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6 October 2020

Dear Minister, Director-General and MECs for Basic Education

**PROGRESS REPORTS IN TERMS OF THE COURT ORDER IN EQUAL EDUCATION & OTHERS v  
MINISTER OF BASIC EDUCATION & OTHERS (22588/2020)**

1. We acknowledge receipt of your affidavits, filed during the week of the 21st of September 2020 in terms of paragraphs 103.10 and 103.12 of the judgment in the case of *Equal Education & Others v Minister of Basic Education & Others (22588/2020)*.
2. We have considered your affidavits and note your continued efforts to comply with the reporting requirements as set out in the court order. Whilst we are encouraged by the improved coherency of the reports and more importantly, a general increase in the number of learners currently receiving meals in most provinces, there remain some noticeable issues of concern across the provinces that still need to be addressed as a matter of urgency.
3. While the issues of concern, based on available information and in respect of each province is detailed further below, the fundamental challenges appear to be that learners are not receiving food on the days they do not attend school for reasons of rotation, because they have been exempted from school attendance, or because they have not yet returned school. With the exception of the Northern Cape and Mpumalanga provinces, no clear plan has been provided for the ongoing provision of meals in these circumstances. The absence of proper planning for learners in these circumstances has the consequence of unnecessary and avoidable hunger which could be easily remedied.
4. We again urge the Department of Basic Education and provincial education departments to provide greater clarity and consistency in the reporting of figures. We recognise the challenges pertaining to monitoring, however we note that disaggregated figures that clearly outline the number of learners provided meals when in school and when at home would make it easier for the court to ascertain the level of compliance with its order.

#### **EQUALISER SURVEYS**

5. During the week of 15 September 2020, Equal Education interviewed Equalisers (Equal Education's High School going members) from various provinces about the availability and uptake of meals from their respective schools. Overall we found that, of the number of

learners attending school on a rotational basis, only 28% were accessing meals while at home. A summary of the survey results is provided below:

- 5.1 A number of Equalisers from various schools in the **Eastern Cape** indicated that they were attending school on a rotational basis and on days they were not attending school they were not receiving their meals. In addition, Equalisers said they knew of other learners in their communities who were not receiving meals from their schools for days when they were not at school.
- 5.2 A substantial number of Equalisers interviewed from various schools in **Gauteng** indicated that they were attending school on a rotational basis. Although some have indicated that they do access their meals, there are Equalisers who indicated that they were not receiving their meals when they were not at school. The Equalisers provided various reasons as to why this is the case, including lack of communication by their schools, distance, and the fact that their schools only focus on those learners who attend school. Whilst a limited number of Equalisers could confirm the availability of scholar transport in their schools, the majority of the Equalisers that were interviewed indicated that their schools were not providing scholar transport for learners who reside far from their schools.
- 5.3 A substantial number of Equalisers interviewed from various schools in **KwaZulu-Natal** indicated that they were attending school on a rotational basis. Similar to Gauteng and Eastern Cape, some Equalisers indicated that they were not receiving their meals on the days they were not at school. Although some Equalisers could confirm the availability of scholar transport in their schools, some indicated that their schools were not providing scholar transport for learners who reside far from their schools. The Equalisers knew of other learners in their communities who were not receiving meals from their schools on days when they were at home.
- 5.4 A substantial number of Equalisers interviewed from various schools in **Limpopo** indicated that they were attending school on a rotational basis. The majority of

the Equalisers interviewed indicated that they had access to their meals, but some Equalisers indicated that they were not receiving their meals when at home and not attending school. Although some Equalisers could confirm the availability of scholar transport in their schools, the majority of the Equalisers indicated that their schools were not providing scholar transport for learners who reside far from their schools. The Equalisers knew of other learners in their communities who were not receiving meals on days they were not at school.

## **PROVINCIAL REPORTS**

6. Below we set out the notable issues of concern identified from the various affidavits filed by the MECs.

### **6.1. Eastern Cape**

6.1.1. We note and welcome the general increase in the number of learners currently receiving meals. However, we are concerned about the 96 780 learners who reportedly are not yet at school and are consequently not receiving their meals. While the reasons for this remain unclear, it appears that poor communication between the schools and learners and/or caregivers about the availability of meals remains an issue.

6.1.2. We note the Eastern Cape Department of Education's ("ECDoE") undertaking to issue an instruction note emphasising the need for all qualifying learners to collect their meals, particularly those that are platooning or rotating or who are exempted from compulsory attendance. However, in the absence of clearly identified reasons as to why some learners are still not receiving meals, the ECDoE's proposed intervention appears ineffective. In circumstances where there are still learners who are not receiving their meals, the reasons ought to be identified.

6.1.3. In the previous report, it was indicated that the ECDoE was discussing the issue of scholar transport with the Eastern Cape Department of Transport (“ECDoT”). The ECDoE’s most recent report is silent on the issue of scholar transport for learners who do not reside in close proximity to their schools. As a result, the outcome of the engagements between the ECDoE and ECDoT remains unknown. We therefore request the outcome of these engagements and whether learners are currently being provided scholar transport to collect their meals

## 6.2. Gauteng

6.2.1. We note and welcome the improvement in the number of learners who are receiving meals. Whilst the recent report indicates that almost all qualifying learners in the province are receiving their meals, this does not accord with the Equaliser reports that we received. In addition, it is unclear whether the figure provided in the report pertains to both learners who are at school and those who are at home. We have heard from Equalisers who are attending school on a rotational basis and are not receiving meals for while they are at home. Furthermore, the Gauteng Department of Education (“GDE”), fails to provide a clear plan for monitoring of the implementation of the National School Nutrition Programme, in all the schools to ensure smooth running of this programme.

