identifying and implementing best practice in the delivery of school infrastructure. This can be done through examining and understanding models that have worked or failed to date;
- ensuring that it meets the minimum requirements necessary to receive additional 'incentive funds' that are available for school infrastructure from the National Treasury;
- along with the DBE, putting in place stronger contracting and accountability measures when it engages in public-private partnerships;
- eliminating fruitless and wasteful expenditure; and
- eliminating irregular spending, which could indicate possible corruption.

We discuss each of these options in turn below.

i. Implementation of best practice in the delivery of school infrastructure

A thorough history of education infrastructure spending and programmes implemented between 1994 and 2014 is provided in *Mud to Bricks: A review of school infrastructure spending and delivery* (2014).[80]

We have already discussed that

79. National Treasury 2018 Budget Review. Cuts to be applied in the 2018/19, 2019/20 and 2020/21 financial years. The operation of the direct and indirect school infrastructure grants will be analysed in the next section.
80. Carmen Abdoll and Conrad Barberton for the Centre for Child Law, University of Pretoria. Available at: www.pulp.up.ac.za/component/edocman/mud-to-bricks-a-review-of-school-infrastructure-spending-and-delivery.

ASIDI and EIG are conditional grants that have been provided specifically to ensure rapid improvement of infrastructure in schools. Unfortunately, when more money has been made available for school infrastructure development through these grants, provincial education departments ('PEDs') and their implementing agents were often unable to organise themselves well enough to spend the available funds effectively. Widespread under-spending,[81] corruption[82] and mismanagement[83] of funds has meant that school sanitation backlogs remain that should have been overcome years ago. If we are to implement measures to ensure that the available public funding is used efficiently, this needs to change.

1. The Accelerated School Infrastructure Development Initiative (ASIDI) programme

ASIDI is funded by an indirect conditional grant (the School Infrastructure Backlogs Grant, or SIBG) that is provided to non-state or quasi-state entities to implement infrastructure projects on behalf of PEDs. These entities typically act as project managers for school infrastructure improvement plans on behalf of provincial education departments, and have included the Development Bank of South Africa, for example.

Since its inception in 2011/12, the DBE's reporting on ASIDI has been consistently poor. Figures that are reported one year, such as number of sanitation facilities provided, are changed or simply not provided the next year. The reports also frequently contain errors. These reporting issues make it almost impossible to track the progress of the programme on a year-to-year basis.

In a sign of possible recent improvement, comparable information is provided in the 2016/17 and 2017/18 Annual Reports, and the latest data on the number of projects completed is now provided on the DBE's website[84] and can be compared to the original targets.

Figure 2: Targeted and completed ASIDI projects, 2016/17 and 2017/18, and cumulative total (DBE Annual Reports and website)

		2016/17	*2017/18*	*Total 2011/12 – 2017/18*	*Total Achievement Rate*
New schools	Target Completed	59 16	115 12	483 205	42%
Access to sanitation	Target Completed	265 9	257 29	939 486	52%
Access to water	Target Completed	280 10	344 43	1145 685	60%
Access to electricity	Target Completed	620 0	134 27	932 372	40%

Figure 2 illustrates the very wide margins by which ASIDI has missed its targets since the programme was launched in 2011. In total, only 42% of the new schools planned in 2011 were completed by 2017/18, with similarly low achievement rates for sanitation, water and electricity projects. This poor performance occurred despite budget allocations to the ASIDI programme averaging R1.9 billion per year.

81. Franklin and McLaren 'Realising the Right to Basic Education: An analysis of the content, policy effort, resource allocation and enjoyment of the constitutional right to a basic education' (2015) SPII Working Paper 10 at 105.
82. Onishi and Gebrekidan 'South Africa vows to end corruption. Are its new leaders part of the problem?' New York Times 4 Aug 2018. Available at: www.nytimes.com/2018/08/04 world/africa/south-africa-anc-david-mabuza.html.
83. October 'The Accelerated Schools Infrastructure Delivery Initiative doesn't deliver' Business Day 06 Oct 2017. Available at: www.businesslive.co.za/bd/national/education/2017-10-06-the-accelerated-schools-infrastructure-delivery-initiative-doesnt-deliver.
84. See www.education.gov.za/Programmes/ASIDI.aspx.

Figure 3: ASIDI appropriations and expenditure, 2011/12 to 2017/18 (DBE Annual Reports)

R million	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2011/12 - 2017/18 Total
Appropriated[85]	700	2 065	1 956	2 541	2 046	2 181	1 755	13 244
Spent[86]	76	860	1 392	2 543	1 922	1 316	1 787	9 896
Percentage spent	11%	42%	71%	100%	94%	60%	102%	75%
Amount under(-) /overspent	-624	-1 205	-564	2	-124	-865	32	-3 347

Figure 3 shows that a total of R13.2 billion was allocated to ASIDI from 2011/12 to 2017/18. However, the poor performance of the programme is evidenced by the large and consistent underspending of this appropriation. In total, R3.4 billion of funds appropriated for ASIDI went unspent by the DBE between 2011/12 and 2017/18. This underspending represents a significant number of missed opportunities for accelerating the eradication of school sanitation and other infrastructure backlogs, since funds which are unspent in a financial year must be returned to the treasury (if the department does not successfully motivate for a rollover of the funds to the next financial year).[87] ASIDI is also discussed briefly in section C(d)(i) above.

2. The Education Infrastructure Grant (EIG)

The EIG was introduced in 2011, when the Infrastructure Grant to provinces was split into three. The intention was that the EIG would enable provinces to fast-track the delivery of adequate school infrastructure. It is a direct conditional grant provided by National Treasury to the PEDs. The mechanism of the EIG is to transfer the funds directly to the PEDs, who must spend the money exclusively on school infrastructure projects and programmes. According to Abdoll and Barberton (2014), "*It is clear that national government regarded [ASIDI and EIG] as parts of an integrated package to address infrastructure backlogs at schools.*" It was hoped that the two grants would complement each other, and provide the most rapid possible eradication of school infrastructure backlogs.

Spending of the EIG by PEDs has generally been good, at between 90% and 100% of the funds available. However, this overall trend hides significant variations, including those found in Limpopo province. The department underspent its 2016/17 infrastructure development budget by R284.4 million, and overspent its 2017/18 infrastructure development budget by R192.9 million.[88] This R192.9 million was recorded as unauthorised expenditure by the Auditor General.[89] The department explains that the unauthorised expenditure was incurred "*due to prepayment made to DBSA in the 2016/17 financial year to pay over to other implementing agents during 2017/18.*"[90] This explanation raises more questions than it answers.

The difference between the 2016/17 underspend and 2017/18 overspend is R91.5 million. This represents a net loss of R91.5 million to the department, which could have been spent on sanitation infrastructure. This could have paid for 1 830 toilet seats.[91]

In addition, the department notes in its 2017/18 Annual Report that it failed to spend R33.6 million of EIG funds that had been rolled over from 2016/17, blaming this on "*long supply-chain processes and the late appointment of contractors*".[92] This could have paid for an additional 672 toilet seats. The EIG is also discussed briefly in Section C(d)(ii) above.

3. Identification and implementation of best practice in the delivery of school infrastructure

85. By the DBE from the National Revenue Fund.
86. Amount transferred to and spent by implementing agents.
87. For more information on ASIDI and its impact visit: http://passmark.org.za/asidi_schools/ .
88. 2017/18 Annual Report at 11.
89. Unauthorised expenditure is use of funds that is not in accordance with the purpose for which those funds were appropriated.
90. 2017/18 Annual Report at 12.
91 . At the R50 000 per seat amount provided in the Department's 2018 Norms and Standards Provincial Implementation Plan.
92. 2017/18 Annual Report at 12.

It is clear that EIG and ASIDI represent two very different models for delivering school infrastructure. The EIG is a direct conditional grant provided to provinces. The funds are spent by PEDs according to their assessment of their needs. ASIDI, on the other hand, is an indirect conditional grant provided to entities that are not PEDs to implement school infrastructure improvements.

A report by the FFC in 2016 found that the EIG has generally outperformed ASIDI.[93] It found that EIG targets were more likely to be met in each year under review, and that PEDs returned far fewer EIG funds unspent[94] compared to ASIDI implementing agents. ASIDI planning processes also tended to be more convoluted, and PEDs were less likely to budget and plan adequately for the maintenance of the infrastructure assets once built.

A key reason given for the poor performance of ASIDI was that the implementing agents lacked technical capacity. In addition, a lack of capacity to plan and budget was also identified in the national department of Basic Education, the department that was procuring and overseeing these agents. Instead of adding value to the process through superior technical skills (a key reason for taking management of infrastructure programmes away from PEDs), the DBE would often itself rely on implementing agents (to oversee the ASIDI implementing agents) rather than actively overseeing the programmes themselves. Questions remain about the DBE's selection of service providers and its ability to successfully manage contracts.[95]. ASIDI also suffered from poor planning processes, due to the distance of implementing agents from communities. This often made interactions with beneficiary communities more difficult in terms of the planning, budgeting, implementation and evaluation of projects.

In order to improve the efficiency and effectiveness of school infrastructure development, the DBE and nine PEDs must look at the best-practice implementation models that have been developed over the past 20 years, and aim to replicate them. This will involve examining, in detail what has worked well and what has not, and compiling this into a 'Best Practice Manual' that should then be applied to all infrastructure projects going forward. The capacity of PEDs to implement school infrastructure upgrades developed in the past decade must also be harnessed and shared among the PEDs. This will involve active instigation of training and information-sharing opportunities. New technologies should also be explored that have the potential to provide safe and decent sanitation at a lower cost than traditional toilets.

ii. Ensuring sound contracting and accountability measures for public-private partnerships

The SAFE initiative (discussed in Section C above) indicates that in the context of public resource constraints, government is increasingly looking to the private sector to support the eradication of unsafe sanitation in schools. This is a policy that must be pursued very carefully. Effective cooperation between the state and private enterprise can result in mutually advantageous solutions only when there are sound contracting and accountability measures in place.96

iii. Ensuring receipt of available incentive funds

Reforms to provincial infrastructure grants in order to improve performance were introduced by National Treasury in 2013. These included the introduction of an incentive component to the EIG, which required each PED to successfully undergo a rolling two-year planning process.

To receive the incentive, departments must meet minimum criteria and a composite 'planning score' of at least 60% for their plans. The LDE was the only education department in the country to fail to qualify for the R133.6 million incentive component of the EIG in 2017/18.[97] The LDE scored only 46% for the quality of its plans, resulting in it missing out on the additional available funds for that financial year.[98]

The LDE needs to urgently put in place measures to improve their planning process so that the minimum requirements for the incentive are met going forward.

iv. Eliminating wastage – fruitless and wasteful expenditure

The Public Finance Management Act[99] (PFMA) prohibits fruitless and wasteful spending – this is expenditure that was made in vain and could have been avoided, had reasonable care been exercised.

The auditor general found R194.5

93. Financial and Fiscal Commission, Report for the 2016/17 Division of Revenue Bill, 'Chapter 3: Review of Direct and Indirect Conditional Grants'. Available at: www.ffc.co.za/docman-menu-item/commission-submissions/931-2016-2017-chapter-3-review-of-direct-and-indirect-conditional-grants.
94. If appropriated funds are not spent, departments must either return the funds to the Treasury that allocated them, or successfully motivate for a rollover of the funds to the next financial year.
95. Abdoll and Barberton (2014) at 59.
96. SAFE is discussed in SECTION C of this report.
97. National Treasury 2018 Budget Review, Explanatory memorandum to the division of revenue at 26.
98. In comparison, the Eastern Cape scored 78% and KwaZulu-Natal scored 80%.
99. 1 of 1999.

million in fruitless and wasteful expenditure by the LDE in 2017/18.[100]

This is a large increase from the R13.3 million of fruitless and wasteful expenditure that was incurred by the LDE in the previous financial year. In fact, none of the LDE's large accumulated balance of R393.6 million of fruitless and wasteful expenditure has been resolved or condoned since 2015/16. This is accounting language; in laypersons' terms, it means that investigations into the wasted expenditure are still ongoing, and no one has yet been held accountable for this expenditure. By any standard, this is a very large amount of fruitless and wasteful expenditure for any government department to have incurred.

Stringent measures must be put in place to eliminate corruption and wastage in the LDE and other PEDs.

v. Elimination of transactions which involve possible corrupt spending – irregular expenditure

Irregular expenditure refers to expenditure that is not in accordance with legislative requirements, including those found in the PFMA. It generally relates to a failure to follow proper tender processes, and indicates that funds may have been spent corruptly or inefficiently. For example, the department may have overpaid for goods or services – as a result of not following tender processes, or because of corruption in the awarding of tenders.

Irregular expenditure by the LDE increased to a very large R957.1 million in 2017/18, from R630.4 million in 2016/17.[101] Moreover, as with the fruitless and wasteful expenditure described above, no irregular expenditure incurred by the department was condoned during the course of 2016/17 or 2017/18. As a result, the irregular expenditure incurred by the department that is awaiting condonation increased from R3.8 billion in 2016/17 to R4.8 billion by the end of 2017/18.

It goes without saying that these are very large amounts of money. **The latter number is equal to 15.8% of the department's 2017/18 budget, and is almost three times the amount of money the department says is required to eradicate school sanitation backlogs.**

In all cases, irregular expenditure that is identified must be investigated, and those responsible must be held to account.

D. INCREASING THE RESOURCE ENVELOPE FOR SCHOOL INFRASTRUCTURE: CREATIVE THINKING NEEDED

In addition to finding ways to spend existing financial resources more effectively (as we have discussed above), it remains open to (and indeed, incumbent upon) provincial and national governments to find ways of increasing their available resources for improving school sanitation.

Here, SECTION27 suggests two ways that this can be done: budgeting based on need, and reallocation of funding from other, less critically urgent endeavours.

i. Budgeting based on need

During apartheid, white schools received around ten times more funding than black schools.[102] There is massive inequality between school facilities for children at quintile 4 and 5 schools (the better-off schools) compared to facilities at schools in quintiles 1, 2 and 3. To provide redress for the historical underfunding of poor, rural and township schools, of which infrastructure is an integral part, funds must be provided that are adequate to meet the requirements of a quality basic education.

To achieve this, SECTION27 and our allies believe that a campaign is necessary to open up the 'fiscal space' in the public finances that is necessary for transformative pro-poor social expenditure, as recommended by the United Nations Committee on Economic, Social and Cultural Rights.[103] Among others, this should include:

- matching revenue to need by basing revenue targets on funding necessary to realise rights, including the right to basic education. Significant space exists to raise more revenue from middle- and upper-class South Africans and profitable businesses, including through the taxation and redistribution of land and wealth, as well as concerted efforts to end tax evasion and avoidance;
- a sustainable approach to debt financing of the budget which takes into account the needs of SA's long-term development agenda (and the fruits that that will bear), rather than short-term demands by credit ratings agencies for a smaller budget deficit;
- measures to reduce and eliminate corruption at all levels and spheres of government, which will of necessity include introspection and reform from within the ruling party;

100. 2017/18 Annual Report at 246.
101. 2017/18 Annual Report at 245.
102. Budlender, 2015.
103. Concluding observations on the initial report of South Africa 12 October 2018. Available at: https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fZAF%2fCO%2f1&Lang=en.

- measures to increase efficiencies and contain costs within all arms of the state (including State-Owned Enterprises) in a manner that improves (rather than jeopardises) service delivery;
- measures to increase the skills and capacity of government departments so that public funds are managed and spent more effectively.

Former Deputy Minister of Finance Mcebisi Jonas has called for South Africans to adopt 'a national obsession with education'.[104] As well as the myriad reforms that are necessary, quality education requires minimum levels of infrastructure, including safe and decent sanitation for learners. The improvement of infrastructure cannot be achieved without significant levels of investment by the state.

ii. Reallocation of resources from other, less critically urgent endeavours

The allocation of public funds to government priorities is a political process, but the public must be consulted.

