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Our ref : Mr. Venter /MJ / NS0199

Your ref :

Date : 10 July 2026

URGENT

BY EMAIL

TO: THE EXECUTIVE MAYOR, CITY OF TSHWANE METROPOLITAN MUNICIPALITY

AND TO: THE SPEAKER OF COUNCIL, CITY OF TSHWANE METROPOLITAN MUNICIPALITY

Dear Executive Mayor and Speaker

RE: SOLIDARITY OBO MR JOHANN METTLER: PURPORTED PRECAUTIONARY SUSPENSION IN TERMS OF REGULATION 6 OF THE LOCAL GOVERNMENT: DISCIPLINARY REGULATIONS FOR SENIOR MANAGERS, 2010

Partners: Marthinus Jakobus Viljoen B Proc • Stephanus Petrus Swart Biur LLB •
Lodewyk Serfontein BProc • Carel Nicolaas Venter LLB
Professional Assistant: Annette Johanna Louw LLB
Associates: Conrad Swart Bcom (Law) LLB Hdip (Insolvency)

1. We act for Solidarity, which acts on behalf of its member, Mr Johann Mettler, the City Manager and Accounting Officer of the City of Tshwane Metropolitan Municipality, in terms of section 200 of the Labour Relations Act 66 of 1995.
2. We are instructed to address this letter to you as a matter of urgency. It must be placed immediately before Council, the Executive Mayor, the Speaker, the City's legal advisers, and any official or office-bearer responsible for considering, advising upon, deciding, recording or implementing any decision concerning Mr Mettler's purported precautionary suspension.
3. Our instructions are that Mr Mettler was issued with a notice dated 27 June 2026 in terms of Regulation 6(2) of the Local Government: Disciplinary Regulations for Senior Managers, 2010. That notice called upon him to make written representations as to why he should not be placed on precautionary suspension. Mr Mettler, through Solidarity, delivered written representations on 4 July 2026. Those representations stand and are incorporated herein.
4. We have further taken notice of the press statement issued by the Executive Mayor on 9 July 2026, in which it is recorded that Council has considered Mr Mettler's representations and has resolved to place him on precautionary suspension on full pay pending the outcome of an independent investigation.
5. The press statement does not constitute the written notice of suspension or the written reasons contemplated by Regulation 6(5). Nor does it disclose the factual basis upon which Council allegedly concluded that any of the jurisdictional facts in Regulation 6(1) exist. A public statement that Council has

considered the representations and resolved to suspend is not a substitute for compliance with Regulation 6.

6. The same press statement records that the administration remains stable, that the City remains focused on delivering services, maintaining financial stability and accelerating infrastructure investment, and that the work of the City continues uninterrupted. That public position is inconsistent with any unparticularised suggestion that Mr Mettler's continued presence in office is, without more, detrimental to stability in the municipality. If Council relies on municipal stability as a Regulation 6 ground, it must identify the facts relied upon for that conclusion.
7. For the avoidance of doubt, our clients do not seek to prevent Council from exercising any lawful oversight function. They do not seek to prevent any lawful investigation. They do not seek to prevent Council from acting under Regulation 5 where the jurisdictional requirements of that Regulation are met. This demand concerns the separate and more intrusive step of precautionary suspension under Regulation 6.
8. Council is required to act strictly within the Local Government: Municipal Systems Act 32 of 2000, the Local Government: Disciplinary Regulations for Senior Managers, 2010, the Municipal Finance Management Act 56 of 2003 where applicable, the Constitution, and the principles of legality, rationality and procedural fairness.
9. Regulation 3(1) provides that discipline "*is fundamentally a corrective measure and not punitive*" and "*must be applied in a prompt, fair, consistent*

and progressive manner". Regulation 3(2) provides that senior managers must "*have a fair hearing*", must be "*timeously informed of allegations of misconduct made against them*", and must "*receive written reasons for any decisions taken against them*".

10. Regulation 4(1) provides that, if a senior manager is alleged to have committed misconduct, "*the municipal council must institute disciplinary proceedings in accordance with this Disciplinary Code*". Regulation 4(4) provides that "*the principles of natural justice and fairness must be adhered to*". Regulation 4(5) provides that disciplinary procedures may not be dispensed with because of criminal, civil or other proceedings.
11. Regulation 5 creates the process for dealing with allegations of misconduct. Regulation 5(3) requires Council, once the allegation is before it, either to appoint an independent investigator if there is reasonable cause to believe that misconduct has been committed, or to dismiss the allegations if there is no evidence to support them.
12. Regulation 5(4) requires the investigator to submit a report within 30 days. Regulation 5(6) provides that, after considering that report, Council must by resolution institute disciplinary proceedings. Regulation 5(7) requires the resolution to determine whether the alleged misconduct is serious or less serious and to authorise the required appointments if serious misconduct is alleged.
13. Regulation 6 is different. It does not follow automatically from regulation 5. It does not permit suspension merely because allegations exist, because

Council wishes to investigate, because allegations are serious, because the official is senior, or because Council wishes to demonstrate accountability.

