



*The South African Society of Music Teachers/  
Die Suid-Afrikaanse Vereniging van Musiekonderwysers (NPC)*

*www.sasmt-savmo.org.za*

**PRESIDENT'S REPORT 2019 / 2020**

**Erna Rademan**

I regarded it a huge honour to be elected as president of the Society. After my unplanned two years in office, I can report the following:

*For the sake of this report, HER and SHE will be used gender neutral.*

- There are no practical guidelines to inform a president what she should be doing during her year in office. Every new president must discover the wheel all over again. I have tried to communicate with Gisela Scriba (President elect) as much as possible and Lestie Hughes (Past-president) helped me when I had questions, but the status quo does not promote efficiency at all. During the COVID-19 lockdown, I sent a letter to all past presidents to start the process. From the responses I received, Jeffrey Brukman's were truly relevant and the EO have asked him to put forward a motion based on some of his ideas.
- It is very complicated to host a conference from the base of a very small centre far from the actual location of the conference. Even though I included a few NWU staff members on my Exco, they didn't share the same passion and commitment to the centre and since committee members were geographically far apart, we struggled to work as a team. Yvonne-Marie Brand, Irma Geldenhuys, Ineke Badenhorst and Jané Muller were stalwarts. It was heart-breaking to see all of our efforts go up in smoke as the pandemic hit.
- I started my year during the PE conference by getting friends to help me take detailed minutes of all meetings. Together with EO, we compared notes and managed to finalise the minutes at conference. This action ensured that we could send out comprehensive and accurate minutes shortly after the conference.
- Standing Committee assembled a team of experienced adjudicators from the PE centre to adjudicate entries for our bursaries. I would like to thank Prof Albert Troskie, Prof Eric Albertyn, and Dr. David Bester for their invaluable service to the Society. Prof Alethea de Villiers and Nicky Bosman (secretary) of the NMU Music Department efficiently arranged the venue and provided the facility to view the applications on video.
- In response to SAMRO and the University of Stellenbosch concerns with our B-BBEE status, I sought advice from specialists and the EO contacted an attorney to certify that we do not need be B-BBEE compliant. The SASMT automatically has level 4 B-BBEE status, since we are a non-profit company with less than R10 million in our combined bank accounts. We are now in possession of the required B-BBEE exemption certificate. The EO will approach SAMRO and the University of Stellenbosch once more for sponsorships or advertisements in the SAMT.
- I tried my level best to raise funds by writing to at least 30 companies with extremely limited success. I have handed in a motion to the effect that we should appoint a specialised fundraiser because it is a major, time-consuming undertaking and very specialised task to compile a submission for a single company.
- The prickly pear of a new category of membership (April 2019) took us weeks to come up with a workable plan. Dual Membership was successfully finalised by Tania Borman and a letter was sent to all Council members. Dual membership has also been written into the Handbook.

- There was a query about the item for **Secretarial Fees** on the previous budget. The EO asked our auditors for a clear description of those fees for the benefit of our members who wanted to know exactly what we are paying for:
  - Secretarial services  
(Companies and Intellectual Property Commission)
 

▪ CIPC - Annual return (2019)	R2 055.00
• CIPC- Company certificate	R 490.00
▪ Cipc - Change year end at CIPC	R 690.00
▪ SARS - Registration tax (IT77)	R2 875.00
▪ CIPC - Annual return (2020)	R2 055.00
TOTAL	<u>R8 165.00</u>
  
- Lestie Hughes and I created a template for Vice-President reports. It is a cumbersome task to compile a comprehensive report when data is not received in a uniform manner. VP's will assist the EO tremendously if they use the template to write their reports.
  
- I also created a template for the submission of motions in the hope that we will receive more comprehensive and well thought through motions. It is the task of Vice-Presidents to ensure that relevant and well-founded motions are handed in on the correct template.
  
- **WEBMASTER**
  - In response to a decision taken at the 97th AGM on 14 March 2019, the webmaster augmented the maintenance system to allow those having the password for an ordinary centre and responsible for maintaining the membership data, to also have access to the records belonging to active institutional centres allocated to that ordinary centre.
  - Mr. Hesse also worked on the augmentation of email lists to include institutional members. There is now a list of email addresses that those having the password can copy from the web to paste into their email program.
  - The webmaster drafted a courteous and informative welcome letter for new institutional members.
  - Some centre officials are very lax to update their membership lists on the SASMT website. This poses a huge problem for the EO and the webmaster to perform their duties effectively.
  