SECTION27, as a member of the Budget Justice Coalition of civil society organisations, has made submissions to the Executive and to Parliament on how the budget could be more effectively and sustainably prioritised to reflect the requirements of the Constitution. In relation to school infrastructure, we make the following recommendations:

- At national level: reform the equitable share formula so that a greater share is provided to rural provinces with higher levels of poverty and low educational achievement. Undertake planning with PEDs which ensures that the EIG supports and supplements equitable share funding for school infrastructure, at a level which is sufficient to meet each province's infrastructural needs in the shortest possible timeframe.
- At provincial level: allocate a greater portion of the equitable share to education infrastructure development, and increase the share of the infrastructure development budget devoted to sanitation projects.

1. Reforming the equitable share formula

Section 227(1)(a) of the Constitution provides that each province "*is entitled to an equitable share of revenue raised nationally to enable it to provide basic services and perform the functions allocated to it; and (b) may receive other allocations from national government revenue, either conditionally or unconditionally*". Section 214(2) also requires that the division of the equitable share between the provinces takes into account:

(f) developmental and other needs of provinces;

(g) economic disparities within and among the provinces;

(h) obligations of the provinces in terms of national legislation;

The Constitution thus establishes a framework through which provinces receive equitable share funding to provide basic services and perform their functions – which includes basic education as an immediately realisable right – but may receive additional funding mainly in the form of conditional grants. It is for this reason that 48% of the provincial equitable share allocation is divided among the provinces based on each province's educational profile and needs.[105] Ensuring that all schools have infrastructure that complies with minimum norms and standards is a central part of provinces' function to ensure the right to quality basic education for all learners.

The equitable share formula devised by National Treasury consists of six separate components, which aim to divide revenue among the provinces equitably based on the above criteria.

- *Education component* (weighted: 48%), based equally on the size of the school-age population in each province, and the number of learners enrolled in public ordinary schools.
- *Health component* (weighted 27%) based on each province's risk profile and health system case load.
- *Basic component* (weighted 16%) derived from each province's share of the national population.
- *Institutional component* (weighted 5%) divided equally between the provinces.
- *Poverty component* (weighted 3%) distributed progressively, based on the number of people living in each province who fall in the lowest 40% of household incomes.
- *Economic output component* (weighted 1%) distributed regressively, based on regional GDP.

Despite the aims of the formula to re-distribute funds to poorer provinces through the poverty component, at 3% this component is not sufficient to make up for the wide economic disparities that exist. As a result, research has shown that the two wealthiest provinces – Gauteng

104. www.motlanthefoundation.org.za/towards-a-disruptive-and-well-considered-socio-economic-transition-locating-state-capture-within-a-broader-theory-of-change-mcebisi-jonas.
105. National Treasury '2017 Budget Review Annexure W1: Explanatory Memorandum to the Division of Revenue' (February 2017) at p18. Available at: www.treasury.gov.za/documents/national%20budget/2017/review/Annexure%20W1.pdf.

and the Western Cape – are able to allocate 10% to 17% more per learner than the two poorest provinces: the Eastern Cape and Limpopo.[106] In order to fix this, the *equitable share formula* needs to take greater account of the unequal starting points of schools in these provinces, as well as the unequal costs of providing education (especially including education infrastructure) in rural and urban settings. This would result in education funding to provinces that would better promote the redress required by the Constitution, enabling provinces to use their budgets to uplift their poorest and most disadvantaged schools.

2. Provinces with school infrastructure backlogs should allocate more of their equitable share allocation to education infrastructure development

As noted above, ensuring that all schools have infrastructure that complies with minimum norms and standards is a central part of provinces' function to ensure the right to quality basic education for all learners. It is therefore essential that this function is financed, at least in part, from equitable share funding.

The LDE, for example, currently allocates none of its equitable share allocation to education infrastructure development. Instead, it relies solely on the conditional EIG to pay for all of its infrastructure development needs, including sanitation. By establishing complete dependency on a conditional grant to perform this crucial function, this funding arrangement is antithetical to the Constitutional framework for provincial education funding. It also has the impact of unnecessarily limiting the resources that are available for education infrastructure development.

An example of how such an allocation might be implemented is set out below:

The LDE could phase in an allocation of a small percentage of its equitable share funding to infrastructure development, starting with 1.5% in 2018/19, 2.5% in 2019/20 and 3.5% in 2020/21. This would ensure that the department's education financing framework is compatible with the Constitution, and would increase spending on education infrastructure by 149% in 2018/19, 182% in 2019/20 and 215% in 2020/21.

Figure 4: Budget impact of a small percentage of the projected equitable share funding of the LDE being gradually reallocated to infrastructure development

Limpopo Department of Education	2018/19	2019/20	2020/21
Current projected equitable share funding	R27 692 million	R29 215 million	R31 449 million
1.5%, 2.5% and 3.5% of projected equitable share funding (ESF)	R415 million (1.5% of ESF)	R730 million (2.5% of ESF)	R1 101 million (3.5% of ESF)
Current projected infrastructure development budget	R1 013 million	R1 071 million	R1 277 million
Revised infrastructure development budget (includes 1.5%, 2.5% and 3.5% of the equitable share)	**R1 429 million**	**R1 801 million**	**R2 378 million**
Percentage increase to infrastructure development budget (from the current projection to the revised budget)	41%	68%	86%

106. McLaren 'Funding Basic Education' in Education Rights Handbook SECTION27 (2017).

3. Provinces can also allocate a greater portion of their infrastructure development budget to sanitation projects

Possible increases to the infrastructure development budget proposed in Figure 4 above would provide the leeway to allow the Department to increase the proportion of the infrastructure development budget that is allocated to sanitation projects.

An example of how this might be implemented is set out below:

According to its latest Norms and Standards Report, the Department currently allocates about 20% of its infrastructure budget to sanitation. To fast-track the eradication of dangerous sanitation backlogs, the Department could temporarily increase the proportion of its infrastructure budget spent on sanitation from 20% to 55% over the medium term (three financial years). If done while simultaneously increasing the infrastructure budget by using some of its equitable share allocation, this would not have to encroach upon the availability of funds for non-sanitation infrastructure spending. Increasing the proportion of the revised infrastructure budget to 35% in 2018/19, 45% in 2019/20 and 55% in 2020/21 would result in spending on sanitation infrastructure increasing by 147% to 412%, while non-sanitation infrastructure spending would increase by 4.7% to 15.6%.

Figure 5: Budget impact of gradually increasing the proportion of the revised infrastructure budget allocated to sanitation over the medium term

Limpopo Department of Education	2018/19	2019/20	2020/21
Current projected infrastructure development budget[107]	R1 013 million	R1 071 million	R1 277 million
of which, 80% to non-sanitation projects	R811 million	R857 million	R1 022 million
and 20% to sanitation projects	R202 million	R214 million	R255 million
Revised infrastructure development budget[108]	R1 429 million	R1 801 million	R2 378 million
of which, 55%, 45% and 35% to non-sanitation projects	R929 million	R991 million	R1 070 million
Percentage increase to non-sanitation spending (from current projection to revised budget)	14.6%	15.6%	4.7%
and, 35%, 45% and 55% to sanitation projects	R500 million	R810 million	R1 308 million
Percentage increase to sanitation spending (from current projection to revised budget)	147%	278%	412%

The increased spending on sanitation infrastructure that results from these budget adjustments will provide the Department with an additional R1.9 billion to spend on sanitation projects over the course of 2018/19, 2019/20 and 2020/21. This increases the total spend on sanitation projects over that period from the current projection of R672 million to a revised projection of R2.6 billion.

This is just one way to reallocate funds for improving school sanitation in Limpopo. There are other options open to this and other provinces. What the example illustrates is that making the changes to ensure the eradication of unsafe and indecent toilets is not a discussion regarding what is possible within a fixed resource envelope, but much more about the presence or absence of political will to investigate and make the necessary changes.

107. Estimates of Provincial Revenue and Expenditure (EPRE) 2018/19 – Vote 3 Education, Limpopo Province at Table 3.15(a).
108. Includes 2% of the equitable share allocation to the LDE.

E. CONCLUSION

A decreasing funding envelope for education and school infrastructure improvement is not inevitable. There is a wide range of scope for National Treasury, the DBE and provincial and other departments to increase funding for improvements in school sanitation. These include:

01 *increasing the resources available at national level to allocate to the fulfilment of constitutional rights, including the right to basic education.*

02 *allocating the resources that are necessary to meet minimum uniform norms and standards for school infrastructure at all schools.*

03 *capacitating PEDs to ensure that all are able to meet the minimum planning criteria required for the incentive component of the education infrastructure grant.*

04 *identifying and implementing best practice in the delivery of school infrastructure, focusing on sanitation. This will improve the efficiency and use of available funds.*

05 *eliminating fruitless and wasteful expenditure as well as irregular expenditure.*

06 *ensuring any new public-private partnerships are based on legally sound and best practice contractual arrangements, which include effective accountability mechanisms, and ultimately strengthen the ability of PEDs – together with schools – to deliver and maintain infrastructure on their own.*

07 *Undertaking re-prioritisation of provincial education budgets to include a portion of the equitable share allocated to school infrastructure, and increasing the amount of infrastructure development spending devoted to sanitation*

SECTION

F

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CONCLUSION AND RECOMMENDATIONS

CONCLUSION AND RECOMMENDATIONS

Below, we set out key recommendations, based on the evidence in this report together with our experience of working on sanitation issues in Limpopo province. Many of these recommendations were set out in our 2013 report and have been developed further in this report, based on new challenges. These challenges exist in part due to the Department's failure to respond to and address the recommendations made in 2013.

KEY RECOMMENDATIONS

Development of a rigorous audit and a database of schools' sanitation needs

From the start of SECTION27's involvement in monitoring school sanitation in Limpopo, we have raised concerns about the accuracy of the data that is used to determine the needs of schools. These concerns are reiterated in this report. Without a complete and accurate data set, full delivery of school sanitation, as required in terms of each learner's right to basic education, is not possible. There are obvious negative consequences for planning and budgeting when the government's data on schools is incorrect. Further, it is not possible for the LDE and DBE to reasonably justify limiting the immediate realisation of the right to education, if they do not have accurate data to enable them to make such a justification.

We recommend consolidation of data sets, and crucially, the removal of the discrepancies between the datasets mentioned in this report. It is essential that the data used for making decisions in order to comply with legal obligations for safe and decent school sanitation is an absolutely accurate reflection of the situation on the ground.

Together with this, we recommend the creation of a live database system, incorporating an audit of school needs. This system should meet the following criteria:

- It should contain consistently accurate data, reflecting changes as circumstances change;
- It should contain clear mechanisms for the updating of information and correction of errors;
- Independent verification must be conducted periodically to ensure accuracy of data;
- It should be freely and publically available for any interested party or stakeholder to access and analyse, in accordance with the value of transparency required in terms of section 195 of the Constitution.

Accessibility of CSIR data in terms of section 195 of the Constitution

Subsequent to our recommendation of an independent audit in 2013, it became apparent that the Council for Scientific and Industrial Research had been engaged to undertake a "condition assessment" of all schools in Limpopo in 2014.[109] While this may provide the independence we called for in 2013, it has proved difficult to obtain access to the information collected by the CSIR. In order to obtain access to this information, SECTION27 was required to subpoena the information (as part of the Komape trial) directly from the CSIR towards the end of August 2016. Affidavits provided to SECTION27 in August 2018 by the DBE and LDE note that this condition assessment has "*been concluded with timeous updates on data collected by CSIR*".[110] This suggests that the CSIR's data set is being updated on an ongoing basis – as it should be. However, SECTION27 does not have access to any additional data collected subsequent to our subpoena in 2016.

In order to ensure transparency and accountability as required by section 195 of the Constitution, we recommend that the data collected on the condition of schools in Limpopo be made immediately and publically available. We also recommend that the LDE and DBE make publicly available the terms of the agreement between the LDE and the CSIR, as well as all relevant information on data collection methodology, so that the public may assess the accuracy of the information being collected.

Responsiveness of district and circuit officials in the LDE

A common complaint recorded in our 2013 report was that although schools had referred challenges to the LDE, on numerous occasions they simply did not receive a response. In most cases, the LDE only responded on receipt of a letter threatening litigation.[111] This is one of the reasons for the poor quality of data relied on to eradicate unsafe structures. The lack of responsiveness is contrary to the value of responsiveness as required by section 195 of the Constitution.

We recommend that lines of communication be opened between schools and the district and circuit officials of the LDE, and that officials in these offices be ordered to respond timeously and appropriately to communications from schools. Failure to do so should be considered a disciplinary matter.

This must be accompanied by an immediate investment in improving the technology available for communication both internally in the LDE and with schools.[112]

Protection for whistle-blowers

Our report of 2013 noted the challenges of intimidation, by district and circuit officials in the LDE, of principals, teachers and school governing body members who report problems at their schools. Not only did this have a detrimental impact on the lives of those concerned, it also discouraged others from reporting violations of the right to basic education. Incidents of intimidation have occurred subsequent to our 2013 report.

We continue to recommend the creation of a clear complaints mechanism (including timeframes for responses) and the protection of whistle-blowers, in order to begin to address these issues.

An effective plan for school sanitation in Limpopo

The SAFE Initiative is not an effective plan for the provision of safe, decent and lawful school sanitation.

We recommend that the President and the Minister for Basic Education spearhead the creation of a carefully coordinated roadmap based on accurate information with concrete, measurable, time-bound, and budgeted-for steps for alleviating the sanitation crisis at schools. Such a roadmap should be binding on provincial education departments. A clear plan such as this is a constitutional and legal obligation on our government, as our Constitution guarantees the right to basic education and the Norms and Standards for School Infrastructure provide a clear mechanism for infrastructure upgrades if seriously implemented. The plan should include monitoring and evaluation plans, reporting mechanisms and schedules.

In the event that temporary measures need to be put in place, the plan must provide for interim solutions to ensure the safety of learners. This should be coupled with a protocol for learners still using dangerous facilities, such as teacher supervision in primary schools.

BUDGET RECOMMENDATIONS

Here, we provide a very concise summary of our budget recommendations for both national and provincial government. A detailed discussion of these recommendations is set out in Section E above.

1. Increase the resources available at national level to allocate to the fulfilment of constitutional rights, including the right to basic education, by:

- adopting economic and fiscal policy that prioritises the state's duty to realise socio-economic rights;
- taking steps to match revenue targets to need;
- combating corruption and tax avoidance, and reclaiming funds that have been lost to illicit activities.

2. Allocate the resources that are necessary to meet minimum uniform norms and standards for school infrastructure at all schools without further unreasonable delay. This will require reprioritisation of existing funding (as well as additional funding), including but not limited to:

- At national level: reforming the equitable share formula so that a greater share is provided to rural provinces with higher levels of poverty and low educational achievement. Ensure that conditional grants for education infrastructure are sufficient – together with equitable share funding – to eradicate sanitation backlogs as rapidly as possible.
- At provincial level: allocating a greater portion of the equitable share allocation to education infrastructure development, and increasing the proportion of the infrastructure budget devoted to sanitation.

3. Audit skills available and capacitate provincial education departments to ensure that all are able to meet the minimum planning criteria required for the incentive component of the education infrastructure grant.

4. Identify and implement best practice in the delivery of school infrastructure, focusing on sanitation. This will improve

109. 2016 N&S Report page 4. *Komape Affidavit* para 7.2.
110. *Komape Affidavit* para 7.3.

111. This happened again more recently in the case of *School Governing Body of Makangwane Secondary School v Member of the Executive Council, Limpopo Department of Education and others* (Case No: 3158/2018).
112. Similar recommendations were made in a report compiled by Mary Metcalfe, during her investigation of textbook non-delivery in Limpopo.

efficiency and use of available funds.

