

MEC Sicelo Gcobana  
Eastern Cape Department of Health  
By email: (c/o Lucanda Banca) [Lusanda.Banca@impilo.ecprov.gov.za](mailto:Lusanda.Banca@impilo.ecprov.gov.za)

11 April 2013

Dear MEC Gcobana

## **LETTER OF DEMAND: LUSIKISIKI VILLAGE CLINIC**

- 1 SECTION27 represents the Treatment Action Campaign (“TAC”).
- 2 We have been in correspondence with you about Lusikisiki Village Clinic (“Village Clinic”) since 11 February 2013. Furthermore, our client delivered a memorandum to the District Manager for the O.R. Tambo District on 29 January 2013 and met with the district office on 13 February 2013. We have addressed three letters to you and received three letters in reply. We thank you for your replies, however, they have not provided a satisfactory response to our client’s concerns about the relocation of Village Clinic and the resultant regression in health care services in violation of the rights of the people who use the Village Clinic.
- 3 The responses given by you on behalf of the Eastern Cape Department of Health (“ECDoH”) are unclear, incomplete, contradictory and, in parts,

incomprehensible. The only conclusion that the responses allow is that the ECDoH does not have an adequate plan to provide users of Village Clinic with the health care services to which they are entitled. The following contradictions, misinformation and missed deadlines are notable:

3.1 TOILETS - In the 13 February response by the District office to the TAC Memorandum and in your letter of 4 March, the ECDoH undertakes to install four privy toilets and claims, “superstructure toilets have already been organised”. Despite this, two months on, two pits have been dug and no further progress has been made. The ECDoH committed to completing the installation of the toilets by 30 March 2013. To date, the ECDoH has not installed a single toilet despite the deadline having passed.

3.2 WATER - When SECTION27 wrote to you on 12 February, there was no running water available at the site. Two water tanks were subsequently erected. In your letter of 4 March, you claim that running water is also available from a tap at the entrance to the mobile unit. However, this tap only began to function in the last month. Furthermore, it is not, as claimed, at the entrance of the mobile unit but is rather at the boundary of the site, approximately 30 meters away from where it would be of practical use to nurses and patients.

3.3 MOBILE STRUCTURE – The ECDoH has made promises (referred to below) in relation to mobile structures for the Village Clinic. To date,

there is only one mobile structure at the Village Clinic, despite every deadline that the ECDoH has provided for the delivery of additional mobile units having passed.

3.3.1 The 13 February response to the TAC Memorandum states, “There is a Park home which is coming within a month and will address the issue of space and privacy”.

3.3.2 In your letter of 14 February, you indicate, “three mobile structures” will be provided and that the tents currently being used are only an “interim measure” and further that “it has never been an intention of the Department to violet the basic human rights of patients”. [SIC]

3.3.3 In your letter of 4 March, you state, “The structure was not permitted or sanctioned by the department thus not justified due to the lack of amenities and compromises quality of service provision”. [SIC]

3.3.4 Finally, in your letter of 20 March, you state, “A second Park home is going to be erected at the same site just to accommodate the patients coming for mobile health services, Coega has already been preparing the area now awaiting the delivery of the park home”. [SIC] You indicate that this was to be completed by 30 March 2013.

### 3.4 PERMANENT STRUCTURE –

- 3.4.1 In your 14 February letter, you state that a “Spacious new building is in the advance stage of installation by Infrastructure and assessment has been done and building design done. The Department is more than serious to provide conducive environment for village clinic”. [SIC]
- 3.4.2 In your letter of 4 March, you do not directly address whether a new permanent structure will be built on the Village Clinic site. You rather indicate an intention to install a “larger temporary structure—whilst still attending to the topography issues in the gateway clinic for expansion of services” [SIC]
- 3.4.3 The meaning in your letter of 20 March is unclear and the paragraph is quoted in full:

“The topography issues are to assess the building areas available to erect park homes to add to the six consulting rooms at Gateway Clinic also the need for levelling the ground so that it is reachable as a medium term solution, the long-term is to source funding for a permanent structure to expand the consulting rooms, 2 consulting rooms to be added.”

This may refer to a permanent structure being constructed at the Village Clinic or an extension of Gateway Clinic with temporary structures being used for Village Clinic.

3.5 ELECTRICITY - The 13 February response to the TAC Memorandum states that arrangements had been made with the Department of Roads and Public Works to supply the Village Clinic with electricity and that electricians had been borrowed from St Elizabeth's Hospital to assist in connecting refrigerators and air conditioning. Longer term, an electricity connection would be arranged with Eskom as the application for this had already been made. Your letter of 4 March states, "procurement of materials for installation [of electricity is] in process" and you indicate that this would be completed by 8 March 2013. To date, no electricity is available at the site.

