

UNIVERSITY OF THE WITWATERSRAND

Private Bag 3

Wits, 2050

Johannesburg

11 OCTOBER 2021

RE: EMAIL OF WITS SENIOR EXECUTIVE TEAM OF 8 OCTOBER 2021

Dear Council and senior management of Wits

1. Your email of 8 October 2021 concerning the Wits Mandatory Vaccination Framework (“**the framework/policy**”), refers.
2. We act on behalf of Wits students who are not willing to be named for fear of intimidation, unfair discrimination, and related reprisal, as well as the African Christian Democratic Party (“**the ACDP**”) all of whom act herein *inter alia* in terms of section 38 of the Constitution 1996 (“**our client’s**”).
3. At the outset we must object to the fact that it has no doubt taken you months to organise and put together your communication, yet you afford a mere two days to staff, students, senior managers, organised labour, and other constituencies such as our client the ACDP (“**affected persons**”) to comment. It is strongly suggestive that there was and is no intention of meaningful engagement with affected persons on such a controversial and constitutionally invasive policy.

4. The dismal lack of time allowed for comment suggests a design to stifle meaningful comment and suspiciously indicative of an intention to disregard any comments, whether of value or not. The decision to propose or implement this policy appears to have been taken regardless of any comment, input, or objection.

5. If a decision to implement the framework/policy has already been taken, kindly as a matter of the utmost urgency:
 - 5.1. advise us of the full and precise details of when and where this decision was taken;

 - 5.2. advise us of the full and precise details of the persons, together with their designation(s) within the employment and/or authoritative structure of Wits, whom this decision was taken by;

 - 5.3. furnish us with copies of the minutes of all meeting and deliberations leading up to the formulation of the policy; and

 - 5.4. furnish us with a copy of the minutes of the meeting and deliberations at which this was resolved and a copy of the resolution/record of decision.

6. If this decision has not yet been taken, kindly as a matter of the utmost urgency:
 - 6.1. furnish us with copies of the minutes of all meeting and deliberations leading up to the formulation of the policy;

 - 6.2. advise us of the full and precise details of when and where those who claim the authority to take such decision intend to meet or confer to take this decision;

- 6.3. advise us of the full and precise details of who the persons are who claim the authority to take this decision together with their designation(s) within the employment and/or authoritative structure of Wits;
- 6.4. whether it is intended to consider comments, input and/or objections before it intends to make the decision.
7. We require a response to our requests in paragraphs 5 and 6 above **by no later than 17:00 on Monday 18 October 2021.**
8. Accordingly, we record objection to the decision to implement the framework/policy insofar as it has already or in effect been decided to do so, and if it has not been so taken, we object to the inordinately, unreasonably, and irrationally short period within which affected persons are to seek advice, legal and otherwise, and then comment on both the intention to implement the policy and on its content.
9. If the decision has already or in effect been taken, kindly indicate whether implementation of the policy will be held in abeyance until such time as we and our clients have been provided with the requested information and proof of the claims set out below to allow us to give legal advice and seek medical and scientific advice and guidance in order to consider our clients' position and to comment. **Should the undertaking sought not be given by 17:00 on Monday 18 October 2021,** kindly note that our client's will have no choice but to seek urgent Court ordered relief, and in all the circumstances an appropriate costs order.
10. Affected persons and our clients require, and we hereby formally request on their behalf, a reasonable period of no less than 21 days, which ought to be immediately publicised, within which to consider their position and to seek such advice as may be necessary to take an informed decision on whether to object. There is no reason for the urgency with which Wits appears to be dealing with this framework/policy (reflected in the objectionable and farcically short period allowed for comment).

11. If the intention was to seek sensible comment from an informed perspective because it would be seriously considered, which we have reason to doubt for the reasons alluded to above, but in respect of which we will grant Wits the benefit of the doubt, lest we be wrong, informed comment can only be made if sufficient information is provided and/or time allowed within which to become informed of the actual basis for the decision.

12. In addition to our requests above, we wish to record and request that the following be furnished to us and our clients in order to assist our clients to make a decision after having sought advice legal and otherwise, on such information (particularly, but not limited to, the various claims made regarding the issue under reply, viz mandatory vaccination):
 - 12.1. who precisely are the members of the “Wits Mandatory Vaccination Committee”?

 - 12.2. when precisely and by whom precisely were they mandated to consider the aspects listed in the email under reply?

 - 12.3. who precisely are the members of the “Senior Executive Team” who authored the email under reply?

This information too we request by 17:00 on Monday 18 October 2021.

13. Regarding the animation, a series of claims are made (at the very least eight), namely:
 - 13.1. vaccination will protect all against the virus and the best “bet” (*wager?*) is to vaccinate as many people as possible;

- 13.2. because “vaccination” means that it is a way to prepare the body to fight a particular disease without actually getting it, that the intended mandatory “vaccination” will so prepare the body of those who will be injected;
 - 13.3. vaccines “are safe and effective” and have been extensively tested;
 - 13.4. all Covid-19 vaccines work very well against severe illness and death;
 - 13.5. the reduction of the ability of those “vaccinated” to pass the virus to others or to spread the virus (as an alternative to the concession that “vaccinations” may only provide moderate protection against being infected);
 - 13.6. “vaccination” side effects are normal and treatable and will generally go away on their own, the side effects being a sore arm at the injection site, headache, fever for a day or two;
 - 13.7. because the virus changes, a booster “vaccination” may be needed every few years to strengthen immunity and overcome new variants; and
 - 13.8. those who have had Covid-19 have short term protection from severe illness.
14. In the body of the email under reply, several claims are also made, viz.
- 14.1. a mandatory vaccination framework/policy protects the health and safety of the Wits community and the public, and advances the public good;
 - 14.2. the vaccines are safe and highly effective in reducing the risk of becoming infected, in preventing serious illness and death and in limiting the spread of the virus;

- 14.3. scientific evidence has shown that vaccines are the most critical and effective intervention in prevention of Covid-19;
- 14.4. a larger proportion of vaccinated people provides greater community protection against transmission of the virus;
- 14.5. vaccines were developed and approved quickly;
- 14.6. the framework/policy will comply with South African Legislation and labour laws; and
- 14.7. an unvaccinated individual will put “the collective” (presumably “vaccinated”) at risk.
15. Apropos the claims by Wits set out in paragraphs 13 and 14 above, kindly provide us by 17:00 on Monday 18 October 2021 (or such other reasonable date as our clients might agree to should you make a reasonable request duly motivated) with any and all scientific and factual proof including all raw data [including but not limited to published scientific papers, recorded research, all claimed tests, relevant statistics and their sources, the basis of claiming future efficacy on unknown variants, proof of when the vaccines were developed], the exact legislation and labour laws that have or will be complied with and full proof of approval of the vaccines, which has/have been relied on and considered for all these claims.
16. The information requested herein should not be considered exhaustive, particularly considering the inordinately short time allowed for “comment”.
17. Furthermore, please advise whether Wits accepts full responsibility for indemnification and payment of damages for and flowing from any and all adverse events, temporary and/or permanent and/or secondary to the vaccination framework/policy? If not, why not? Does the manufacturer accept such liability? If

the answer is no to any one of these questions, will those who vaccinate on account of the framework/policy have any recourse in terms of reasonable compensation?

18. Your prompt and timeous response will be appreciated.

Yours faithfully

Bongani Luthuli

Director