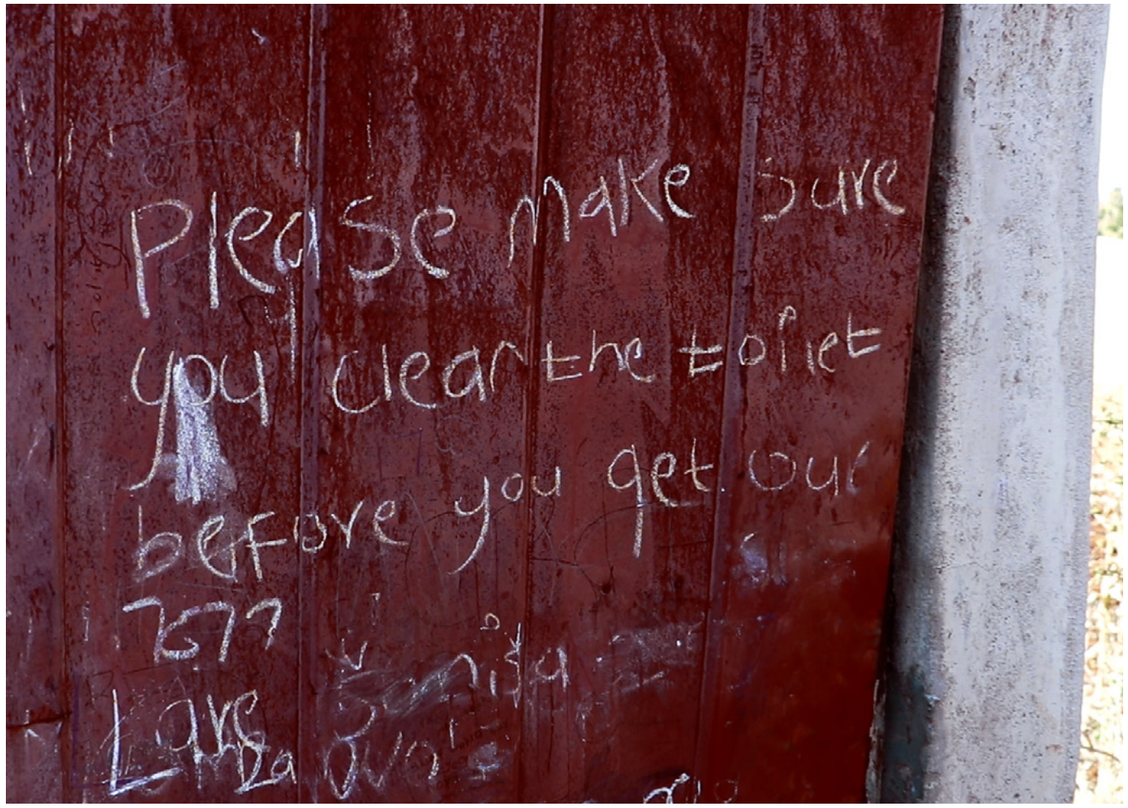
- In order to improve the efficiency and effectiveness of the building of school infrastructure, the DBE and nine PEDs must look at the best practice implementation models that have been developed over the past 20 years, and aim to replicate them. This will involve examining, in detail, what has worked well and what has not, and compiling this into a 'Best Practice Manual', which should then be applied all infrastructure projects going forward. The model used for the implementation of the EIG appears to be more effective than that used to implement ASIDI. Thus, the capacity of PEDs to implement school infrastructure upgrades developed in the past decade must also be harnessed and shared among the PEDs. This will involve active instigation of training and information-sharing opportunities. New technologies that have the potential to provide safe and decent sanitation at a smaller cost than traditional toilets should also be explored.

5. Eliminate fruitless and wasteful expenditure, irregular expenditure and underspending at national and provincial levels.

6. Ensure any new public-private partnerships are based on legally sound and best practice contractual arrangements that include effective accountability mechanisms, and ultimately strengthen the ability of PEDs – together with schools – to deliver and maintain infrastructure on their own.

CONCLUSION

The sanitation crisis in Limpopo schools is an egregious manifestation of a lack of political will and a lack of understanding of the duties that stem from the right to basic education. In order to remeby this, there is an urgent need for a new political approach which views every policy, budget and practice as one that is founded on this core constitution duty.



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ANNEXURES

a. Annexure A: SECTION27 Sanitation Table 62

b. Annexure B: Open letter by SECTION27 to President Cyril Ramaphosa 114

ANNEXURE A: SECTION27 SANITATION TABLE

SECTION27 SANITATION TABLE

No	School	Date of visit and person who visited school	District and village	Contact Details	Enrolment		Type of sanitation facilities and number of seats			Handwashing facilities	Menstrual Hygiene Management facilities	Facilities for learners with disabilities	Ratios – Do enrolment numbers: toilet numbers meet the Infrastructure Norms and Stds?	Visits from department officials in 2018	Notes
					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
1.	**MALEMA PRIMARY SCHOOL**	08 May 2018 Tebogo Sephakgamela Verified by Tebogo Sephakgamela on the on the 13 of August 2018	Newlands (Capricorn)	Mr Makama 071 259 2839	106	128		8 for Female learners. 4 for Male learners. 2 for educators.		Female toilets have three hand washing basins inside their toilets and male toilets have two basins outside, in front of the toilets	The school has dug a hole where they dump waste and thereafter they would burn the waste. The hole is near the school fence.	Toilets have a ramp to enable disable learners to use toilets and even visitors.	Female learners' toilets: 8 toilets meet ratios in N&S which requires 6 toilets for female learners Male learners' toilets: 4 toilets do not meet ratios in N&S which require 2 toilets + 4 urinals Staff toilets: 2 toilets do not meet ratios in N&S which require 4 (2 female staff toilets, 1 male staff toilet + 1 urinal)		Toilets are looking good. The school's concern is maintenance because their norms and standard funds are insufficient to maintain the toilets.
2.	**SEBUSHI PRIMARY SCHOOL**	08 May 2018 Tebogo Sephakgamela Verified by Tebogo on the 13 August 2018 and again on the 11 September 2018	Newlands (Capricorn)	Mr Mashishi 072 892 3077	132	121	11 for Boys. 4 for Girls. 4 for teachers.			Female toilets have two basins outside the toilets but they are not functional because there are no water pipe connections	Female learners discard their sanitary towel inside the toilets pit	There are no facilities for disabled learners, however, this has not been a challenge for the school as there are no disabled	Plain pit toilets are unlawful in terms of the Norms and Standards.		Boy's toilets are corroded at the bottom and have holes at the back. All 11 toilets have no roofs or doors. Girl's toilets have no doors

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
												learners enrolled.			and selective toilets have no roofs. There are four pit toilets which are not in use. Two are made of bricks and the other two are made of corrugated iron.
3.	**UTJANE PRIMARY SCHOOL**	08 May 2018 Tebogo Sephakgamela Verified by Tebogo On the 13 August 2018 and again on the 11 of September 2018	Mashashane Utjane Village (Capricorn)	Mr M Matsaung 072 204 3081	144	151	4 for female learners. 4 for Male learners. 2 for the teachers. Learners' toilets are made of bricks and teachers' toilets are made of corrugated iron.			Learners wash their hands from a tap which is near the toilets.	Female learners discard their sanitary towel inside the toilets pit	There are no facilities for disabled learners, however a school has no disabled learners	Plain pit toilets are unlawful in terms of the Norms and Standards.		Learner's toilets have no doors and a portion of the roof is leaking.

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
4.	**MAMOLOKO PRIMARY SCHOOL**	08 May 2018 Tebogo Sephakgamela Verified by Tebogo on the 13 August 2018	Moletjie Ditenteng (Capricorn)	Mr Manamela 071 555 8210 063 233 0169	138	122		4 for Male learners. 4 for Female learners. 2 for teachers.		Learners wash their hands from a tap which is next the toilets.	Female learners discard their sanitary towel inside the toilets.	There are no facilities for disabled learners, however there are no disabled learners enrolled.	Female learners' toilets: 4 toilets do not meet N&S ratios which require 6 toilets Male learners' toilets: 4 toilets do not meet N&S ratios which require 2 toilets + 4 urinals Staff toilets: 2 toilets do not meet N&S ratios which require 4 (2 female staff toilets, 1 male staff toilet + 1 urinal)		Toilets are in good condition
5.	**KGWAREDI PRIMARY SCHOOL**	08 May 2018 Tebogo Sephakgamela Verified by Tebogo on the 13 August 2018	Moletjie Ga-Manamela (Capricorn)	Mr Selemela J 073 348 2562 Mr Moloto 073 925 1117	119	112		8 for female learners. 5 for male learners. 4 for educators.		There are facilities for hand washing. There are 6 basins for female learners and 2 basins for male learners which are outside the toilets	Female learners discard sanitary towels inside the toilets.	There are facilities for disabled learners.	Female learners' toilets: 8 toilets meet N&S ratios which require 6 toilets Male learners' toilets: 5 toilets do not meet N&S ratios which require 2 toilets + 4 urinals Staff toilets: 4 toilets meet the N&S ratios which require 4 (2 female toilets, 1 male toilet + 1 urinal)		Toilets are in good condition

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No	School	Date of visit and person who visited school	District and village	Contact Details	Enrolment		Type of sanitation facilities and number of seats			Handwashing facilities	Menstrual Hygiene Management facilities	Facilities for learners with disabilities	Ratios – Do enrolment numbers: toilet numbers meet the Infrastructure Norms and Stds?	Visits from department officials in 2018	Notes
					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
6.	**ZENZELENI SECONDARY SCHOOL**	09 May 2018 Tebogo Sephakgamela Verified by Tebogo on the 13 August 2018	Monsterlus (Sekhukhune)	Mr Mthabeni 073 363 8632	78	97	4 for Male learners. 4 corrugated iron toilets for Female learners. 2 corrugated iron toilets for teachers. Undemolished toilets: There are old pit toilets which have severe cracks on the wall. They have been not demolished because sometimes male learners use them even though they pose risk to learners			There are no facilities for hand washing. Learners use a tap which is next to the toilets to wash their hands.	Female learners discard their sanitary towel inside the toilets	There is no facilities for disabled learners. However, they don't have disabled learners.	Plain pit toilets are unlawful in terms of the Norms and Standards.		Male learner's toilets have no roof or doors. 2 of these toilets have no toilet seats. Female learners and teachers are using corrugated iron toilets
7.	**BANTABETHU PRIMARY SCHOOL**	09 May 2018 Tebogo Sephakgamela Verified by Tebogo on the 13 August 2018	Monsterlus (Sekhukhune)	Mr Mthimunye 081 875 2463	131	100	2 corrugated iron pit toilets, used for both learners and teachers. There are 8 pit toilets which are full and no longer used. The school	Construction of 2 blocks of Enviro-loos was completed in August 2018 (7 seats)		Learners wash their hands from water tap	Female learners discard their sanitary towel inside the toilet	Newly installed Enviro-loos have got a ramp to allow disabled learners to access toilets	Enviroloos have not been allocated yet but there is a total of 7 toilets being installed for all learners (total enrolment is 231) and according to the N&S ratios there should be 6 toilets for female learners, 2 toilets + 4 urinals for		Have asked Pam to follow up on demolition N&S calc no longer correct.

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
							doesn't want to demolish them because they received toilets through lottery. They intend to renovate them.						male learners. This is a total of 12 toilets. The N&S will therefore not be met even after the Enviro-loos are allocated and functional.		
8.	**LOBOLI SECONDARY SCHOOL**	09 May 2018 Tebogo Sephakgamela Verified by Tebogo on the 13 August 2018 again on the 12 September 2018	Monsterlus (Sekhukhune)	Mrs Phalane (principal) 079 436 8355/ 072 579 2386 Mrs Mthimunye (educator) 060 938 3237	178	163	4 for Male learners. 4 for Female learners. 2 for teachers Toilets were built in 2017 and they are safe.			Learners wash their hands from a tap.	Female learners discard their sanitary towel inside the pit toilets.	There is no facilities for disabled learners. There are no disabled learners enrolled at the school.	Plain pit toilets are unlawful in terms of the Norms and Standards.		School built toilets themselves using norms and standard funds. Toilets are still looking good.
9.	**MOTSIPA SECONDARY SCHOOL**	10 May 2018 Tebogo Sephakgamela Verified by Tebogo on the 13 August 2018	Modjadji (Mopani)	Mr Mahlatjie 082 547 0698	142	159		4 for Male learners. 4 for Female learners. 4 for teachers.		Female learners' toilets have four basins inside toilets and male learners' toilets have two basins which are outside, but sometime they do experience water problems.	Female learners discard their sanitary towels inside the toilets	All the toilets have got facilities for disabled learners.	Female learners' toilets: 4 toilets do not meet the N&S ratios which require 6 toilets. Male learners' toilets: 4 toilets do not meet the N&S ratios which require 6 (2 toilets + 4 urinals) Staff toilets: 4 toilets meet the N&S ratios which require 4 (2 female staff		Toilets are still in good condition

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No	School	Date of visit and person who visited school	District and village	Contact Details	Enrolment		Type of sanitation facilities and number of seats			Handwashing facilities	Menstrual Hygiene Management facilities	Facilities for learners with disabilities	Ratios – Do enrolment numbers: toilet numbers meet the Infrastructure Norms and Stds?	Visits from department officials in 2018	Notes
					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
													toilets, 1 male staff toilet + 1 urinal)		
10.	**REBONE SECONDARY SCHOOL**	Solanga Milambo Verified by Tebogo on the 13 August 2018	Riverside (Sekhukhune)	SGB Chairperson Mr Nkadimeng M A Contact: 071 189 9525	512	553		12 for Female learners (3 blocks of Enviro-loos consisting of 4 seats each) 11 for Male learners.		There is no facilities for hand washing. Learners wash their hands from tap which is in front of the toilets		Enviro-loos toilets have a ramp to enable disabled learners to access toilets	Female learners' toilets: 12 toilets do not meet N&S ratios which require 14 toilets. Male learners' toilets: 11 toilets do not meet N&S ratios which require 12 (6 toilets + 6 urinals)		Enviro-loos for females are in good condition, but insufficient in number. Male learners have got 11 seats in the Enviro-loos. One block with 7 seats - built sometime five years ago. Made from cement. The toilets don't have urinal space. School built an extension of a wall with long drainage for a urinal

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
															The other block has 4 Enviro-loos seats for boys. 3 of them have no doors and 1 of them has a broken seat. There are three urinals which do not work. because pipes have been dismantled There is a roofless structure which consists of a long concrete urinal accommodating 10 learners with drain at its base. Buckets of water are used to clean the urinal every morning..

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
11.	**THOROMETSANE PRIMARY SCHOOL**	Solanga Milambo Verified by Tebogo on the 13 August 2018	Leboweng (Sekhukhune)	SGB Chairperson Ms Maphanga Sarah Contacts: 073 495 8827	113	137	3 for Male learners. 3 for Female learners. 2 for teachers The pit toilets were built in 2017 using norms and standards money.			Learners wash their hands from a tap which isolated from the toilets.	Female learners discard their sanitary towels inside toilets pit.	There are no facilities for disabled learners. There are no disabled learners enrolled at the school	Plain pit toilets are unlawful in terms of the Norms and Standards.	Department official dealing with infrastructure visited in June 2018 to assess the school as a whole.	

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
12.	**MADIKANA PRIMARY SCHOOL**	Solanga Milambo Verified by Tebogo on the 13 August 2018	Capricorn	SGB Chairperson Mrs Matsena M R Contacts: 076 851 8868	90	90	2 pit toilets for teachers	5 for Female learners. 3 for Male learners.		Female learners' toilets have got 4 basins inside the toilets and male learners' toilets have got 2 basins outside the toilets. The school has experienced water problems.	Female learners discard their sanitary towels inside toilets	There are facilities for disabled learners.	Female leaners' toilets: 5 toilets do not meet N&S ratios which require 6 toilets Male learners' toilets: 3 toilets do not meet N&S ratios which require 6 (2 toilets + 4 urinals) Staff toilets: 2 pit toilets do not meet N&S ratios which require 4 (2 female staff toilets, 1 male staff toilet + 1 urinal)		1 Block of Enviro-loos of 5 seats for girls - still in good condition. 1 block Enviro-loos of 3 seats and 8 individual urinals for boys. Educators use 2 pits toilets made of concrete wall. Constructio n of 2 blocks of Enviro-loos of 4 seats each for grade R learners is underway. The constructio n started in February and it was a one month contract but there are still on the foundation phase.