14. Regulation 6(1) provides that Council may suspend a senior manager on full pay only where misconduct is alleged and where Council has reason to believe that the senior manager's presence at the workplace may jeopardise an investigation, endanger the well-being or safety of any person or municipal property, be detrimental to stability in the municipality, or where the senior manager may interfere with potential witnesses or commit further acts of misconduct.
15. Regulation 6(2) provides that, before a senior manager may be suspended, he must be given an opportunity to make written representations why he should not be suspended. Regulation 6(3) requires Council to consider those representations. Regulation 6(4) provides that only after Council has considered the matters in Regulation 6(1), together with the representations, may Council suspend. Regulation 6(5) requires written reasons for suspension. Regulation 6(6) provides that, if a senior manager is suspended, the disciplinary hearing must commence within three months, failing which the suspension automatically lapses, and that the three-month period may not be extended.
16. Those provisions impose peremptory obligations. Council must identify the Regulation 6 risk relied upon. Council must identify the facts said to establish that risk. Council must consider the representations with an open mind. Council must distinguish between the existence of allegations and the

necessity for suspension. Council must consider whether less intrusive measures will adequately address any legitimate concern. Council must give proper written reasons if it decides to suspend.

17. Our instructions are that the notice of 27 June 2026 does not meet that standard. It lists broad allegations. It does not identify a witness whom Mr Mettler is likely to influence. It does not identify evidence he is likely to conceal, alter or destroy. It does not identify municipal property or persons placed at risk by his presence. It does not identify any investigation that cannot proceed while he remains in office. It does not identify any concrete threat to stability. It does not identify any factual basis for concluding that he is likely to commit further misconduct.
18. The statutory office occupied by Mr Mettler cannot itself be treated as the Regulation 6 risk. If seniority, access to systems, or the status of Accounting Officer were enough, every municipal manager facing allegations would be automatically exposed to suspension. Regulation 6 does not permit that result. It requires facts.
19. Council is also bound by the Municipal Systems Act. Mr Mettler, as municipal manager, performs statutory functions as head of administration. Council may not remove him from those functions, even temporarily, except in accordance with the empowering provisions and the procedural safeguards prescribed by law.
20. In particular, section 55 of the Municipal Systems Act vests the municipal manager with statutory responsibilities as head of administration, including the

management of the municipality's administration, the implementation of Council decisions, the provision of advice to political structures and political office-bearers, and the performance of duties imposed by other legislation. Section 60 of the MFMA further provides that the municipal manager is the accounting officer of the municipality.

21. Thus, any step which removes Mr Mettler from those statutory functions, whether styled as suspension, special leave, administrative leave or otherwise, is therefore a substantive interference with a statutory office and must be justified under the empowering provision relied upon, namely Regulation 6.
22. We have further taken notice of public reports that the resolution to suspend Mr Mettler was preceded by, or resulted from, a disputed and irregular voting process. We do not rely on media reports as proof of that fact at this stage. We do, however, record that the purported suspension resolution constitutes, at the very least, an exercise of public power by an organ of state and may further constitute administrative action within the meaning of the Promotion of Administrative Justice Act 3 of 2000.
23. In either event, it is reviewable for legality, rationality, procedural fairness and compliance with the empowering provisions. Any irregularity in the voting process, counting of votes, declaration of the result, treatment of abstentions, recusals, quorum, or participation by councillors who had predetermined the matter, will constitute a further and independent ground of review. The City is accordingly required to preserve and produce the complete voting record,

including the minutes, attendance register, quorum record, electronic or manual voting results, vote count, recording of the proceedings, rulings by the Speaker, objections raised, the final declared result, and the basis upon which any councillor was permitted, or precluded, from voting.

24. To the extent that the allegations concern financial management, procurement, irregular expenditure, consequence management or recovery, the MFMA may impose duties on the Accounting Officer and on the municipality. Those duties do not displace Regulation 6. They reinforce the need for a lawful, rational, evidence-based process and a proper record.
25. To the extent that the allegations concern Public Protector remedial action, the City remains bound by the Constitution and the Public Protector Act. That, too, does not displace Regulation 6. The existence of remedial action, or a dispute concerning its implementation, is not by itself a lawful basis for precautionary suspension.
26. Our instructions are further that, insofar as Council resolved on 9 July 2026 to place Mr Mettler on precautionary suspension, such resolution is unlawful unless Council first genuinely considered his representations, identified the specific Regulation 6(1) jurisdictional facts relied upon, considered whether less intrusive measures would suffice, and resolved to suspend only thereafter. A public statement recording that Council has considered the representations does not establish that Council lawfully did so. Council may not decide first and hear later, nor may it treat regulation 6 as a formal step after a predetermined outcome.