3.6 CAUSE OF THE RELOCATION OF THE VILLAGE CLINIC – The ECDoH offers the following contradictory reasons for the need to relocate the Village Clinic:

3.6.1 The 13 February response to the TAC memorandum claims, "Village Clinic was not closed because the rent was not paid but was closed because the contract between Teba and the Department of Health had expired".

3.6.2 Your letter of 14 February letter alleges that there was a delay in rent payments to TEBA because TEBA did not have a tax clearance certificate and “the relationship between the Department and Teba was strained”. You allege “Teba was chasing away the Department and there was no other alternative for the Department but to look for alternative venue for the clinic”.

3.6.3 In your letter of 4 March, you claim, “The duplication of services in the area serving the same population was not justified” and that TEBA closed the building, forcing the District Manager to make a contingency plan.

3.6.4 In your letter of 20 March, you state that in September 2012 it was “clear that the department will be unable to continue paying the rent to TEBA company”.

### 3.7 USE OF HEALTH POST / MOBILE CLINIC / WARD BASED OUTREACH –

3.7.1 No mention is made of use of a health post / mobile clinic / ward based outreach in the response to the TAC Memorandum or in the 14 February letter.

3.7.2 In your letter of 4 March, an instruction in this regard to the District Manager is raised for the first time. You claim that the

District Manager had been instructed to “have a mobile services and health post for service provision and reinforce the Ward Based Outreach at households thus preventing compromising the communities of their right to access for health”. [SIC] This was the first mention of any such services or facilities despite our previous correspondence. You also propose that the staff from Village Clinic be relocated to Gateway Clinic to balance the increased workload from the referral of patients to Gateway Clinic.

3.7.3 In your letter of 20 March, you propose, “one of the seven vehicles already allocated last year 2012 to OR Tambo can be used as a mobile vehicle”. Presumably, you mean that this vehicle can be used as a mobile clinic. You also claim that you advised the District Manager to use Ward Based Outreach Teams to prevent an influx of patients from Village Clinic to other facilities.

3.8 TRANSFER OF PATIENTS TO GATEWAY CLINIC – In your letter of 14 February, you say that it was not possible to refer patients from Village Clinic to Gateway Clinic because “staffing and space at the gateway was not available” [SIC] to accommodate the high number of patients that the Village Clinic serves. Despite this, you propose that patients

should be referred to Gateway Clinic in your letters of 4 March and 20 March.

### 3.9 APPROVAL OF RELOCATION / NEW FACILITY –

3.9.1 There was nothing to suggest that you were unaware of or did not approve of the relocation of Village Clinic or the new facilities in your letter of 14 February. You did however make the admission that the relocation has compromised the quality of services and violates the rights of people who use the Village Clinic in that you state “It has never been an intention of the Department to violet the basic human rights of the patients”. [SIC]

3.9.2 In your letter of 4 March, however, you state that the structure had not been sanctioned by the ECDoH and that the District Manager should have addressed the immediate needs of the people of Lusikisiki through use of a health post or mobile services. You make a direct admission that the relocation violates the right to health in that you say “The arrangement should not have started at all, worse where there are no toilet amenities for staff and patients” as well as “The structure was not permitted or sanctioned by the department thus not justified and due to the lack of amenities and compromises quality of service provision”. [SIC]

3.9.3 Similarly, in your letter of 20 March, you state that an instruction had been given to the District Manager to use mobile clinics / health posts / Ward Based Outreach / referral to Gateway Clinic in September and November 2012. Further, you state “no one at head office was informed by the DM of the intention to relocate ... even the meeting held between the district and TAC on 14 February 2013 was never communicated to head office, thus the Hon MEC for Health and the Superintendent General were not even aware of the relocation and thus did not approve the relocation.” [SIC]

4 The contradictory and obtuse explanations summarised above have failed to satisfactorily show that the ECDoH has a plan, let alone the intention to implement such a plan, for the provision of health care services to users of Village Clinic. The lack of progress on the ground has been equally disappointing. Since our first letter on 12 February, the only progress that appears to have been made is the installation of two water tanks and a single water tap and the digging of two holes to be used, at some point, as toilets. People still wait outside in all weather for consultations or treatment, infection control remains inadequate, there is no privacy, some services cannot be provided, electricity is not available, medicines are stored in the heat, the supply of medicines is unreliable and security around the clinic is problematic.