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
13.	**NCHELELENG SECONDARY SCHOOL**	Solanga Milambo Verified by Tebogo (visited school on the 23 August 2018)	Hwibi Ga Matlala (Capricorn)	SGB Chairperson Mr Molongwane M S Contacts: 076 169 4033 073 887 2592	136	87	2 pit toilets. 1 for Male learners. 1 for Female learners. School built these two pit toilets for learners in 2016, one for female and one for male learners which are now full. Every day they pour chemicals into the pit in an attempt to submerge the waste Boys are also using urinals which is linked to their pit toilet. Undemolish ed pit toilets: There are old pit toilets which are at the far end of the school fence and are no		2 flush toilets for educators inside the admin block, but one is no longer working and the other one is flushes using buckets.	All learners wash their hands at a tap which is in front of the toilets	Female learners discard their sanitary towels inside the pit toilet.	There are no facilities for disabled learners. School has no disabled learners enrolled.	Plain pit toilets are unlawful in terms of the Norms and Standards.		

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
							longer in use. 16 in total However, male learners sometimes use the dilapidated toilets when there is a queue for the 1 functional pit toilet.								
14.	**REABILWE PRIMARY SCHOOL**	Solanga Milambo Verified by Tebogo on the 13 August 2018		SGB Chairperson Mrs Ditsebe T D Contacts: 072 358 1601	512	436			10 for Male learners plus 8 urinals and 10 for Female learners	The female learner's toilets have got 6 basins for hand washing and the male learners have got 3 basins, but all of them are not working because the pipes have been dismantled. Learners wash their hands from an open tap.	There is a drum which is used as a dustbin, however there is no place to discard female learners' sanitary towels. Some learners wrap their sanitary towels and discard them at home.	The School doesn't have facilities for disabled learners. There are no disabled learners enrolled, but they are planning to create a ramp to assist learners with disabled	Female learners' toilets: 10 toilets do not meet N&S ratios which require 12 toilets Male learners' toilets: 10 toilets + 8 urinals meet the N&S ratios which require at least 4 toilets + 6 urinals. Although there are insufficient toilets for female learners, there are more than sufficient for male learners – possible for school to reallocate.		Both male and female learner's toilets are no longer flushing because the pipes are broken. They are using water buckets to flush. The constructio n of 2 blocks of Enviro-loos with 6 seats, and 1 block Enviro-loos with 5 seats, for grade R learners, is underway.

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
															The constructio n started in late November 2017, following the Komape case.
15.	**RASUPI PRIMARY SCHOOL**	Solanga Milambo Verified by Tebogo on the 13 august 2018	Driekop, Burgersfort (Sekhukhun e)	SGB Chairperson Ms Monareni Prety Contacts: 076 342 1044	171	184		8 for Male learners. 8 for Female learners.		There are basins outside the toilets for hand washing. Female learners have got 4 basins and male learners have got 2 basins	Learners discard their sanitary towels inside the pit toilet.	School toilets have got ramp to help disabled learners to access toilets.	Female learners' toilets: 8 toilets meet the N&S ratios which require 8 toilets Male leaners' toilets: meet the N&S ratios which require 4 toilets + 4 urinals		Toilets are still in good condition

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
16.	**MAMOGEGE SECONDARY SCHOOL**	Solanga Milambo Verified by Tebogo on then 13 August 2018	Driekop, Burgersfort (Sekhukhune)	SGB Chairperson Mr Mafatlo Norman Contacts: 076 233 2342	208	312		8 Enviro-loos For Female learners and 6 for Male learners plus 24 urinals		Learners washes hand from water tap which is in front of the toilets.	Female learners discard sanitary towels inside the toilets	School doesn't have disabled learners	Female learners' toilets: 8 toilets meet the N&S ratios which require 8 toilets Male learners' toilets: 6 toilets + 24 urinals meet the N&S ratios which require at least 4 toilets and 6 urinals		Female learners' Enviro-loos are still in good condition. 1 block of Enviro-loos for male learners' with 2 seats and 8 urinal for boys which are no longer in good condition, the septic tank is broken and there are no pipe connections. 1 block of Enviro-loos with 2 seats and 8 urinal for boys. Septic tank is broken and it is not usable. 1 block of Enviro-loos of 2 seats and 8 urinal for boys, septic tank is better compare to the other two blocks

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
17.	**SEULA-MMAKO PRIMARY SCHOOL**	Solanga Milambo Verified by Tebogo on the 14 August 2018	Zebediala Khureng (Capricorn)	SGB Chairperson Mrs Mmako Nurse Contacts: 072 890 8360	389	402		10 for Male learners with 8 urinals. 12 for Female learners. 4 for teachers.		Female learners' toilets have got 4 basins and male learners' toilets have got 2 basins. All of them are in front of the toilets.	Learners discard their sanitary towels inside the pit toilets. There are no dustbin for sanitary towels	There are facilities for disabled learners, even though school has no disabled learners enrolled.	Female learners' toilets: 12 toilets meet the N&S ratios which require 10 toilets Male learners' toilets: 10 toilets + 8 urinals meet the N&S ratios which require 4 toilets + 6 urinals Staff toilets: 4 toilets do not meet N&S ratios which require 5 (3 female staff toilets, 1 male staff toilet + 1 urinal)		All the Enviro-loos are still in good condition.
18.	**PHAKGAMANG PRIMARY SCHOOL**	Sunnyboy Mokwana (BEFA Member) Verified by Vuyisile: 7 August 2018	Ga Makena (Sekhukhune)	076 680 6894	145	164	13 for Male learners. 12 for Female learners. 2 for teachers. Toilets were built from bricks and they were built in 2017.			There is no facilities for hand wash. School has placed basins in front of each classrooms for learners to wash their hand when they come from toilets.	There are no facilities for disposing sanitary waste. Learners discard sanitary towels inside pit toilets	There are no facilities for disabled learners. School hasn't experienced a problem because there are no disabled learners enrolled.	Plain pit toilets are unlawful in terms of the Norms and Standards.	Department arrived to assess the condition of classrooms in February 2018	School built toilets themselves using norms and standards funds.

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
19.	**MARESELENG SECONDARY SCHOOL**	Sunnyboy Mokwana(BEFA member) Verified by Tebogo on the 13 August 2018	Legolaneng (Sekhukhune)	071 157 0382	118	129	4 for Female learners. 4 for Male learners. 4 for teachers.			Learners wash their hands from a tap which is near to the toilets	There are no facilities for disposing sanitary waste. Learners discard their sanitary towels inside the toilet pit	There are no facilities to assist learners with disabilities, however school doesn't have disabled learners at the moment.	Plain pit toilets are unlawful in terms of the Norms and Standards.		School built 4 pit toilets using norms and standard funds which are used by Female learners and shared with teachers. 8 pit toilets are old and have severe cracks on the walls and have no seats, no roof and no doors
20.	**MAROPE MATLALA PRIMARY SCHOOL**	Sunnyboy Mokwana (BEFA member) Verified by Tebogo on the 14 August 2018	VaalBank (Sekhukhune)	078 171 3294	118	115	4 for Male learners. 4 for Female learners. 5 for educators.			Learners wash their hands at a tap next to the toilets	There are no dustbins for sanitary towels. Female learners discard their sanitary towels inside pit toilets	There are no facilities for disabled learners. They have no disabled learners enrolled.	Plain pit toilets are unlawful in terms of the Norms and Standards.		Toilets are in bad condition. Learner's toilets have no doors and there are cracks on the walls.
21.	**BONANG BONANG PRIMARY SCHOOL**	Sunnyboy Mokwana (BEFA member) Verified by Tebogo on the 14 August 2018	Legolaeng (Sekhukhune)	079 585 6215	244	227	5 for Female learners. 4 for Male learners. 3 for educators.			Learners wash their hand at a water tap	There are no facilities for disposing of sanitary towels. Learners discard their used sanitary towels inside the pit toilets	There are no facilities to enable disabled learners to access toilets. They haven't experienced problem as	Plain pit toilets are unlawful in terms of the Norms and Standards.		Toilets are very old. Learner's toilets have no roof or doors.

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
												they don't have disabled learners enrolled.			
22.	**PUPUTLE SECONDARY SCHOOL**	Sunnyboy Mokwana (BEFA member) Verified by Tebogo on the 14 August 2018	Mabitsi (Sekhukhune)	078 645 0861	50	69		4 for Female learners. 2 for Male learners. 2 for educators.		Learners wash their hands at a tap which is next to toilets because the toilet's basins are no longer functional.	There are no facilities for disposing sanitary waste. Learners discard their sanitary towels inside the toilets which has led to maintenance problems.	Toilets have facilities for disabled learners.	(Enrolment numbers per gender fall in different categories, total enrolment range is used to calculate ratios here. Total enrolment is 119.) Female learners' toilets: 4 toilets meet N&S ratios which require 4 toilets Male learners' toilets: 2 toilets do not meet N&S ratios which require 2 toilets + 2 urinals Staff toilets: 2 toilets meet N&S ratios		Toilets lack maintenance
23.	**NYANE PRIMARY SCHOOL**	Sunnyboy Mokwana (BEFA member) Verified by Tebogo on the 14 August 2018	Mmutwaneng (Sekhukhune)	078 088 3910	127	141		4 for Female learners. 4 for Male learners. 4 for educators.		Female learners' toilets have 3 basins inside and the male learners' toilets have 2 basins out in front of the toilets	There is no place or dustbin the disposal of sanitary waste. Learners are forced to discard them inside toilets	There is a ramp that enables disabled learners to access toilets	Female learners' toilets: 4 toilets do not meet N&S ratios which requires 6 toilets Male learners' toilets: 4 toilets do not meet N&S		Toilets are in good condition

ANNEXURE A: SECTION27 SANITATION TABLE

No	School	Date of visit and person who visited school	District and village	Contact Details	Enrolment		Type of sanitation facilities and number of seats			Handwashing facilities	Menstrual Hygiene Management facilities	Facilities for learners with disabilities	Ratios – Do enrolment numbers: toilet numbers meet the Infrastructure Norms and Stds?	Visits from department officials in 2018	Notes
					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
													ratios which require 2 toilets + 4 urinals Staff toilets: 4 toilets meet N&S ratios which require 4 (2 female staff toilets, 1 male staff toilet + 1 urinal)		
24.	**KWATA PRIMARY SCHOOL**	Tebogo Sephakamela 10 May 2018 Verified by Tebogo on the 14 August 2018	Sekhukhune	Mrs Letswalo 082 581 7446	163	151		4 for Female learners. 4 for Male learners. 4 for educators.		Female learners' toilets have got 4 basins inside. Male toilets have 2 basins out in front. All of them are functioning.	There is no dustbin for sanitary towels. Learners discard their sanitary towels inside toilets.	There are facilities for disabled learners to access toilets	(Enrolment numbers per gender fall in different categories, total enrolment range is used to calculate ratios here. Total enrolment is 314) Female learners' toilets: 4 toilets do not meet N&S ratios which require 8 toilets Male learners' toilets: 4 toilets do not meet N&S ratios which require 4 toilets + 4 urinals Staff toilets: 4 toilets meet N&S ratios which require 2 female staff toilets, 1 male staff toilet + 1 urinal.		Toilets are still in good condition

ANNEXURE A: SECTION27 SANITATION TABLE

No	School	Date of visit and person who visited school	District and village	Contact Details	Enrolment		Type of sanitation facilities and number of seats			Handwashing facilities	Menstrual Hygiene Management facilities	Facilities for learners with disabilities	Ratios – Do enrolment numbers: toilet numbers meet the Infrastructure Norms and Stds?	Visits from department officials in 2018	Notes
					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
25.	**TSOGANG PRIMARY SCHOOL**	Tebogo Sephakgamela 11 May 2018 Verified by Tebogo on the 14 August 2018	Ramaroka (Mopani)	Mrs Lekgathe	131	127	One block of old pit toilets is still being used. Will be demolished after construction of Enviro-loos is complete.	Constructtion of 14 enviro-loos has been completed.		Learners washes hands from a tap which is in front of the toilets	There is no dustbin for sanitary waste. Female learners are using old pit toilets to discard their sanitary towels	Newly-installed Enviro-loos have got ramp for disabled learners.	4 enviroloos allocated to female learners do not meet N&S ratios which require 6 toilets for girls. 3 enviroloos allocated to male learners do not meet N&S ratios which require 2 toilets + 4 urinals. 4 enviroloos allocated to staff meet N&S ratios which require 2 toilets for female staff, 1 toilet for male staff + 1 urinal	No site visit since construction of the new toilets began in 2017.	
26.	**SEKGWARE SECONDARY SCHOOL**	Tebogo Sephakgamela 11 May 2018 Verified by Tebogo on the 14 August 2018	Modjadji (Mopani)	Mr Mahasha 072 388 2248	359	383	2 blocks of plain pit toilets have not been demolished yet	Construction of 5 blocks of enviroloos has been completed. 18 seats in total.		Female learners' toilets have 6 basin inside and 4 basins for male learners' toilets	There is no dustbin for sanitary waste. Learners discard their sanitary towels inside toilets	There are facilities for disabled learners	8 enviroloos allocated to female learners do not meet N&S ratios which require 10 toilets for girls. 6 enviroloos allocated to male learners do not meet N&S ratios which require 4 toilets + 6 urinals. 4 staff toilets allocated to staff meet N&S ratios which require 2 toilets for female staff, 1 toilet for		

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No	School	Date of visit and person who visited school	District and village	Contact Details	Enrolment		Type of sanitation facilities and number of seats			Handwashing facilities	Menstrual Hygiene Management facilities	Facilities for learners with disabilities	Ratios – Do enrolment numbers: toilet numbers meet the Infrastructure Norms and Stds?	Visits from department officials in 2018	Notes
					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
													male staff + 1 urinal.		
27.	**SEKGOTHI PRIMARY SCHOOL**	Tebogo Sephakgamela 11 May 2018 Verified by Tebogo on the 14 Augsut 2018 and again on the 11 September 2018	Modjadji (Mopani)	Mr Moremi 083 531 2827 Mr Mabulana (Educator) 074 276 4610 Mrs Mabulana (SGB chairperson) 072 798 8012	122	131	4 old pit toilets. These are used by learners because there are not enough Enviroloos.	16 Enviroloos		Learners wash their hands at a tap which is next to the toilets	There is no dustbin for sanitary waste. Learners discard their sanitary towels inside the toilets.	There are facilities for disabled learners.	(assuming an equal split of Enviro-loos between girls and boys) Female learners' toilets: 8 toilets meet N&S ratios which require 6 toilets Male learners' toilets: 8 toilets meet N&S ratios which require 2 toilets + 4 urinal		Toilets are still in good condition.
28.	**MOPOTLA SECONDARY SCHOOL**	Solanaga Milambo Verified by Tebogo on the 15 August 2018	Zebediala, Magatle (Capricorn)	Mrs Mogoane M M 072 080 3183	95	86		4 for Female learners. 3 for Male learners.		Female learners' toilets have 4 basins inside and male learners' toilets have 2 basins out in front.	There is no facility for disposing sanitary waste. Learners discard their sanitary towels inside the toilets.	There are facilities for disabled learners	Female learners' toilets: 4 toilets meet N&S ratios which require 4 toilets Male learners' toilets: 3 toilets do not meet N&S ratios which require 2 toilets + 2 urinals		Condition of toilets is still good
29.	**MANKWE SECONDARY SCHOOL**	Sunnyboy Mokwana Verified by Tebogo (visited school on the 20 August 2018)	Nebo (Sekhukhune)	082 335 1813	260	290	There are 2 old pit toilets which are sometimes used by learners	4 for Male learners 4 for Female learners 4 for educators		Learners wash their hands at a tap which is at the centre of school blocks	There are 2 old pit toilets which are sometimes used by learners	There are no facilities for disabled learners. School has disabled learners enrolled.	Female learners' toilets: 4 toilets do not meet N&S ratios which require 8 toilets Male learners' toilets: 4 toilets do not meet N&S ratios which		All toilets are still in good condition.