- ISME & PASMAE: Due to financial constraints, we have not renewed our membership. The Financial Committee will decide whether it would be feasible for us to register with these two organisations again. As a result of the Covid-19 pandemic, ISME cancelled the 2020 conference that was scheduled to be hosted in Finland from 2 - 7 August, but had a virtual conference in stead. PASMAE plans to have an online conference that would have taken place at Victoria Falls in Zambia.
  
- Lestie Hughes dreamt of an SASMT award for individuals who made outstanding contributions in music. Her dream became a reality with wonderful candidates being nominated across the country. We decided to award every single nominee with a special certificate, since their work was so phenomenal. It was impossible to disregard any of them. The award proved to be a major success and the whole story was published by News24.
  
- The digital SAMT magazine proved to be a huge success. Due to pressure from various angles (myself included) not to do away entirely with a hardcopy of the SAMT, we have wasted a lot of money (Printing cost more than R21 000 and that was by far the cheapest quote - see EO report). I mailed ± 20 magazines through the Post Office, who proved to be utterly untrustworthy. More than half of the magazines never reached their recipients and eventually I ended up resending magazines at my own cost. We printed 150 hard copies of which ± 100 is left over. I am 100% in favour of doing away entirely with hard copies after my experience last year, unless the Financial Committee feels that we can afford the annual loss.

- The PE centre and Robert Gilmer plan to host a competition for contemporary music with a possibility to be duplicated in other centres. I am very excited about this competition and the creative thought that went into the conception of the idea.
- In response to persistent calls for a membership drive and the inclusion of students (2018 and 2019 motions), Kroonstad centre and Exco responded as follows:
  - We submitted a motion to the effect that council members have the authority to offer one year free supporting- or student membership to young and upcoming musicians. This extends automatically to all entrants and winners of our own bursaries. Vice-presidents should stay in contact with their closest tertiary institution(s) to identify students and publicly present them with a beautiful membership certificate at an event hosted by the institution. They should invite the press to attend so that these events will be published.
  - We donated student membership to all three finalists in the HumanNaudé competition in Bloemfontein. Since I could not attend the final round of the competition, my friend Johann Cromhout, handed beautiful certificates to the finalists on behalf of the SASMT. I received extremely positive feedback from Bloemfontein after the concert.
  - We have included ± 30 students in the two concerts planned for the 2020 conference. All the students who were going to take part in the two concerts were offered student membership for 1 year in a special slot during the Gala concert. The certificates have already been printed, but due to C19, we were unable to hand them over as planned. I am in contact with NWU to implement a plan to hand the certificates over to them. Thus, membership in the Free State and Northwest will have increased significantly after Conference. I sincerely hope that we will retain most of them after the “gift-year” has expired.
  - We planned to allow all students and learners to attend the 2020 conference free of charge. Unfortunately, we could not have allowed them to share the food and beverages, due to the cost involved.
- Thanks to the efforts of our EO and the Benevolent Fund committee, the Benevolent fund policies and guidelines have been streamlined with the assistance of a lawyer of Van Schalkwyk attorneys of Pretoria. The regulations were revised, and comprehensive application forms have been drawn up.
- I was approached by Dana Hadjiev (music teacher from KwaZulu Natal) in June 2020, to give advice and lead a group of teachers who have all been struggling to obtain SACE (South African Council of Educators) membership, even though they are well qualified. According to PAM (Personnel Administrative Measures - the school’s Act), no school in South Africa may appoint a teacher who is not registered with SACE. The problem is that one needs a PGCE certificate for registration. Hundreds of teachers who seek registration have been teaching music for 10 to 30 years and find it unacceptable to do an expensive course, while teaching full time to “learn how to teach”. These teachers are regarded as “professionally unqualified” by SACE.
  - A group called **Lobbyists for Fair Treatment of Music Teachers** was subsequently formed and a long process of engaging with universities, DHET, SACE, SAQA and PGCE was initiated. After months of lobbying, flooding the government agencies with emails, exhausting online meetings with all the agencies mentioned above, a wonderfully positive result was achieved.
  - SACE created a Special Category for Music Teachers’ permanent registration. Candidates with BMus, qualify for this category and they are allowed to teach music and music related subjects at the schools who employ them.
  - Many teachers who have obtained licentiates and/or qualifications in other countries are still struggling to get their qualifications recognised by SAQA (South African Qualifications Authority). In many cases they hold qualifications in line with a master’s degree, but are unable to register, since SAQA does not recognise their qualifications.