- 5 The lack of progress and lack of evidence of a plan for such progress has left our clients with little option but to pursue litigation should an adequate plan not be forthcoming.
  
- 6 Our client has instructed us to request the following information:
  - 6.1 The policy / guidelines on the role, responsibilities and functions of District Managers;
  - 6.2 The delegation of authority, if any, in terms of which the District Manager is empowered to make decisions regarding the closure and opening or relocation of health care facilities;
  - 6.3 The number of patients seen at Village Clinic in January, February and March 2013;
  - 6.4 The number of patients seen each month at Gateway Clinic, on average;
  - 6.5 An indication of whether the ECDoH intends, as a long term solution, to expand Gateway Clinic and shut down Village Clinic so as to allow Gateway Clinic to serve all of the users of Village Clinic; and
  - 6.6 An indication of whether the ECDoH intends to provide services to the users of Village Clinic through Mobile Clinics, Health Posts and/or Ward Based Outreach Teams rather than or in addition to providing services

at the Village Clinic or Gateway Clinic and, if so, the nature and extent of these services.

7 Our client has also instructed us to request that the ECDoH inform us **how** and **by when** the following urgent interventions will be carried out to bring Village Clinic in line with the National Core Standards for Health Establishments in South Africa (we provide relevant examples of such National Core Standards in brackets):

7.1 The provision of a structure suitable for the provision of primary healthcare services and allowing for privacy (Core Standards 1.7.1.1, 2.1.1.1, 7.1.1, 7.1.2, 7.1.5, 7.4.1);

7.2 The provision of appropriate infection control including hand washing or disinfection facilities for nurses to allow them to clean their hands between attending to patients (Core Standard 7.2.1);

7.3 The provision of suitable sanitation facilities for staff and patients (Core Standards 1.1.3, 7.2.1);

7.4 The provision of a waiting area that provides shelter and chairs for those waiting to attend the Village Clinic (Core Standard 7.1.3);

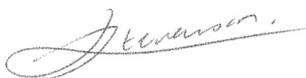
7.5 The provision of electricity to allow for the provision of services and air-conditioning / refrigeration of medicines (as appropriate) (Core Standards 3.1.3.1, 7.2.1);

7.6 The reliable supply of medicines (Core Standards 1.5.1.3, 3.1.2); and

7.7 The provision of security to ensure the safety of staff and healthcare service users at the Village Clinic (Core Standards 6.2.2, 7.3.1).

8 The users of Village Clinic have a right to access to health care services of a quality that is equivalent to or better than the services provided prior to the relocation. We have requested answers to the above questions in previous correspondence to no avail. Should we not receive adequate answers to the questions in paragraphs 6 and 7 above by 17 April 2013, our clients have instructed us to institute court proceedings.

Sincerely,



Sasha Stevenson  
Attorney  
SECTION27  
[stevenson@section27.org.za](mailto:stevenson@section27.org.za)  
011 356 4100

CC:

Mr David Bezana  
OR Tambo District Health Manager  
By email: [david.bezana@impilo.ecprov.gov.za](mailto:david.bezana@impilo.ecprov.gov.za)

Mr Mahlubandile Dickson Qwase  
Acting Superintendent General  
Eastern Cape Department of Health  
By email (c/o Olga Harris): [olga.harris@impilo.ecprov.gov.za](mailto:olga.harris@impilo.ecprov.gov.za)

Ms. Z. Macingwane  
GM: District Health Services  
By email: [zukiswa.macingwane@impilo.ecprov.gov.za](mailto:zukiswa.macingwane@impilo.ecprov.gov.za) and  
[nolitha.gusha@impilo.ecprov.gov.za](mailto:nolitha.gusha@impilo.ecprov.gov.za)

Mr. M. Tuswa  
Acting GM: Infrastructure  
By email: [mlamli.tuswa@impilo.ecprov.gov.za](mailto:mlamli.tuswa@impilo.ecprov.gov.za)

Dr Aaron Motsoaledi  
Minister of Health  
National Department of Health  
By email: (c/o Mr Fidel Hadebe): [hadebf@health.gov.za](mailto:hadebf@health.gov.za)

Ms Precious Matsoso  
Director-General  
National Department of Health  
By email: [dg@health.gov.za](mailto:dg@health.gov.za)

Dr Yogan Pillay  
Deputy Director-General  
National Department of Health  
By email: [pillay@health.gov.za](mailto:pillay@health.gov.za)