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No	School	Date of visit and person who visited school	District and village	Contact Details	Enrolment		Type of sanitation facilities and number of seats			Handwashing facilities	Menstrual Hygiene Management facilities	Facilities for learners with disabilities	Ratios – Do enrolment numbers: toilet numbers meet the Infrastructure Norms and Stds?	Visits from department officials in 2018	Notes
					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
							The only safety risk is hygiene because it is filthy inside						require 4 toilets + 4 urinals Staff toilets: 4 toilets meet N&S ratios		
30.	**MOKGOMA/PHOKWANE PRIMARY SCHOOL**	Sunnyboy Mokwana Verified by Tebogo on the 15 August 2018 and again on the 11 September 2018	Nebo (Sekhukhune)	013 164 0434	529	584	10 for Female learners. 4 for Male learners.	14 for Female learners. 12 for Male learners. 8 for educators.		Learners wash their hands at a tap which is next to the toilets.	There is no dustbin to dispose sanitary waste. Learners throw sanitary towels inside pit toilets	Enviroloos have got ramp to assist disabled learners to access toilets, but pit toilets doesn't	Female learners' toilets: 14 (VIPs) meets N&S ratios which require 12 toilets Male learners' toilets: 12 (VIPs) meet N&S ratios which require 6 toilets + 6 urinals Staff toilets: 8 toilets meet N&S ratios which require 3 female staff toilets, 1 male staff toilets + 2 urinals		They are all in good condition
31.	**MOLEJANE PRIMARY SCHOOL**	Sunnyboy Mokwana (BEFA Member) Verified by Tebogo on the 15 Augsut 2018	Nebo (Sekhukhune)	079 890 0076	196	219	4 for Female learners. 4 for Male learners. 4 for educators.			Learners wash their hand from a tap which is nearby toilets	There is no dustbin to dispose of sanitary waste. Female learners discard their sanitary towels inside the pit toilets	There are no facilities accommodating disabled learners to access toilets. There are no disabled learners enrolled.	Plain pit toilets are unlawful in terms of the Norms and Standards.		Learners are using corrugated iron toilets and teacher's toilets are plain pit and they are in fair condition

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
32.	**THOTWANENG PRIMARY SCHOOL**	Sunnyboy Mokwana (BEFA members) Verified by Tebogo on the 15 August 2018	Nebo (Sekhukhune)	013 264 0056	316	391		8 for Female learners. 4 for Male learners. 4 for educators.		Learners wash their hands at a tap nearby toilets	There is no dustbin for disposing sanitary waste. Learners discard their sanitary towels inside toilets	There is a ramp to assist disabled learners to access toilets	Female learners' toilets: 8 toilets do not meet N&S ratios which require 10 toilets Male learners' toilets: 4 toilets do not meet N&S ratios which require 4 toilets + 6 urinals Staff toilets: 4 toilets do not meet N&S ratios which require 6 (2 female staff toilets, 1 male staff toilet + 2 urinals)		They are in good condition but need maintenance.
33.	**TSHWAHLAKGE PRIMARY SCHOOL**	Sunnyboy Mokwana (BEFA member) Verified by Tebogo on then 15 August 2018	Nebo (Sekhukhune)	079 205 3938	391	346	3 for Female learners. 3 for Male learners. 4 for educators			Learners wash their hands at a tap nearby toilets	There is no dustbin for sanitary towels. Learners discard their sanitary towels inside the pit toilets.	There are no facilities for disabled learners. They haven't experienced problem as they do not have disabled learners enrolled.	Plain pit toilets are unlawful in terms of the Norms and Standards.		They are in fairly good condition.

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No	School	Date of visit and person who visited school	District and village	Contact Details	Enrolment		Type of sanitation facilities and number of seats			Handwashing facilities	Menstrual Hygiene Management facilities	Facilities for learners with disabilities	Ratios – Do enrolment numbers: toilet numbers meet the Infrastructure Norms and Stds?	Visits from department officials in 2018	Notes
					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
34.	**ZAMAZAMA SECONDARY SCHOOL**	Sunnyboy Mokwana (BEFA member) Verified by Tebogo on then 15 August 2018	Hlogotlou (Sekhukhune)	082 863 5853	340	349		10 for Female learners. 7 for Male learners. 3 for educators.		*	*	* *Principal refused to give further information – we were referred to circuit manager.	Female learners' toilets: 10 toilets meet N&S ratios which require 10 toilets Male learners' toilets: 7 toilets do not meet N&S ratios which require 4 toilets + 6 urinals Staff toilets: 3 toilets do not meet N&S ratios which require 4 (2 female staff toilets, 1 male staff toilet + 1 urinal)		They are in good condition, just need maintenance
35.	**LEHWELERE SECONDARY SCHOOL**	Sunnyboy Mokwana (BEFA member) Verified by Tebogo on the 29 August 2018	Nebo (Sekhukhune)	082 468 6986	414	441		10 seats of Enviroloos for female learners. 6 seats of Enviroloos plus 8 urinals for male learners 8 seats in the Enviroloos for educators.		Female learners' toilets has 6 basins inside and Male learner's toilets have 3 basins out in front of toilets, however they sometimes struggling with water.	School doesn't have dustbin for disposing sanitary waste. Learners discard their sanitary towels inside the toilets. This has led to maintenance issues with the toilet.	There is a facility to enable disabled learners to access	Female learners' toilets: 10 toilets do not meet N&S ratios which require 12 toilets Male learners' toilets: 6 toilets + 8 urinals meet N&S ratios which require 10 (4 toilets + 6 urinals) Staff toilets: 8 toilets meet N&S ratios which require 6 (3 female staff toilets, 1 male staff toilet + 1 urinal)	Visits by department officials in 2018: Department visited school May 2018, but not for enquiring about sanitation	Learners' toilets need maintenance, but they still look good outside. Educators' toilets are still in good condition.

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No	School	Date of visit and person who visited school	District and village	Contact Details	Enrolment		Type of sanitation facilities and number of seats			Handwashing facilities	Menstrual Hygiene Management facilities	Facilities for learners with disabilities	Ratios – Do enrolment numbers: toilet numbers meet the Infrastructure Norms and Stds?	Visits from department officials in 2018	Notes
					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
													*possible for school to reallocate some of the male learner's toilets to females		
36.	**HLABI SECONDARY SCHOOL**	Sunnyboy Mokwana (BEFA member) Verified by Tebogo on the 29 August 2018	Manthole (Sekhukhune)	082 961 7578	502	467		10 for Female learners. 8 for Male learners. 6 for educators.		Girls' toilets has 6 basin which are inside toilets and boys' toilets has 3 basins which are at the side of the toilets	There is no facility for disposing sanitary waste. Learners throw sanitary towels inside toilets pit.	There is a ramp which assist disabled learners to access toilets.	(Enrolment numbers per gender fall in different categories, total enrolment range is used to calculate ratios here. Total enrolment is 969) Female learners' toilets: 10 toilets do not meet N&S ratios which require 12 toilets Male learners toilets: 8 toilets do not meet N&S ratios which require 10 (4 toilets + 6 urinals) Staff toilets: 6 toilets meet N&S ratios (3 female staff toilets, 1 male staff toilet + 2 urinals)	Visits by department officials in 2018: Circuit manager visited school June 2018 for subjects assessment	They are in good condition, but need maintenance

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No	School	Date of visit and person who visited school	District and village	Contact Details	Enrolment		Type of sanitation facilities and number of seats			Handwashing facilities	Menstrual Hygiene Management facilities	Facilities for learners with disabilities	Ratios – Do enrolment numbers: toilet numbers meet the Infrastructure Norms and Stds?	Visits from department officials in 2018	Notes
					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
37.	**MPHEZULU SECONDARY SCHOOL**	Sunnyboy Mokwana (BEFA member) Verified by Tebogo on the 29 August 2018	Hlogotlou (Sekhukhune)		277	311	3 for Female learners. 3 for Male learners. 1 for educators Walls of the toilets are still looking good. Seats are made of bricks, but toilets are dirty inside and almost full			Learners use a tap to wash hands.	There are no facilities for disposing sanitary waste. Learners discard sanitary towels inside pit toilets.	There is no facility to enable disabled learners to access toilets. School has no disabled learners enrolled.	Plain pit toilets are unlawful in terms of the Norms and Standards.		
38.	**LUCKAU PRIMARY SCHOOL**	Sunnyboy Mokwana (BEFA member) Verified by Tebogo on the 29 August 2018 and again on the 11 September 2018	Manthole (Sekhukhune)	063 622 1876	546	584		6 for Female learners. 4 for Male learners. 3 for educators.		There are no basins at the toilets. Learners washes hand at a tap water near the toilets	There is no dustbin for disposing sanitary waste. Female learners are forced to discard their sanitary towels inside pit toilets.	There are no facilities for disabled learners. The school has no disabled learners enrolled.	Female learners' toilets: 6 toilets do not meet the N&S ratios which require 12 toilets Male learners' toilets: 4 toilets do not meet the prescribed 12 (6 toilets + 6 urinals) Staff toilets: 3 toilets do not meet the N&S ratios which require 6 (3 female staff toilets, 1 male staff toilet + 2 urinals)		

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No	School	Date of visit and person who visited school	District and village	Contact Details	Enrolment		Type of sanitation facilities and number of seats			Handwashing facilities	Menstrual Hygiene Management facilities	Facilities for learners with disabilities	Ratios – Do enrolment numbers: toilet numbers meet the Infrastructure Norms and Stds?	Visits from department officials in 2018	Notes
					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
39.	**THOBELA PRIMARY SCHOOL**	Sunnyboy Mokwana (BEFA member) Verified by Tebogo on the 29 August 2018	Hlogotlou (Sekhukhune)	083 372 1634	572	627		12 for Female learners. 12 for Male learners. 4 for educators.		Female toilets have 9 basins (3 in each block of toilets) and male toilets have 3 basins (1 in each block of toilets)	There are no facilities for learner to dispose of their sanitary towels. Learners discard their sanitary towels in the in pit toilets.	Toilets have ramps to allow disabled learners to access toilets	Female learners' toilets: 12 toilets meet the N&S ratios which require 12 toilets Male learners' toilets: 12 toilets meet the N&S ratios (enrolment numbers are slightly above 620 however). Staff toilets: 4 toilets do not meet N&S ratios which require 6 (3 female staff toilets, 1 male staff toilet + 2 urinals)		They are in good condition, but not enough for the learners
40.	**ALLERGRAINE PRIMARY SCHOOL**	Tebogo Sephakgamela 28 May 2018 Verified by Tebogo on the 29 August 2018 and again on the 12 September 2018	Mopani	Mrs Mathebula 083 781 0232	89	82	2 for Female learners 2 for Male learners 2 for educators			School doesn't have water. They rely on water can truck to bring water to the school. For learners to washes hand they pour in the basin and put in front of classrooms	There is no dustbin for disposing sanitary waste.	There is no facility for disabled learners. School doesn't have disabled learners who uses wheelchair.	Plain pit toilets are unlawful in terms of the Norms and Standards.	Department came in June 2018 to survey the site.	Learner's toilets are full. Male learners relieve themselves in the nearby bush. Female learners share toilets with educators

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
41.	**BAROPODI PRIMARY SCHOOL**	Tebogo Sephakgamela 28 May 2018 Verified by: Pamela Choga on 21 August 2018 Again by Tebogo on the 11 September 2018	Mmashadi (Sekhukhune)	Mr Mahlo 082 417 9481	611	631	4 unused pit toilets.	6 blocks of Enviroloos for learners and teachers. 2 blocks (with 8 toilets) are for female learners in Grades 4 to 7 and 2 blocks (with 8 toilets) are for male learners in Grades 4 to 7. Learners in Grades R to 3 have one block (with 4 toilets). One block is for educators (4 toilets).		There are no washing basins.	There are no sanitary bins. The school requested them but the department said there is no budget for them.	There are no disabled learners at the school	Female learners' toilets: 8 toilets do not meet N&S ratios which require 12 toilets Male learners' toilets: 8 toilets do not meet N&S ratios which require 12 (Although there are 4 extra toilets for the lower grades, enrolment numbers for male learners are higher than 620) Staff toilets: 4 toilets do not meet N&S ratios which require 5 (3 female staff toilets, 1 male staff + 2 urinals)		Still in good condition however, they are not enough toilets.
42.	**CRACOUW PRIMARY SCHOOL**	Tebogo Sephakgamela 28 May 2018 Verified by Tebogo on the 22 August 2018	Cracouw (Waterberg)	Mrs Moima 071 685 9283	65	69		6 for Female learners. 2 for Male learners. 2 for educators.		Learners wash their hands at a tap.	There are no facilities for disposing sanitary towels.	There are no facility for disabled learners. School haven't experienced this situation as they don't have disabled learners enrolled.	(Enrolment numbers per gender fall in different categories, total enrolment range is used to calculate ratios here. Total enrolment is 134) Female learners' toilets: 6 toilets meet N&S ratios which require 3 toilets	Visits by department officials in 2018: Circuit manager visited in July 2018 school to assess new classrooms.	They are still in good condition, but they do experience water problems.

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
													Male learners' toilets: 2 toilets do not meet N&S ratios which require 3 (1 toilet + 2 urinals) Staff toilets: 2 toilets meet the N&S ratios *Possible for school to reallocate one of the female learners' toilets to the males learners.		
43.	**CHAMANDU SECONDARY SCHOOL**	Tebogo Sephakgamela 28 May 2018 Verified by Tebogo on the 29 August 2018	Nsami (Vhembe)	Mr Shilowa 076 739 1080	219	231		8 for Female learners 4 for Male learners 4 for educators		Female toilets have 6 basins inside the Enviro-loos. Male toilets have 3 basins on the side of the Enviro-loos .	There is no dustbin for disposing sanitary waste. Learners discard their sanitary towels inside the toilet	Toilets accommodate disabled learners.	Female learners' toilets: 8 meet the N&S ratios which require 8 toilets Male learners' toilets: 4 toilets do not meet N&S ratios which require 8 (4 toilets + 4 urinals) Staff toilets: 4 toilets meet N&S ratios		They are still in good condition
44.	**DAVHANA SECONDARY SCHOOL**	Tebogo Sephakgamela 28 May 2018 Verified by Tebogo on the 29 August 2018	Vhuronga 1 (Vhembe)	Mr Luvhengo 072 499 2844 Mr Peter Modau 064 974 7879	246	254		8 for Female learners 4 for Male learners 4 for Educators		They use a tap to wash their hands, no designated basins are available.	There is no dustbin for disposing sanitary waste. The reason is they would have nowhere to empty out	There is a facility for disabled learners	Female learners' toilets: 8 toilets meet N&S ratios which require 8 toilets Male learners' toilets: 4 toilets		They are still in good condition

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No	School	Date of visit and person who visited school	District and village	Contact Details	Enrolment		Type of sanitation facilities and number of seats			Handwashing facilities	Menstrual Hygiene Management facilities	Facilities for learners with disabilities	Ratios – Do enrolment numbers: toilet numbers meet the Infrastructure Norms and Stds?	Visits from department officials in 2018	Notes
					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
											the bin. Learners, therefore, have discard their sanitary towels in the toilets.		do not meet N&S ratios which require 8 (4 toilets + 4 urinals) Staff toilets: 4 toilets meet N&S ratios		
45.	**DZAMBA PRIMARY SCHOOL**	Tebogo Sephakgamela 28 May 2018 Verified by: Pamela Choga on 21 August 2018	Tshilamba (Vhembe)	Mr Senyegwe 082 424 7556	40	46		3 blocks of Enviro-loos. 2 blocks for female learners (8 toilets). 1 block for male learners (4 toilets). Teachers share with learners.		There is one washing basin in each block of toilets.	There are no sanitary bins for sanitary waste disposal.	There is one toilet in one of the blocks for disabled persons. There are no disabled learners enrolled at the school.	Female learners' toilets: 8 toilets meet the N&S ratios which require 8 toilets Male learner' toilets: 4 toilets do not meet N&S ratios which require 8 (4 toilets + 4 urinals) Staff toilets: no toilets of their own. Does not meet N&S ratios which require 2 toilets.		They are still in good condition and are sufficient for the learners. Two of the three blocks of Enviro-loos were built in 2018.
46.	**HLALELANI PRIMARY SCHOOL**	Tebogo Sephakgamela 28 May 2018 Verified by: Pamela Choga on 21 August 2018	Soutpansburg (Vhembe)	Mr Mabasa 072 601 6640	567	577			4 blocks in total. 2 blocks are in use and 2 are not being used. Of those in use, one block is for learners in foundation phase (6 toilets in one block). The other block is for learners in the intermediate and senior	There are 4 washing basins. One in each block of toilets.	There are no sanitary bins.	The 2 blocks that are not in use are for disabled learners. The school does not have learners with special needs enrolled.	12 toilets being used by all learners. Female learners are required to have at least 12 toilets and male learners required to have 12 (6 toilets + 6 urinals) which is a total of 24 toilets and urinals). The school does not meet the N&S ratios		School is in a township area. Toilets are still in good condition.