27. We are further instructed that, to the extent that the resolution adopted on 9 July 2026 first recognised the need for a procedurally fair process, the consideration of the representations, and compliance with Regulation 6, but then proceeded in the same resolution to make a final substantive decision to suspend Mr Mettler without identifying the factual basis for the Regulation 6(1) jurisdictional requirements, the resolution is internally contradictory and legally unsustainable. Council cannot, on the one hand, recognise potential procedural deficiencies and the need for a lawful Regulation 6 process, and, on the other, proceed immediately to a final substantive outcome as if those deficiencies do not exist. Such a course would amount to the very predetermination and procedural unfairness against which Regulation 6 is directed.
28. In light of the Executive Mayor's press statement of 9 July 2026, our clients demand written confirmation by no later than **12H00 ON FRIDAY, 10 JULY 2026** that the purported suspension resolution will not be implemented pending agreement between the parties or determination by a competent court. At the very least, and without conceding that implementation may lawfully occur thereafter, our clients demand an undertaking that the resolution will not be implemented before **17H00 ON MONDAY, 13 JULY 2026**, and that Mr Mettler will remain in full office as City Manager and Accounting Officer until then.
29. If any step has already been taken to implement the purported suspension resolution, including removing Mr Mettler from the workplace, disabling his access, limiting his delegations, appointing an acting City Manager in his

stead, or otherwise preventing him from exercising the functions of his office, our clients demand that such implementation be withdrawn or held in abeyance pending agreement between the parties or determination by a competent court. At the very least, and without conceding that implementation may lawfully resume thereafter, such implementation must be withdrawn or held in abeyance until **17H00 ON MONDAY, 13 JULY 2026**.

30. Our clients further demand that the City furnish, by no later than **14H00 ON FRIDAY, 10 JULY 2026**, the written decision, the written reasons contemplated by Regulation 6(5), the Council resolution, the complaint, the report considered by Council, the agenda item, all annexures placed before Council, any legal opinion relied upon, the minutes and/or recording of the relevant Council meeting, and the portion of the record relied upon to establish the Regulation 6 risk facts as well as the attendance register, quorum record, voting record, vote count, the list of councillors entitled to vote, the list of councillors who in fact voted, the list of councillors who were excluded or precluded from voting, and the legal basis for any such exclusion or preclusion, any objection or ruling relating to the vote, and the audio-visual or audio recording of the Council meeting at which the suspension resolution was adopted.
31. This demand further includes any notice or letter of suspension delivered to Mr Mettler, any communication recording the effective date and time of implementation of the purported suspension, any instrument appointing or designating an acting City Manager, and any communication issued to

municipal officials or third parties concerning Mr Mettler's removal from, or restriction in, the exercise of his functions.

31.1. Should the City contend that any portion of the record is confidential, privileged or otherwise not immediately disclosable, it must identify that portion specifically and state the legal basis for withholding it. A blanket refusal will not be accepted.

31.2. Written confirmation and the documents demanded above must be furnished to our offices by email at niekie@svslaw.co.za and monique@svslaw.co.za.

32. Pending the period referred to above, our clients demand that Mr Mettler not be placed on special leave, administrative leave, garden leave or any equivalent status, and that he not be deprived of his statutory functions, delegations, office access, email access, system access, municipal records, staff access or decision-making authority.

33. Our clients further demand that the full record of the Regulation 6 process be preserved immediately. This includes the complaint, reports, annexures, agendas, minutes, resolutions, recordings, legal opinions, memoranda, correspondence, draft resolutions, emails, messages and all communications relating to, or relied upon for purposes of, the proposed suspension.

34. These demands are made to preserve Mr Mettler's statutory rights, to preserve the record, and to prevent implementation of an unlawful decision before effective urgent relief can be sought.

35. Should the undertakings demanded above not be provided within the time stipulated, our instructions are to approach the competent court on an urgent basis for appropriate relief, including interim interdictory relief pending the institution and/or finalisation of review proceedings, an order interdicting the implementation of any suspension, reviewing and setting aside any suspension decision where appropriate, restoring Mr Mettler to office if necessary, compelling production of the record, and directing the City and any opposing parties to pay costs on an appropriate scale.
36. Any implementation of a suspension after receipt of this letter, without furnishing the undertakings demanded, will be relied upon in relation to urgency, unlawfulness and costs.
37. All our clients' rights remain strictly reserved.

Yours faithfully,

SERFONTEIN, VILJOEN & SWART

Per: Mr. CN Venter

niekie@svslaw.co.za

[ELECTRONICALLY TRANSMITTED, THEREFORE UNSIGNED]