

**TERMS OF REFERENCE FOR THE INVESTIGATION OF THE CONTENTS OF ROOMS
AT STELLENBOSCH UNIVERSITY'S WILGENHOF RESIDENCE**

BACKGROUND

1. In January 2024, Stellenbosch University ('SU' / 'the University') conducted an audit of spaces and amenities at its Wilgenhof residence ('Wilgenhof' / 'the residence'). During the audit, staff reported the contents of two rooms of the residence ('the contents'), which in the view of the Rectorate of the University ('the Rectorate') requires investigation.

APPOINTMENT AND OBJECTIVES

2. The Rectorate has appointed Advocate Nick de Jager (Chairperson), Dr Derek Swemmer and Ms. Penny van der Bank ('the Panel') to conduct an investigation of the contents with the following objectives:
 - 2.1. to draw an understanding of the historical, cultural and symbolic dimensions of the contents and functions of the two rooms and to consider this against the background of enculturation practices of Wilgenhof residence, and to advise the Rectorate accordingly;
 - 2.2. to consider in detail the significance of the contents and functions of the two rooms within the broader institutional culture and operations of SU residences;
 - 2.3. to assess, if and to what extent, the records, practices, and general culture of Wilgenhof are inimical to the values of the University and may involve encroachment on the human dignity of current and past SU students and staff;
 - 2.4. to establish whether unacceptable practices at Wilgenhof over time have been protected or covered up by university staff, alumni, or students;
 - 2.5. to assess whether there is evidence of conduct in contravention of any SU policies, regulations, rules, or the Disciplinary Code for Students of SU by past and /or current student leadership and / or management of Wilgenhof.
3. The aim of the Rectorate in appointing the Panel for this investigation is to ensure that the Panel acts towards assisting in the realization of the transformation of the University culture consistent with SU's Vision 2040. SU will make available to the Panel academic and professional expertise at the University to consult on aspects of the psychology, sociology, history and traditions and culture of SU and SU residences.

4. The Panel must report to the Rectorate after completing its functions in respect of the stated objectives and may provide any recommendations it may wish to make to the University.

PROCEDURE AND RULES

5. Subject to the provisions set out below, the Panel shall have the power to regulate its own proceedings for the investigation.
6. The Panel may request the Rectorate to designate one or more knowledgeable or experienced persons to assist the Panel in the performance of its functions, in a capacity other than that of a member of the Panel.
7. The Panel must conduct its functions in a comprehensively inquisitorial manner.
8. The powers of the Panel shall include the power to:
 - 8.1. identify, contact, and communicate with any person about matters relevant to the investigation;
 - 8.2. obtain any information relevant to its mandate, whether or not such information would be admissible in a court of law;
 - 8.3. conduct interviews to obtain information relevant to the investigation;
 - 8.4. obtain written statements or submissions relevant to the investigation;
 - 8.5. request, but not to compel, any member, employee or office bearer of the University and any persons that are not members, employees or office bearers of the University, to furnish information relevant to the investigation.
9. The Panel may in its discretion receive any information that is relevant to its mandate from any person and in any manner. However, the Panel shall only consider information that in the judgement of the Panel is relevant to matters mentioned in paragraphs 1, 2 (and subparagraphs) and 3 above.
10. The Panel shall conduct its interviews in person, online, and / or direct that information be provided in the form of a written statement.
11. The Panel will be required to keep a record of all relevant information and material received by it.
12. Interviews with persons shall be held at a SU venue determined by the Panel, after consultation with the Deputy Vice-Chancellor (Learning and Teaching) of SU.

13. Save as directed otherwise by the Chairperson, the interviews and other proceedings of the Panel will be held *in camera*.
14. All media enquiries relating to the Panel, its investigation, and related issues, will be dealt with by the Rectorate.
15. The Panel may, at the discretion of the Chairperson, use Van der Spuy Attorneys, represented by Mr. Yasseem Cariem ("**the Secretariat**") to perform secretarial and administrative supporting functions to the Panel.
16. All documents that are delivered or handed to the Panel as per paragraph 10 above, in a language other than English, must be accompanied by an English translation and a declaration by the translator that the translation is accurate.
17. Subject to the direction of the Chairperson, and to protect the confidentiality of the work of the Panel, no person may disclose the identity of any person interviewed by the Panel, or the identity of any person implicated by another person, or the contents of any statement or document provided to the Panel, to anyone other than a legal representative for the purpose of obtaining legal advice.
18. Any person providing information to the Panel, whether orally or in writing, may apply to the Chairperson of the Panel, on good cause shown, for leave to provide his or her information anonymously. For purposes of this provision, 'good cause' shall include a reasonable apprehension of intimidation or harassment by any other person or of adverse repercussions for providing evidence to the Panel.
19. Any report of the Panel to the Rectorate will be confidential.
20. No person appearing before the Panel shall have a right to question or examine any other person appearing before the Panel.
21. Any person who wishes to be legally assisted when interviewed by the Panel, must show good cause why this should be allowed and shall make a written application to the Chairperson, in which application the grounds for such a request are fully set out. Any decision by the Chairperson regarding such application shall be final.
22. Any person against whom an adverse allegation relevant to the investigation has been made in oral or written information presented to the Panel, shall be informed by the Panel:

22.1. of the adverse allegation against him, her or them and, if in writing, shall be provided with a copy of the relevant portion of the statement, together with any relevant document attached to the statement, if any.

22.2. of his, her or their right to be heard by the Panel, orally or in writing, and to call any person to provide evidence on his, her, or their behalf at the discretion of the Chairperson.

23. Only the Rectorate may amend these Terms of Reference.

24. The Chairperson may amend the Panel's Procedural Rules.

PANEL'S REPORT

25. At the conclusion of its investigation, the Panel must compile a full written report, and a summary of its report.

26. The Panel's final report with its findings and recommendations, if any, will be submitted to the Rectorate by not later than the end February 2024.

27. The provision of the Panel's final report may be postponed to a later date, as agreed to by the Rectorate, on condition that the Panel provide an interim report to the Rectorate by end February 2024.

28. The Rectorate will determine whether the Panel's report(s) should be published.

TERMINATION OF PANEL MANDATE

29. The Panel's mandate terminates once it has submitted its report to the Rectorate as contemplated in paragraph 26 above or maybe reconvened at the Rectorate's behest.

Signed at Stellenbosch on 12 February 2024



**RECTOR AND VICE-CHANCELLOR
STELLENBOSCH UNIVERSITY**