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No	School	Date of visit and person who visited school	District and village	Contact Details	Enrolment		Type of sanitation facilities and number of seats			Handwashing facilities	Menstrual Hygiene Management facilities	Facilities for learners with disabilities	Ratios – Do enrolment numbers: toilet numbers meet the Infrastructure Norms and Stds?	Visits from department officials in 2018	Notes
					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
									phases (6 toilets).						
47.	**HLOVANI SECONDARY SCHOOL**	Tebogo Sephakgamela 28 May 2018	Klein Letaba (Mopani)	Mr Nwandule 082 428 1741	103	106		4 for Female learners 4 for Male learners 4 for educators					Female learners' toilets: 4 toilets do not meet N&S ratios which require 6 toilets Male learners' toilets: 4 toilets do not meet N&S ratios which require 6 (2 toilets + 4 urinals) Staff toilets: 4 toilets meet N&S ratios		They are still in good condition *School sits at the edge of the enrolment category
48.	**HUMBELANI SECONDARY SCHOOL**	Tebogo Sephakgamela 28 May 2018	Nzhelele West (Vhembe)	Mrs Makhokha 082 373 0848	258	244		12 for Female learners 8 for Male learners 4 for educators		Learners use a tap to wash their hands.	There is no dustbin for sanitary waste disposal.	Toilets accommodate disabled learners.	Female learners' toilets: 12 toilets meet N&S ratios which require 8 toilets Male learners' toilets: 8 toilets meet N&S ratios which requires 8 Staff toilets: 4 toilets meet N&S ratios		They are still in good condition
49.	**JACK MASHAMBA PRIMARY SCHOOL**	Tebogo Sephakgamela 28 May 2018 Verified by: Pamela Choga on 21 August 2018	Mafarana (Mopani)	082 042 3873 (new principal, no name given)	124	119		One block (4 seats) for female learners One block (4 seats) for male learners One block (4 seats for staff).		There is one hand washing basin in each block of toilets.	There are no sanitary bins.	There is a ramp on each block making the toilets accessible to disabled learners. The school does not have	Female learners' toilets N&S ratios require 6 toilets and at this stage, female learners have access to only 4. N&S ratios are currently not met.		They are still in good condition

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
								It is divided in two, female staff members use 2 toilets and male staff members use the other 2 2 more blocks have are being completed, one block being for Grade R learners. These 2 blocks are not in use yet.				learners with special needs.	Male learners' toilets: N&S requires 6 (2 toilets + 4 urinals). At this stage the N&S ratios are not met.		
50.	**KANANA PRIMARY SCHOOL**	Tebogo Sephakgamela 28 May 2018	Kanana (Capricorn)	Mr Chuma 076 744 1960	164	157		6 for Female learners 4 for Male learners 2 for educators		Learners wash their hands at a tap near the toilets.	School had dug a hole to throw sanitary waste next to toilets because they experienced maintenance problem when learners throw sanitary towels inside toilets pit. They covered the hole with soil thereafter for hygiene.	Toilets has facility for disabled learners	Female learners' toilets: 6 toilets do not meet N&S ratios which require 8 toilets Male learners' toilets: 4 toilets do not meet N&S ratios which require 8 (4 toilets + 4 urinals) Staff toilets: 2 toilets do not meet N&S rations which require 4 (2 female staff toilets, 1 male staff toilet + 1 urinal)		They are still in good condition *School sits at the edge of the enrolment category

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No	School	Date of visit and person who visited school	District and village	Contact Details	Enrolment		Type of sanitation facilities and number of seats			Handwashing facilities	Menstrual Hygiene Management facilities	Facilities for learners with disabilities	Ratios – Do enrolment numbers: toilet numbers meet the Infrastructure Norms and Stds?	Visits from department officials in 2018	Notes
					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
51.	**MATIME PRIMARY SCHOOL**	Tebogo Sephakgamela 29 May 2018	Schoonrood (Sekhukhune)	Mr Nkadimeng 083 792 0485	166	155		10 for Female learners 4 for Male learners 3 for educators		Female toilets have 6 basins inside the toilets and male toilets have 2 basins outside the toilets, but sometimes the school experiences water problems.	There is no dustbin for disposing sanitary waste. They haven't experienced much of learners who uses sanitary towels.	Toilets accommodate disabled learners	Female learners' toilets: 10 toilets meet the N&S ratios which require 8 toilets Male learners toilets: 4 toilets do not meet N&S ratios which require 8 (4 toilets + 4 urinals) Staff toilets: 3 toilets do not meet N&S ratios which require 4 *Possible to reallocate 2 of the female learner's toilets to male learners.		They are still in good condition
52.	**MATSOUKWANA SECONDARY SCHOOL**	Tebogo Sephakgamela 29 May 2018 Verified by Vuyisile Malinga in Week of 20 August 2018	Bahananwa (Capricorn)	Mrs Monicca 076 656 7988 Mr Motsoko 072 406 7081	113	111	2 for Female learners 2 for Male learners 2 for educators			There are no hand washing facilities, learners make use of a tap connected to a borehole.	No separate facility for disposing pads/sanitary towels.	There are no disabled learners at the school.	Plain pit toilets are unlawful in terms of the Norms and Standards.	Visits by department officials in 2018: The Department recently (in 2018) made a site visit to the school.	Toilets are in bad condition. Walls have some cracks and some do not have a roof.
53.	**MOKOBOLA PRIMARY SCHOOL**	Tebogo Sephakgamela 29 May 2018 Verified by Vuyisile	Mabulane (Sekhukhune)	Mrs Dibakwane 082 429 9348	116	140	One block of plain pit toilets remain undemolished.	Enviro-loos were installed in 2014. There are 2 blocks of Enviro-loos (16 toilets). Female learners use one block (8 toilets),		One washing basin per block.	There are no bins for sanitary towel disposal.	The school has one block of toilets for learners with disabilities.	Female learners' toilets: 8 toilets meet N&S ratios which require 6 Male learners' toilets: 8 toilets		They are still in good condition. Teachers are sharing toilets with learners since one of

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
		Malinga: 27 August 2018						male learners use one block (8 toilets). The toilets are not enough					meet N&S ratios which require 6		the pit toilets they used to use has been demolished Grade R learners and the administration block do not have toilets. The SGB has been engaging with the department about the toilets and they received a letter from the circuit manager. The letter stated that the department would send someone to visit the school. It has been a number of months since this was stated
54.	**MONALA PRIMARY SCHOOL**	Tebogo Sephakgamela 29 May 2018 Verified by Tebogo on	Baltimore (Waterberg)	Mr Ngoepe 072 228 8462	237	229	2 plain pit for educators One of the old pit toilet	5 for Female learners 4 for Male learners		Female toilets have 2 basins outside the toilets. Male toilets have 2 toilets on the outside 2 basins for disabled learners'	The school uses an old pit toilet for sanitary waste disposal	There is a facility for disabled learners	Female learners' toilets: 5 toilets do not meet N&S ratios which require 8 toilets		All are still in good condition

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
		the 29 August 2018					has been demolished after completion of Enviro-loos construction . One has left for feminine hygiene			toilets which are inside toilets			Male learners' toilets: 4 toilets do not meet N&S ratios which require 8 (4 toilets + 4 urinals)		
55.	**MOUPO PRIMARY SCHOOL**	Tebogo Sephakgamela 29 May 2018 Verified by Tebogo on the 29 August 2018	Ga Mphahlele (Capricorn)	Mrs Mathabane 076 276 6284	47	54		4 for Female learners 4 for Male learners 4 for educators		Female toilets have 2 basins on the outside. Male toilets have 2 basins on the outside.	There is no dustbin for sanitary waste disposal	Disabled learners are accommodated.	Female learners' toilets: 4 toilets meet N&S ratios which require 3 toilets Male learners' toilets: 4 toilets meet N&S ratios which require 3 (1 toilet + 2 urinals) Staff toilets: 4 toilets meet N&S rations which require 2	Visits by department officials in 2018: Department didn't visit school this year	They are still in good condition
56.	**NKOBO SECONDARY SCHOOL**	Tebogo Sephakgamela 29 May 2018 Verified by Tebogo (visited school on then 22 August 2018)	Matlalane (Waterberg)		33	21	2 for Female learners 2 for Male learners 2 for educators			School doesn't have water. Learners had to bring their own water from home for them to wash their hands after using the toilets	There is no dustbin for disposing sanitary waste. Learners discard their sanitary towels inside the pit toilets	There is no facility for disabled learners. However, school has disabled learners enrolled	Plain pit toilets are unlawful in terms of the Norms and Standards.		Learner's toilets are almost full. They are filthy inside

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
57.	**NGWANAKWENA SECONDARY SCHOOL**	Tebogo Sephakgamela 29 May 2018 Verified by Tebogo on the 29 August 2018	Nwaabe (Sekhukhune)	Mr Malatji 073 912 8800	617	606		18 for Female learners 10 for Male learners 8 for educators		Learners wash their hands at taps which are near the toilets	There is no dustbin for sanitary waste disposal. Learners discard sanitary towels inside toilets pit.	Some toilets accommodate disabled learners.	(Enrolment number surpass 600 which is the maximum number of learners per gender) Female learners' toilets: 18 toilets meet N&S ratios which require 14 Male learners' toilets: 10 toilets do not meet N&S ratios which require 12 (6 toilets + 6 urinals) Staff toilets: 8 toilets meets N&S ratios which require 6 (3 female staff toilets, 1 male staff toilet + 2 urinals) *Possible for school to reallocate 2 of the female learners' toilets to male learners	Visits by department officials in 2018: Circuit manager visited school for subjects assessment	They are still in good condition *school numbers go beyond the maximum dealt with in the N&S
58.	**ANONYMOUS (secondary school)**	Tebogo Sephakgamela 29 May 2018 Verified by Vuyisile Malinga in the week of	Anonymous	Anonymous	180	160		8 for Female learners 4 for Male learners 4 for educated		There are separate hand washing facilities for male and female learners	There are no separate facilities to dispose of pads/sanitary towels	There are no disabled learners at the school	Female learners' toilets: 8 toilets meet the N&S ratios which require 6 Male learners' toilets: 4 toilets do not meet N&S	Visits by department officials in 2018: The Department has not made a site visit in 2018.	They are still in good condition

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
		20 August 2018											ratios which require 6 (2 toilets + 4 urinals) Staff toilets: 4 toilets meet the N&S ratios which require 4 *Possible for school to reallocate 2 of the female learners' toilets to male learners.		
59.	**SEKABA SECONDARY SCHOOL**	Tebogo Sephakgamela 29 May 2018 Verified by Tebogo on the 29 August 2018 and again on the 11 September 2018	Moime, Thabina (Mopani)	Mrs Mangena 079 509 7681	298 total			8 for Female learners 4 for Male learners		Female toilets have 4 basins which are outside their toilets. Male toilets have 4 basins which are also outside their toilets.	There is no facility for sanitary waste disposal. Learners use old pit toilets to discard their sanitary towels.	Toilets accommodate disabled learners	Female learners' toilets: 8 toilets meet N&S ratios which require 6 Male learners' toilets: 4 toilets do not meet N&S ratios which require 6 (2 toilets + 4 urinals) *Possible for school to reallocate 2 toilets to from female to male learners		All are still in good condition
60.	**SEKETE SECONDARY SCHOOL**	Tebogo Sephakgamela 29 May 2018 Verified by: Pamela Choga week of 27 August 2018	Kanana (Capricorn)	Mr Ramahuma 079 195 5477	56	53	The school uses old plain pit toilets, while they wait for Enviro-loo installation to be completed.	There are 3 blocks of Enviroloos being constructed. Each has 8 toilets. They are not in use yet. Block one = staff (it is divided in		There are no washing basins and learners go to the kitchen where there is water Currently the school has no water system. There are borehole that is being installed but are not connected yet. Once	There are no sanitary bins but learners discard their sanitary towels in the pits.	The old pit toilets do not accommodate learners with disabilities	N&S requirement: Female learners need 4 toilets Male learners need 4 (2 toilets + 2 urinals) Staff need 2 toilets. New Enviroloos will more than	Visits by department officials in 2018: May 2018 was the last time any progress was made on the toilets.	

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
		Again by Tebogo on the 11 September 2018 Verified again by Pamela Choga on 20 September 2018					Currently, they use 3 blocks of 6 toilets each. These toilets are almost full.	two, one side is for female staff and the other side for male staff. They have 4 toilets each) Block two = female learners (8 toilets) Block three = male learners (8 toilets)		connected they will feed water into tanks which will direct water to the Enviro-loos.			adequately cater to the school's needs. (however situation is unlawful while pits remain present) *Department has oversupplied Enviro-loos to this school, given its small size		
61.	**AM MASHEGO SECONDARY SCHOOL**	Tebogo Sephakgamela 29 May 2018 Verified by Vuyisile Malinga in the week of 20 August 2018	Hlogotlou (Sekhukhune)	Mr Maredi 082 970 5264	592	456	4 plain pit toilets (1 block) for teachers	10 for Female learners 6 for Male learners		There are no hand washing facilities, learners are using a central tap to wash their hands	No facilities for disposing sanitary towels/pads	There are no disabled learners at the school.	(Enrolment numbers per gender fall in different categories, total enrolment range is used to calculate ratios here. Total enrolment is 1048) Female learners' toilets: 10 toilets do not meet N&S ratios which require 14 toilets Male learners' toilets: 6 toilets do not meet N&S ratios which require 12 (6 toilets + 6 urinals) Staff toilets: 4 toilets do not meet N&S ratios which require 5	Visits by department officials in 2018: The last site visit by the Department was in 2015, since then no regular visits or communication has occurred	Learner's toilets are in good condition, but they are not enough. The school, out of desperation, tries to raise money to attend to the some of the damages sustained by the toilets but they had failed to raise a sufficient amount of money.

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
62.	**ARETHABENG PRIMARY SCHOOL**	Tebogo Sephakgamela 29 May 2018 Verified by Vuyisile Malinga in the week of 20 August 2018	Mmashadi (Sekhukhune)	Mrs Mahlakane 071 241 7501	116	135		8 for Female learners 6 for Male learners 2 for educators		The school has a problem with its water system, the water doesn't go through to the basins, learners wash their hands at taps outside the classrooms		There are no disabled learners at the school.	Female learners' toilets: 8 toilets meet N&S ratios which require 6 Male learners' toilets: 6 toilets meet the N&S ratios which require 6 Staff toilets: 2 toilets do not meet N&S ratios which require 4 (2 female staff toilets, 1 male staff toilets + 1 urinal)		They are still in good condition. Toilets are not user friendly to Grade R learners because the seats are too big. They are accompanied by their teachers to go to the toilets.
63.	**BOLOTSWI SECONDARY SCHOOL**	Tebogo Sephakgamela 30 May 2018 Verified by Tebogo on the 30 August 2018	Modjadji (Mopani)	Mrs Makhurupetji 072 968 6896 Tshepo Selowa 072 286 4671	93	82	2 for Female learners 2 for Male learners 2 for educators			Learners wash their hands at a tap water which is far away from the toilets	There is no facility for sanitary waste disposal. Learners discard their sanitary towels inside the toilet.	There is no facility for disabled learners, however they haven't experienced situation of managing learners with disability because there are no disabled learners at the school	Plain pit toilets are unlawful in terms of the Norms and Standards.	April 2018, the Department sent officials from the greater Giyani municipality to assess the condition of toilets.	Learner's toilets are full. Female learners share with teachers and Male learners relieve themselves at the nearby bush.