- Another wonderful outcome of the efforts outlined above, is that all our universities are now aware of the loopholes that BMus students find themselves in. After graduating, they are unable to register for PGCE, since the prerequisite requirements for PGCE excludes any music related subjects. Due to the enormous effort and drive by Boudina Mcconnachie from Rhodes, a group of teachers are starting a purely music based PGCE at Rhodes this year. They have created this once-off opportunity for qualified and experienced music teachers who want to obtain PGCE.
- Stadio School of Education (formerly Embury) have also seen the need and teachers are enrolling in a pure music-based PGCE as we speak.
- NWU will be next to join us, due to the efforts of Dr. Ewie van der Merwe, who worked with us tirelessly. It should take NWU about two years to create this “new” PGCE to accommodate BMus students.
- *In closing: This matter is far from over and the SASMT must maintain high visibility in the negotiations that must still follow. SASMT have to continue driving for the return of the BMus(Ed) degree to ensure that our students can use their NSFAS bursaries for the entire degree, not only the BMus part. BEd students study for 4 years and are fully qualified and SACE registered when they finish their degrees. They can teach music (as a subject) in any school with their background only being the theoretical knowledge of the Music module from Creative Arts learning area. The incoming President must continue to put pressure on all SA universities to right this terrible wrong that is being done to music students.*

- **DIRECTORS**

The duties and liabilities of NPC directors are defined in the Companies Act No. 71 of 2008.

*Below is an excerpt of the list of duties and liabilities relevant to the SASMT, but it is directors' own responsibility to read the entire act for themselves.*

- **DUTIES**

- The law dictates that directors act in the **utmost good faith and in the best interests of their companies and that includes the need to exercise care, skill and diligence to promote company success through independent judgment.**
- Directors are **accountable** to the members of the company.
- Section 76 of the Act compels directors to act **honestly, in good faith and in a manner, they reasonably believe to be in the best interest of, and for the benefit of, their companies.**
- Section 76(3) of the Act states that a director of a company, when acting in that capacity, must exercise the powers and perform the functions of a director: **in good faith and for a proper purpose; in the best interests of the company; and with the degree of care, skill and diligence that may reasonably be expected of a person carrying out the same duties.**
- Section 76(4) of the Act states that in respect of any matter arising in the exercise of the powers or the performance of the functions of a director, a director will have satisfied the obligations in section 76(3) of the Act, if the director: **has taken reasonably diligent steps to become informed about the matter; has made a decision, or supported the decision of a committee or the board with regard to that matter; and had a rational basis for believing, and did believe, that the decision was in the best interest of the company.** In further compliance with this section, the director is required to **communicate to Council, at the earliest practicable opportunity, any material information that comes to his or her attention, unless he or she: reasonably believes that the information is publicly available or known to the other directors; or is bound by a legal or ethical obligation of confidentiality.**
- Section 72 of the Act entitles companies to **appoint board committees** and delegate to any committee any authority of the board.
- Board committees (like the financial committee and standing committee) have the **full authority of the board** in respect of matters referred to them and may consult with or receive advice from any person. However, the creation of any committee and the delega-

tion of any power do not by themselves satisfy or constitute compliance by a director with his or her duties as a director.