6.2.2. We request a clear indication whether the total number of learners that are currently receiving meals include learners who attend on a rotational basis, and in particular, whether these learners are receiving their meals on days/weeks they are not expected to be at school, as well as how they are receiving their meals when not at school (eg. a hot meal or food parcel).

### **6.3. Limpopo**

- 6.3.1. Although the number of learners receiving their meals has improved, the uptake is not yet at 100%. The reasons for this are unclear and the Limpopo Department of Education (“LDoE”) does not seem to have a plan to address this issue.
- 6.3.2. We therefore request an implementation plan on how the LDoE will ensure that all qualifying learners are fed, including learners that attend on a rotational basis or who are exempted from compulsory attendance. We also request clarity regarding the provision of scholar transport for learners who live far from their school.

### **6.4. Mpumalanga**

- 6.4.1. We note that the report indicates that all qualifying learners in the province are currently receiving their meals and that learners who are being rotated are receiving food parcels for the days they are not at school. It is unclear whether these numbers are a true reflection given that the monitoring of the implementation of the NSNP programme remains deficient. The report indicates that only 15% percent of the schools have been visited for purposes of monitoring the smooth running of the NSNP programme.
- 6.4.2. There is no explanation provided as to why the Mpumalanga Department of Education Department (“MDoE”) has only managed to monitor the implementation of the NSNP in few schools instead of all the schools. This needs to be explained with a clear plan of how the MDoE will ensure that the implementation of the NSNP will be monitored in all schools in the province.

## **6.5. North West**

- 6.5.1. We note that the number of learners receiving meals in North West remains extremely low. The reasons provided for the low uptake are that parents are refusing to release their children to collect the meals, and some schools have stopped preparing meals to avoid further wastage of food. This is concerning and needs to be urgently addressed.
- 6.5.2. It is unclear whether schools have made any attempt to find out why some parents are refusing to release their children and how this may be addressed.
- 6.5.3. We therefore request that schools be instructed to do more than just encourage learners to collect their meals and find out why some parents are not releasing their children, and address those concerns accordingly.
- 6.5.4. In relation to the schools that have reportedly stopped preparing meals, we request clarity on whether these schools have completely stopped providing meals for all their learners.
- 6.5.5. We further note with concern that the provision of scholar transport remains an issue. Throughout the reports, the North West Department of Education does not address the issue of the provision of scholar transport for learners who do not reside in close proximity to their schools. There is accordingly a need for a plan to address the provision of scholar transport to learners.

## **6.6. KwaZulu-Natal**

- 6.6.1. We note and welcome the general increase in the number of learners that are currently receiving meals. However, the uptake of meals is not yet at 100%. The KwaZulu-Natal Department of Education (“KZNDoE”) fails to provide reasons for this.

6.6.2. We note that the report proposes various options to be explored to ensure that all qualifying learners, including those that are rotated or exempted from compulsory attendance, receive their meals. The report however fails to indicate which options it does plan to adopt or a clear communication plan that will be used to communicate with parents and learners.

5.6.3 In addition, the Equaliser reports suggest that provision of scholar transport remains an issue. The report is silent on how the KZNDoE plans to address this. Thus, we request clarity on the options to be implemented to ensure that all qualifying learners are fed; and on a communication strategy informing learners/parents of that strategy as well as whether scholar transport is being provided to learners who do reside in close proximity to school.

#### **6.7. Northern Cape**

6.7.1. We note and welcome the improvement in the number of learners who are receiving meals. The report indicates that all qualifying learners in the province are currently receiving their meals and that learners who are being rotated are receiving food parcels. We welcome this report.

#### **6.8. Free State**

6.8.1. We have not received the report from the Free State Department of Education and request this report.

### **SUMMARY OF CONCERNS**

7. The issues can be summarised as follows:

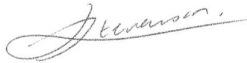


- 7.1. Most provinces require a plan for the provision of meals or food parcels for learners who are not receiving meals every day because learners are rotating, have been exempted from compulsory attendance, or have not yet returned to school. Such a plan could include the provision of food parcels to learners for the days learners do not attend school or providing scholar transport to learners to collect meals. The apparent lack of a plan for these circumstances is very worrying.
- 7.2. There remains low uptake of meals in some provinces. In particular, urgent intervention is required in the North West Province whose Department is under section 100 administration currently.
- 7.3. The application of the monitoring plan for the implementation of the NSNP programme remains inconsistent.
- 7.4. Greater clarity and consistency is required in the reporting of the number of learners receiving meals under the NSNP, to provide clear information on:
- 7.4.1. the total number of learners receiving food;
  - 7.4.2. the number of learners receiving meals at school; and
  - 7.4.3. the number of learners receiving meals or food parcels while at home (due to the rotational system or because they are exempted from compulsory school).
- 7.5. The provision of scholar transport for learners who reside very far from their school appears to be inconsistent. A clear and reliable plan is therefore required. The absence of a clear transport plan for NSNP collection is inconsistent with statements made by the Department of Basic Education. A media release dated 1 October 2020 states that:

“Various provinces have arranged transport for learners not in schools to collect their meals, or collect the food parcels. This has assisted in increasing the number of beneficiaries who should be getting their meal supply daily.”

8. We request that, in the next reports filed in terms of the order of court, these matters are addressed in addition to the reporting anticipated in terms of the order of the court.
9. We note finally that while COVID-19 levels in South Africa are decreasing, other countries have experienced second waves of infections. We request an indication as to whether plans have been made to ensure ongoing feeding of learners under the NSNP during a potential second wave.

Sincerely



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