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
64.	**DITHAMAGA PRIMARY SCHOOL**	Tebogo Sephakgamela 30 May 2018 Verified by: Pamela Choga week of 27 August 2018	Ngwaabe (Sekhukhune)	Mrs Kobe 082 061 3528	64	51	4 for Female learners 4 for Male learners 4 for Educators Learners use one block of toilets (8 toilets). Female toilets have a separate entrance on one side of the block and Male toilets have an entrance at the other side of the block.			The school has a built up area with a pipe next to the toilet block for learners to wash their hands.	Learners dispose of their sanitary towels in the pits	The school does not have learners with disabilities but there is a ramp at each entrance of the block to allow for learners with wheelchairs to access the toilets.	Plain pit toilets are unlawful in terms of the Norms and Standards.		Toilets are still in good condition The pit toilets were built in 2003 and no one from the department comes to inspect the state of the toilets. The school relies on its norms and standards funding to keep the toilets functional. The school has been engaging with the department and was promised toilets in 2018 but still has not received anything.

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
65.	**GONELA PRIMARY SCHOOL**	Tebogo Sephakgamela 30 May 2018 Verified by Vuyisile Malinga: 20 August 2018 Again by Tebogo visited the school on the 23 August 2018	Vhumbedzi (Vhembe)	Mrs Mozanani 082 636 6782	168	176	4 plain pit toilets for Female learners 4 for Male learners Grade R toilets are not well ventilated. The toilets are in such a poor condition that learners relieve themselves outside.	4 for educators		There are no hand washing facilities for learners. Learners use a common tap to wash their hands.		There are no disabled learners at the school, no accommodations are being made for disabled learners	Plain pit toilets are unlawful in terms of the Norms and Standards.	Visits from department officials in 2018: The last site visit by the Department was in July 2018, the Department informed the school that their needs would only be attended to after 2020. The principal was told this by a certain Mr Mabotja from the Department. The principal has been trying to raise money to try and ensure the toilets meet minimum standards	Toilets are still in good condition. School built toilets from donation funds. One from Old Mutual and one from Shihlovho The school bears a health /safety risk because the gutters/sewerage pipes expose the waste.

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
66.	**KHUDUGANE SECONDARY SCHOOL**	Tebogo Sephakgamela 30 May 2018 Verified by Vuyisile Malinga in the week of the 20 August 2018	Sekgosese East (Mopani)	Mrs Sebelemetsa 073 106 9292	405	374		10 for Female learners 6 for Male learners 4 for Educators		Basins are not functioning, the school has a faulty water system that causes flooding.	There are no separate facilities for disposal of pads/sanitary towels	The school has no disabled learner but the toilet do accommodate them.	(Enrolment numbers per gender fall in different categories, total enrolment range is used to calculate ratios here. Total enrolment is 779) Female learners' toilets: 10 toilets meet N&S ratios which require 10 Male learners' toilets: 6 toilets do not meet N&S ratios which require 10 (4 toilets + 6 urinals) Staff toilets: 4 toilets do not meet N&S ratios which require 5 (2 female staff toilets, 1 male staff + 2 urinals)	Visits from department officials in 2018: The Department made a site visit in 2017 (between April and May) and had demolished the pit toilets to replace them with Enviro-Loos.	They are still in good condition but are not enough for learners. However the school got an approval from LDoE to receive 16 new classrooms, admin block, nutrition centre and 20 more of Enviro-loos.
67.	**KHUNGULU PRIMARY SCHOOL**	Tebogo Sephakgamela 30 May 2018 Verified by Vuyisile Malinga in the week of 20 August 2018	Shamavunga (Mopani)	Mr Rivele 082 452 6100	145	146		4 for Female learners 2 for Male learners 2 for Educators		Basins are in bad condition, learners use the taps near the toilets		No disabled learners at the school.	Female learners' toilets: 4 toilets do not meet N&S ratios which require 6 Male learners' toilets: 2 toilets do not meet N&S ratios which require 2 toilets +4 urinals	Visits by department officials in 2018: The Department made a site visit to the school in 2017 promising to fix the broken elements,	Male toilets are not sufficient. During lunch time Male learners struggle to use toilets The doors of the toilets are broken,

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
													Staff toilets: 2 toilets do not meet N&S ratios which require 4 (2 female staff toilets, 1 male staff toilet + 1 urinal)	this has yet to happen	they fear that this leaves the toilets vulnerable to vandalism
68.	**LAMDZANVHO SECONDARY SCHOOL**	Tebogo Sephakgamela 30 May 2018 Verified by Vuyisile Malinga in the week of the 20 August 2018 Again Tebogo visited the school on the 20 August 2018	Schoonoord (Sekhukhune)	Mr Nkadimeng 083 570 5091	94	81	2 for Female learners 2 for Male learners 2 for Educators The toilets have no doors, students have no privacy.	2 Enviro-loos for educators		No hand washing facilities, students make use of taps nearby.	No separate facilities to dispose of sanitary pads.	There are no disabled learners at the school and are therefore not accommodated.	Plain pit toilets are unlawful in terms of the Norms and Standards.	Visits from department officials in 2018: There has not been a site visit by the department in 2018.	Learner's toilets are in bad condition. They are almost full and filthy inside.
69.	**MAKALA SECONDARY SCHOOL**	Tebogo Sephakgamela 30 May 2018 Verified by Vuyisile Malinga: 20 August 2018	Sekgosese East (Moapni)	Mr Rasekele 083 345 7001	279	212	4 for Female learners 4 for Male learners 4 for educators The learner's pit toilets are dilapidated, the school inserted steel bars underneath the toilet seats so that			No separate basins for handwashing, the learners share a tap near the toilets.	No separate facility for discarding sanitary towels/pads	There are no disabled learners at the school.	Plain pit toilets are unlawful in terms of the Norms and Standards.	Visits from department officials in 2018: The last site visit at the school by the department was in 2015 and the principal notes that the department has not responded to	

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
							the learners do not fall through the seats. There are some cracks on the walls and some don't have doors							any of his efforts to fix the infrastructure or toilets. The principal notes that he and his staff 'gave up' trying to get the department to intervene	
70.	**MATSOTSOSELA PRIMARY SCHOOL**	Pamela Choga 29 May 2018 Verified by: Pamela Choga week of 27 August 2018 Again by Tebogo on the 12 September 2018	Mopani District	Ms M J Magwaza 073 652 0111	136	150	1 block of pit toilets with four seats in it. This is shared by all learners at the school		Grade R learners use 2 flushing toilets.	Learners use a tap in the school yard to wash their hands	Learners dispose of their sanitary towels in the pit toilets. The school has recently used its Norms and Standards money to buy chemicals to clean the toilets.	There are no disabled learners at the school. There are no facilities for disabled persons.	Plain pit toilets are unlawful in terms of the Norms and Standards.		Toilets not in good condition, they are just open holes with no seats and they are almost full.
71.	**MBANGWA PRIMARY SCHOOL**	Pamela Choga 29 May 2018 Verified by Vuyisile Malinga: 20 August 2018	Mopani District	Mrs Baloyi 083 339 7122	223	231		8 Enviro-loos. 3 for female learners, 3 for male learners, one for male educators, one for female educators.		There are separate hand washing facilities for male and female learners.		There are no disabled learners at the school and therefore they are not accommodated	Female learners' toilets: 3 toilets do not meet N&S ratios which require 8 toilets Male learners' toilets: 3 toilets do not meet N&S ratios which require 8 (4 toilets + 4 urinals)	Visits from department officials in 2018: The last site visit by the department was in October 2016, when the toilets were built.	The Enviro-loos were constructed in 2015/2016 and are in good condition. There has been no problem with the

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
													Staff toilets: 2 toilets do not meet N&S ratios which require 4 (2 female staff toilets, 1 male staff toilet + 1 urinal)		toilets and are well maintained.
72.	**SESOAI PRIMARY SCHOOL**	Pamela Choga 31 May 2018 Verified by Vuyisile Malinga: 20 August 2018 Again by Tebogo on the 11 September 2018	Capricorn District	Mr Seemola 082 909 6455	243	200		7 Enviro-loos blocks 2 for males. 2 for females. 3 for educators.		There are separate basins for hand washing for male and female learners.		The school has no disabled learners.	It is not clear how many toilets there are per block. Female learners require 8 toilets. Male learners require 8 (4 toilets + 4 urinals). Staff require 4 (2 female staff toilets, 1 male staff toilet + 1 urinal)	Visits from department officials in 2018: The last site visit by the department was in 2016	Enviro-loos were installed in 2014. Currently they are in good condition, the only problem experience d by the school is the scarcity of cleaning products for the toilets, which can only be found in Gauteng now. Have not heard from the LDE yet.

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
73.	**TSHIANANE SECONDARY SCHOOL**		Vhembe	Mr. Nemakhavhane 082 592 9179	226	212		4 for female learners, 2 for male learners plus 4 urinals and 4 for educators					Female learners' toilets: 4 toilets do not meet N&S ratios which require 8 Male learners' toilets: 2 toilets do not meet N&S ratios which require 4 toilets. 4 urinals meet the N&S ratios which require 4 Staff toilets: 4 toilets meet N&S ratios which require 4 (2 female staff toilets, 1 male toilet + 1 urinal)		The toilets are still in good condition.
74.	**MAFUMANI SECONDARY SCHOOL**	Solanga Milambo 19 July 2018 Verified by Tebogo on the 30 August 2018	Mopani (Klein Letaba Circuit) Homu 14A	Mr Taweni Andrew 072 586 3726/061 486 7620 SGB Chair Mr Shivambu	468	454	12 pit toilet for male learners with 1 large urinal space. 14 pit toilets for female learners.	1 block of 4 seats for educators (2 for females and 2 for males)		There is no facilities for hand washing. Learners washes hand from a tap which is next to classroom	They don't have dustbin for sanitary waste disposal. Learners use toilets pit to discard their sanitary towels	There is no facility for disabled learners	Plain pit toilets are unlawful in terms of the Norms and Standards.	Principle received a phone call and email from the department enquiring about the condition of the toilets.	All male learner's toilets are not in good condition as they are nearly full and have no doors. 2 blocks of female learner's toilets do not have proper

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No	School	Date of visit and person who visited school	District and village	Contact Details	Enrolment		Type of sanitation facilities and number of seats			Handwashing facilities	Menstrual Hygiene Management facilities	Facilities for learners with disabilities	Ratios – Do enrolment numbers: toilet numbers meet the Infrastructure Norms and Stds?	Visits from department officials in 2018	Notes
					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
															seats, only bricks.
75.	**MUDIMELI SECONDARY SCHOOL**	Solanga Milambo 18 July 2018 Verified by Vuyisile Malinga: in the week of the 20th of August 2018.	Soutpansberg-North Mudimeli Vilage (Mopani)	Mr Mafukadube Alfred 072 551 5666 Mrs Phaswane Cecilia SGB Chair 072 882 9518	244	262		3 blocks of Enviro-loos with 4 seats each for female learners. 3 blocks of Enviro-loos of 4 seats each for male learners. All the toilets for both male and female learners need to be renovated, learners are using them at their own risk.	4 flush toilets for educators (2 for males and 2 for females) all are still in good condition	There are separate basins for male and female learners	There are no separate bins/facilities for disposing pads.	There are no disabled learners at the school, no accommodation has been made for disabled learners.	Female learners' toilets: 12 toilets meet N&S ratios which require 8 toilets Male learners' toilets: 12 toilets meet N&S ratios which require 8 Staff toilets: 4 toilets meet N&S ratios which require 4 (2 female staff toilets, 1 male staff + 1 urinal)	Visits from department officials in 2018: The last site visit by the department was at the end of the first quarter of 2018	All toilets for both girls and boys need to be renovated, they are full, smell terrible and some have broken seats.
76.	**MOLOKO PRIMARY SCHOOL**	Verified by Vuyisile Malinga: 21 August 2018	Capricorn	Mr Thathtana 060 883 8243	100	89	12 old pit toilets no longer in use	3 blocks of Enviro-loos (12 seats). This is divided into 4 seats for girls, 4 seats for boys, 4 seats for educators		There are individual/separate basins for male and female learners.		There are ramps by the toilets to facilitate access for disabled learners	Plain pit toilets are unlawful in terms of the Norms and Standards.		
77.	**TSHITANDANE PRIMARY SCHOOL**	Vuyisile	Vhembe	Mr Mudzielwana 071 083 5517	56	38	2 plain pit toilets for male learners 2 plain pit toilets for			Learners use a tap which is near the toilets.	There is no dustbin for disposing sanitary towels. Learners are forced to	There is no facility for disabled learners. School has no disabled	Plain pit toilets are unlawful in terms of the Norms and Standards.	Visits from department officials in 2018: The Department did not visit	Learners' toilets are too full to use. Learners are forced

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
							female learners 2 plain pit toilets for educators				throw sanitary towels inside toilets pit	learners enrolled.		the school this year. They went to Department to enquire about sanitation and they were told that the school would merge with another school, but community members rejected the proposal	to use those toilets because they do not have an option. Educators' toilets are still in good condition.
78.	**XIMUNWANA SECONDARY SCHOOL**	Vuyisile Malinga Verified by: Pamela Choga week of 27 August 2018	Vhembe	Mr Baloyi (Principal) 076 987 5915	536	440		4 Enviro-loos for female learners 2 Enviro-loos for male learners, 4 urinals for male learners 4 Enviro-loos for educators		2 washing basins in each block.	There are 2 sanitary bins per block.	There is a block with 2 toilets for learners with disabilities, they have wheelchair access.	(Enrolment numbers per gender fall in different categories, total enrolment range is used to calculate ratios here. Total enrolment is 976) Female learners' toilets: 4 toilets do not meet N&S ratios which require 12 Male learners' toilets: 2 toilets + 4 urinals do not		Toilets are still in good condition, but are not enough for learners, in particular female learners, they are struggling to use toilets during break time

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No	School	Date of visit and person who visited school	District and village	Contact Details	Enrolment		Type of sanitation facilities and number of seats			Handwashing facilities	Menstrual Hygiene Management facilities	Facilities for learners with disabilities	Ratios – Do enrolment numbers: toilet numbers meet the Infrastructure Norms and Stds?	Visits from department officials in 2018	Notes
					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
													meet N&S ratios which require 4 toilets + 6 urinals Staff toilets: 4 toilets do not meet N&S ratios which require 5 (3 female staff toilets, 1 male staff toilet + 1 urinal)		
79.	**MASUVHELELE LOWER PRIMARY SCHOOL**	Solanga Milambo Verified by Vuyisile Malinga in the week of 20 August 2018 Again by Tebogo on the 12 September 2018	Vhembe (Dzondo circuit, Levhubu)	Mr Madzivandila (Principal) 073 400 9980, 079 792 0529 Mrs Tshidavhula (SGB Chairperson) 071 617 6053	76	64		4 Enviroloos		There are no individual basins for hand washing, there is a tap near the toilets which is shared by all learners.		There is no disability access to the toilets.	(Enrolment numbers per gender fall in different categories, total enrolment range is used to calculate ratios here. Total enrolment is 140) Female learners' toilets: 2 toilets do not meet N&S ratios which require 6 (2 toilets + 4 urinals) Male learners' toilets: 2 toilets do not meet N&S ratios which require 4 (2 female staff toilets, 1 male staff toilet + 1 urinal)	Visits from department officials in 2018: The last site visit by the department was in 2015.	