- **LIABILITIES**

- Directors' liability Section 77 of the Act prescribes certain statutory liabilities, which are placed on the directors of a company. In terms of section 77(2)(a) of the Act, a director of a company may be held liable (in accordance with the principles of the common law relating to the breach of a fiduciary duty) for any loss, damages or costs sustained by the company as a consequence of any breach by the director of the duties contemplated.
- A director of a company will, in addition, be held liable where that director: **purports to bind the company or authorise the taking of any action by or on behalf of the company without the requisite authority; acts in the name of the company in a way that is false or misleading; or knowingly or recklessly signs or consents to the publication of a financial statement which is false or misleading.**
- Such a director is held personally liable to the company and to any other affected person for any consequential loss suffered by the company or such person (as a result of the breach of fiduciary duties).
- The Act provides for the liability of directors, where they trade **recklessly or conduct the company's business with the intention of defrauding** a creditor. Sub-sections 77(3)(b) and (c) of the Act state that any director of a company is liable for any loss, damages or costs sustained by the company as a **direct or indirect consequence of the director: having acquiesced in the carrying on of the company's business despite knowing that it was being conducted in a manner prohibited by section 22(1) of the Act; or being party to an act or omission by the company despite knowing that the act or omission was calculated to defraud a creditor, employee or shareholder of the company or had another fraudulent purpose.**
- Section 22(1) of the Act states that a company must not carry on its business **recklessly, with gross negligence, with intent to defraud any person or for any fraudulent purpose.** Therefore, if a company continues to incur debts, where, in the opinion of reasonable businessmen standing in the shoes of the directors, there would be no reasonable prospect of the creditors receiving payment when due (i.e. commercial insolvency), it will in general be a proper inference that the company's business is being carried on recklessly or negligently as contemplated by section 22(1) of the Act. The test will always be that there will come a point in time when reasonable businessmen would wind up the company and pay creditors in full, unless they have access to further capital which can revitalise the company with some appropriate form of capital reconstruction.
- **The detail of financial information available to a director, together with the veracity of such information, will be taken into account when the personal liability of such director is examined** in terms of section 77 of the Act.
- Section 214 of the Act renders a director (or any person) guilty of a criminal offence if such director/person was **knowingly a party to an act or omission by a company calculated to defraud a creditor or employee of the company, or a holder of the company's securities or with another fraudulent purpose.** The Act does, however, make provision for directors to raise "**honest and reasonable**" behaviour on their part as a defence in these circumstances. Section 77(9)(a) of the Act states that in any proceedings against a director (**other than for wilful misconduct or wilful breach of trust**), the court may relieve the director, either wholly or in part, from any liability set out in this section, or on any terms the court considers just, if: it appears to the court that **the director has acted honestly and reasonably; or having regard to all the circumstances of the case, including those connected with the appointment of the director, it would be fair to excuse the director.** The intended effect of sections 76 and 77 of the Act is to protect directors who, in carrying on the business of a company, have shown a genuine concern for its prosperity and have made decisions in its best interest. Directors should note that any inquiry into the conduct of the affairs of a company will always involve an evidential investigation. To the extent that a director has fulfilled his or her fiduciary duties and conducted the affairs of the company in accordance with sound business practices that fall within the parameters of these expectations, the evidence should speak for itself.

Compliance with what can be reasonably expected of a director when faced with similar circumstances will therefore constitute a defence to any action launched in terms of section 77 of the Act. “Reasonable behaviour” will differ from case to case and will be considered having regard to the peculiar circumstances of the issues facing a particular director. As in all cases involving negligence, the test in South African law is essentially an objective one, in that it postulates the standard of conduct of the notionally reasonable director.

- *My conclusion: It seems that the law is more concerned about harm that directors can cause the company, than the other way around. Although one can never rule out flaws in human behaviour, it seems extremely unlikely that any of the scenarios mentioned in the excerpt above can happen in the SASMT management structure.*
- *The best way to shield directors from liability, is through transparency and frequent, frank reporting of financial matters.*
- *I propose that the Financial committee and the directors will have a quarterly meeting via Zoom. The EO should provide all committee members with quarterly bank statements and a quarterly financial report (income and expenditure) to study before the meeting. This will give directors continual insight into the finances, which will add meaning and relevance to their task and responsibility.*
- *The financial committee (EO, Past president, serving President, President-elect and Standing Committee chairperson) also took a decision that we will not put our financial statements on our website since our website is not restricted to members only. Any member in good standing who expresses a wish to see the financial statements will be given full access by the EO.*
- *For the sake of transparency, Council and our directors received all financial statements accompanied by the auditor’s report. The EO also furnished them with the financial reports of all centres, giving them an oversight of all finances of the Society.*
- *I have obtained quotes for insurance covering the following:*
  - *The SASMT against fraudulent directors*
  - *Directors against fraudulent activities by the financial team*
  - *Coverage for public indemnity at events presented under the name of the SASMT*
- *We received a very agreeable quote with substantial cover. The Financial Committee have already decided to accept the quote, but the policy will only take effect once SASMT centres can host live events once more. It would be foolish to pay for coverage while we are still in lock-down.*

*I hope this lengthy explanation will put our serving directors’ minds to rest about the matter of fiduciary liability.*

It is impossible to show one’s work and efforts on a piece of paper. I have tried my best to give you a snapshot of my term as president.

May the SASMT rise to meet the challenges of the future and continue to grow and prosper as a society by enabling others to do so.