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No	School	Date of visit and person who visited school	District and village	Contact Details	Enrolment		Type of sanitation facilities and number of seats			Handwashing facilities	Menstrual Hygiene Management facilities	Facilities for learners with disabilities	Ratios – Do enrolment numbers: toilet numbers meet the Infrastructure Norms and Stds?	Visits from department officials in 2018	Notes
					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
80.	**SERARE JUNIOR SECONDARY SCHOOL**	Solanga Milambo Verified by Tebogo on te 30 August 2018	Mopani (Thabina circuit)	Mrs Rathokole (Principal) 078 370 3890 Mr Phalane (SGB chair) 061 129 4278)	113	145		8 Enviro-loos for female learners; 2 seat for male learners and 8 septic tank urinals. 4 seats for educators		There are separate basins for each gender	No separate facilities for sanitary towels/pads	The toilets do accommodate disabled learners, no disabled learners are enrolled.	Female learners' toilets: 8 toilets meet N&S ratios which require 6 toilets Male learners' toilets: 2 toilets + 8 urinals meet N&S ratios which require 2 toilets + 4 urinals Staff toilets: 4 toilets meet N&S ratios which require 4 (2 female staff toilets, 1 male staff toilet + 1 urinal)	Visits from department officials in 2018: The Department has not made a site visit in 2018.	The toilets are still in good condition. School have hired cleaners to take care of maintenance.
81.	**BESSIE MAAKE SECONDARY SCHOOL**	Solanga Milambo Verified by Vuyisile Malinga in the week of 20 August 2018.	Mopani (Thabina circuit)	Mr Hlongwane (Principal) 083 989 2297 Mr Hlongwane (SGB chair) 076 352 1225	118	134		4 seats of Enviro-loos for female learners. 6 seat and 8 septic tank urinals for male learners. 4 seat for educators		There are separate basins for male and female learners.	No separate facilities to throw away sanitary pads. Pads are discarded into the pit.	There are no disabled learners at the school.	Female learners' toilets: 4 toilets do not meet N&S ratios which require 6 toilets Male learners' toilets: 6 toilets + 8 urinals meet N&S ratios which require 2 toilets + 4 urinals Staff toilets: 4 toilets meet N&S ratios which require 4 (2 female staff toilets, 1 male		The toilets are still in good condition. There are two block of old 8 toilets which are no longer in use. They are locked to protect learners from using them

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No	School	Date of visit and person who visited school	District and village	Contact Details	Enrolment		Type of sanitation facilities and number of seats			Handwashing facilities	Menstrual Hygiene Management facilities	Facilities for learners with disabilities	Ratios – Do enrolment numbers: toilet numbers meet the Infrastructure Norms and Stds?	Visits from department officials in 2018	Notes
					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
													staff toilet + 1 urinal) *Possible for school to reallocate 2 of the male learners' toilets to female learners		
82.	**NAKAMPE PRIMARY SCHOOL**	Solanga Milambo Verified by Vuyisile 3Malinga in the week of 20 August 2018 Again Tebogo Visited the school on the 21 September 2018	Mopani (Mamaila circuit)	Mrs Nkanyangi (Principal) 071 156 6297/ 082 405 4141	245	249		6 Enviro-loos for female learners. 4 seat plus 4 septic tank urinals for male learners		Male and female learners have their own hand washing		There are no facilities for disabled learners, the students just have to 'do what they can'.	Female learners' toilets: 6 toilets do not meet N&S ratios which require 8 toilets Male learners' toilets: 4 toilets + 4 urinals meet N&S ratios which require 4 toilets + 4 urinals		Some toilets are still In good condition. One of female learners' toilet seat is broken and no longer in use. Thus led to shortfall of female learners' toilets. They don't have ablution for grade R learners.
83.	**RAMOLLO PRIMARY SCHOOL**	Solanga Milambo Verified by Vuyisile Malinga in	Mopani (Mamaila circuit)	Mrs Pudikabekoe (Principal) 079 805 5689	350	401	4 plain pit toilets for female learners, 4 plain pit toilets for		10 seats of flush toilets which was previously used by male learners before they were	There are no individual basins at the toilets, learners wash their hands at the basins situated		There are no disabled learners and thus the toilets have not been	Plain pit toilets are unlawful in terms of the Norms and Standards.	Visits from department officials in 2018: The department	Pit toilets are still in good condition, but they are not

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No	School	Date of visit and person who visited school	District and village	Contact Details	Enrolment		Type of sanitation facilities and number of seats			Handwashing facilities	Menstrual Hygiene Management facilities	Facilities for learners with disabilities	Ratios – Do enrolment numbers: toilet numbers meet the Infrastructure Norms and Stds?	Visits from department officials in 2018	Notes
					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
		the week of 20 August 2018		Mr Selopyana (SGB chair) 076 675 3895			male learners plus large space of urinals made of concrete, and 4 pit toilets for educators.		blown away by a storm. 10 seat of flush toilets for female learner, but are no longer in use. 4 seats of flush toilets for educators, are no longer in use because they were blown away by a storm	outside the classrooms		made to accommodate them.		has not made a site visit to the school in 2018, there was only a phone call concerning the state of toilets.	enough for learners. 24 flush toilets are no longer in use after been blown away by the storm. School doesn't have enough funds to renovate them. The school is dire need for toilets for their grade R learners.
84.	**MASHAO SECONDARY SCHOOL**	Mopani (Modjadji circuit) Verified by Vuyisile Malinga in the week of 20 August 2018 Again by Tebogo on the 11 September 2018	Solanga Milambo	Principal 072 701 95 42 SGB chair 071 441 3358	132	124	2 plain pit toilets sometimes used by learners	2 seat of Enviro-loos plus 8 urinals for male learners. 8 seat of Enviro-loos for female learners. 4 seat of Enviro-loos for educators.		No separate facilities for hand washing	There are no separate facilities for feminine hygiene	The School has no disabled learners and their toilets do not accommodate them	Female learners' toilets: 8 toilets meet N&S ratios which require 6 toilets Male learners' toilets: 2 toilets + 8 urinals meet N&S ratios which require 2 toilets + 4 urinals Staff toilets: 4 toilets meet N&S	Visits from department officials in 2018: The department has yet to do a site visit in 2018 or attend to the school's requests.	The toilets lack maintenance. They are filthy inside. 3 of 8 female learners' toilets seat are broken and no longer in use. Educators' toilets are

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
													ratios which require 4		still in good condition.
85.	**MOLAI JUBILEE SECONDARY SCHOOL**	Solanga Milambo Verified by Vuyisile Malinga in the week of 20 August 2018 Again by Tebogo on the 11 September 2018	Mopani (Modjadji circuit)	Mr Matome (Principal) 071 656 0296 Mr Mothomohol o (SGB chair) 078 548 3868/071 418 8289	206	201	4 old plain pit which are mostly no longer in use	4 seats of Enviro-loos for male learner. 8 seats of Enviro-loos for female learners. 4 seats of Enviro-loos for educators		No individual basins for handwashing.	No bins for sanitary pads	The school has no disabled learners and so toilets do not accommodat e them.	Female learners' toilets: 8 toilets meet N&S ratios which require 8 toilets Male learners' toilets: 4 toilets do not meet N&S ratios which require 8 (4 toilets + 4 urinals) Staff toilets: 4 toilets meet N&S ratios which require 4	Visits from Department officials in 2018: Department has yet to do a site visit in 2018	Toilets are still in good condition, but they are not enough for the learners, especially male learners
86.	VHULAUDZI SECONDARY SCHOOL	Tebogo Sephakgamel a Verified by Tebogo (Tebogo visited the school on the 23 August 2018)	Ndzelele	Mr Makwarela 082 314 0606	305	300	8 pit toilets for female learners. 6 pit toilets for male learners			There are no basin for hands wash at the toilets. Learners wash their hands at a tap which is far from the toilets	There is no dustbin for sanitary waste. Learners discard their sanitary towels inside toilets pit	There is no facility for disabled learners. School has no learners with disabilities enrolled	Plain pit toilets are unlawful in terms of the Norms and Standards.	Visits from department officials in 2018: Department visited the school in 2017 and informed the school that new toilets will be constructed in 2018, however, when the school	Female learners' toilets are in bad condition. One of the toilet's seat is broken and it is no longer used. Male learners' toilets are still looking good but are filthy

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					Girls	Boys	Plain Pit Toilets	Ventilated Improved Pit Toilets	Flush Toilets						
														follows up with the Department, the Department does not give an accurate answer.	inside and there are doors. There are also 6 pit toilets which are not used and they are in bad condition

ANNEXURE B: OPEN LETTER BY SECTION27 TO PRESIDENT CYRIL RAMAPHOSA

Annexure B

7 September 2018

Dear Honourable President Ramaphosa

OPEN LETTER FROM SECTION27 REGARDING UNSAFE SCHOOL SANITATION

We at SECTION27 would like to draw to your attention to a few more horrific incidents of injury and deaths of young learners because of unsafe school sanitation.

In 2016, a then five year old boy, Oratilwe Dilwane, attended the Tlhotlheletsang Primary School in the North West Province. Whilst playing with his friends, he fell into a pit toilet at the school. Oratilwe swallowed excrement and sustained severe head injuries. He now has hydrocephalus, endures epileptic seizures and experiences learning difficulties. A shunt had to be inserted in his head to ease the pressure on his brain. Oratilwe will need surgery every year to replace the shunt as he grows and when the shunt becomes blocked. He is still too traumatised to use a toilet even at his home. His life will never be the same.

In 2007, Siyamthanda Mtunu, a six year old boy who attended Dalasile Primary School in the Eastern Cape was using the toilet at his school when the walls of the cubicle collapsed on him. He died while being rushed to a hospital.

In 2013, Lister Magongwa, a seven year old boy who attended Mmushi Primary School in the Limpopo Province was using the toilet at his school, when, again, the walls of the cubicle collapsed on him. Lister also died while in an ambulance on his way to the hospital.

We would not be surprised if there are more incidents such as these that we have not yet heard about.

As you are aware, in March 2018, while the Department of Basic Education (the "DBE") was in the Bhisho High Court in the Eastern Cape defending its failure to prescribe constitutionally compliant

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Ms A.L. Brown, Mr M. Heywood (Executive Director), Justice M.Z. Yacoob, Ms R Tlhabi, Mr B Botha

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Norms and Standards for School Infrastructure (the "Norms"), a five year old girl, Lumka Mkhetwa who attended Luna Primary School, also in the Eastern Cape, was using the toilet at her school when she fell into a pit toilet and died.

As you are aware too, in 2014, a five year old boy, Michael Komape, who attended Mahlodumela Primary School in the Limpopo Province, went to relieve himself at school when he fell into a dilapidated pit toilet and drowned in human excrement.

Following the death of Lumka in March this year, you issued a directive requiring that:

- the DBE conduct an audit of all learning facilities with unsafe structures, especially unsafe sanitation facilities within a month.
- the Minister of Basic Education provide you with a plan to rectify these challenges, as an emergency interim measure, while rolling out proper infrastructure.
- this emergency plan be produced within three months of the directive.

This directive was issued despite the pre-existing Norms, which, if properly implemented, would have ensured that pit toilets would have been eradicated by the end of 2016. Such implementation of existing law may have prevented Lumka's death and would also have obviated the necessity for yet another plan.

Pursuant to your directive, the SAFE Initiative (Sanitation Appropriate for Education Initiative) was launched on 14 August 2018. You have described the SAFE Initiative as a campaign "[T]o provide safe sanitation facilities for all learners and, in the process, help to restore their dignity."

We at SECTION27 are concerned that this initiative is not sufficient to prevent further deaths or injuries of the thousands of young learners all over South Africa who have no choice but to use unsafe, unhygienic and undignified toilets at their schools.

We have worked with the poorest schools across South Africa to improve the quality of education and we have monitored school sanitation in the Limpopo Province since 2012. Therefore, while we were not invited to comment on the SAFE Initiative, we would nevertheless like to make a few comments and ask some questions in respect of the initiative.

- We understand that a sanitation audit by the provinces was submitted to the DBE pursuant to your directive. We understand too that this process required verification with schools.

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officials as part of this verification process. There are also major discrepancies between the audit and other data sets. For example, the audit results presented at the launch note the total number of schools audited as being only 10 661 of which 6 938 have pit toilets on the premises. This contradicts the latest data in the National Education Infrastructure Management System (NEIMS), published by the DBE in January 2018, which states there are 23 471 public schools, of which 8 702 have pit toilets on the school premises. On 22 March 2018, the Minister of Basic Education stated that there were 8 679 schools with pit toilets. On 17 April 2018, the DBE stated in Parliament that there were 5 779 schools with pit toilets. On 30 May, the DBE told the National Council of Provinces that there were 7 174. Under these circumstances, President Ramaphosa, we are concerned that the audit does not reflect an accurate assessment of school sanitation needs in South Africa.

- We understand that in terms of the audit the following categories of sanitation have been identified as requiring upgrading: (1) Schools without sanitation; (2) Schools with pit toilets; (3) Schools provided with sanitation but pit toilets not demolished; (4) Sanitation not fit for purpose and (5) Schools with insufficient sanitation. President Ramaphosa, we require a more precise definition of what "not fit for purpose" means. Do schools with collapsing brick and mortar cubicles qualify within this category? Will the initiative assist those schools where toilets are not pit toilets, but are nevertheless full or blocked or are so dysfunctional that learners stay at home when menstruating, or go to the toilet in the open fields? Moreover, President Ramaphosa, the numbers just don't add up. You have stated that there are 3 898 schools that require appropriate sanitation interventions, in the audit however, this number refers to schools with only pit toilets. What about all these other categories identified as requiring fixing?
- We note that a costing exercise was done based on the audit and an amount of approximately R7 billion nationally is required to fix sanitation. While we question the accuracy of the audit, we understand that the initiative is to be funded through provincial infrastructure programmes, the Accelerated Infrastructure Delivery Initiative (ASIDI) which focuses on schools that have no sanitation, as well as funds raised from the private sector. In this time of fiscal austerity, budgetary cuts, and declining per learner expenditure,[1] we question whether sufficient money is available in the provincial programmes for the SAFE Initiative. What happens if it proves not to be possible to raise the balance from the private sector?
- We understand that the plan under the SAFE Initiative is that the first set of projects are to be completed within the current financial year. Given the notorious backlogs associated with school infrastructure upgrades, including within ASIDI, are we confident that this time frame can be met and how can we ensure accountability to the deadline? Moreover, are there urgent interim measures in the plan to prevent further tragedies in the meantime?
- We are concerned that there is a disjuncture between the SAFE Initiative and what is happening in some of the provinces. The SAFE Initiative does not address the role of the provinces in the roll out of the plan. Furthermore, pursuant to the court order in *Komape and others v Minister of Basic Education and others* (23 April 2018*)* the Department is required to provide a detailed report of the programme for the installation of sanitation across the Limpopo Provinces. The Report was finalised at the end of August 2018, after the release of the SAFE Initiative, yet does not contain a single mention of the initiative.

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In short, it is our view that the SAFE Initiative fails to provide a carefully coordinated roadmap based on accurate information with concrete, measurable, time-bound, and budgeted-for steps for alleviating the sanitation crisis at our schools. Such a clear roadmap is a constitutional and legal obligation on our government, as our Constitution guarantees the right to basic education and the Norms provide a clear mechanism for infrastructure upgrades if seriously implemented.

A greater commitment to the Constitution and relevant legal frameworks is required to deal with the school sanitation crisis. For example, following the judgment of the Bhisho High Court, that particular provisions in the Norms are invalid and unconstitutional, the DBE has opted to file an appeal against this judgment directly to the Constitutional Court rather than working to improve the Norms in line with the Constitution. Furthermore, the report filed pursuant to the judgment notes that the date by which all pit toilets in the Province will be eradicated is 2031. That is thirteen years from now and fifteen years later than the deadline prescribed by the Norms.

President Ramaphosa, how many more children must die or suffer before concrete and urgent action is taken? Let us make safe and decent school sanitation a national priority. Unless more is done, the SAFE Initiative rings hollow and at worst would distract from the fulfilment of government's true obligation to realise the right to basic education in South Africa.

We would welcome further interaction with your office and the sharing of information we have gathered over the years in order to discuss the issues we have raised in this letter.

Yours faithfully,
SECTION27

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catalysts for social justice

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SECTION D:
FINDINGS AND IMPACT

SECTION E:
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