

Supplementary Employment Equity Hearings on Gender Transformation in the Workplace

North West Province • CGE Offices, 38 Molopo Road, Mafikeng
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Commission for Gender Equality

A society free from gender oppression and inequality



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Work with US to make this imagining an

irreversible reality.

ABBREVIATIONS AND ACRONYMS

ACSA	Airports Company South Africa
AFDA	SA School of Motion Picture and Live Performance
AIDS	Acquired Immune Deficiency Syndrome
B-BBEE	Broad-Based Economic Empowerment
BEE	Black Economic Empowerment
CCMA	Commission for Conciliation Mediation and Arbitration
CGE	Commission for Gender Equality
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CEO	Chief Executive Officer
CRF	Consolidated Retirement Fund
CSC	Corporate Services Centre
DID	Department of Infrastructure Development
DDG	Deputy Director General
DG	Director General
DoL	Department of Labour
DPSA	Department of Public Service and Administration
DRPW	Department of Roads and Public Works
EAP	Employment Assistance Programme OR Economically Active Population
ECHD	Early Childhood Education
EE	Employment Equity
EEA	Employment Equity Act
EPWP	Expanded Public Works Programme
EXCO	Executive Committee
FET	Further Education and Training
GDE	Gauteng Department of Education
GEYODI	Gender, Youth and People with Disabilities
GFP	Gender Focal Person/Point
GIBS	Gordon Institute of Business Science
GYDM	Gender, Youth and Disability Mainstreaming

HET	Higher Education and Training
HoD	Head of Department
ILO	International Labour Organization
KPA	Key Performance Area
KPI	Key Performance Indicators
LGBTI	Lesbian, Gay, Bisexual, Transgender and Intersexed
MEC	Member of the Executive Council
MM	Municipal Manager
MMC	Member of the Mayoral Committee
NDP	National Development Plan
OHS	Occupational Health and Safety
PEPUDA	Promotion of Equality and Prevention of Unfair Discrimination Act
PMS	Performance Management System
POWA	People Opposing Women Abuse
PSC	Public Service Commission
PWDs	Persons with Disabilities
SADC	Southern African Development Commission
SALGA	South African Local Government Association
SALGBC	SA Local Government Bargaining Council
SAPS	South African Police Services
SETA	Sector Education and Training
SGB	School Governing body
SME	Small and Medium Enterprises
SMS	Senior Management Services
SSIP	Secondary Schools Improvement Programme
SPU	Special Programmes Unit
TVET	Technical Vocational Education and Training
UIF	Unemployment Insurance Fund
UN	United Nations
UNICEF	United Children's Fund
ULWASA	University of Limpopo

INTRODUCTION

This hearing was supplementary to the initial Employment Equity Hearings on Gender Transformation in the Workplace, which took place nationally in 2010 and 2011, and follow-up hearings that were convened in each province between the first and third quarters of the 2014/2015 financial year.

Various entities failed to appear before the Commission during the follow-up hearings, or provided inadequate testimony. Subsequently, the CGE was forced to convene supplementary hearings and the accounting officers of all entities were served with subpoenas to ensure their participation in these hearings.

The supplementary hearings intended to:

- Track and monitor the implementation of the CGE's recommendations from the initial hearings.
- Assess the impact of the Employment Equity Act (EEA) and safeguard against any retrogression.
- Hold public and private sector entities accountable for non-compliance with legislation.
- Raise awareness on national legislation and relevant international commitments.
- Identify challenges experienced, measure progress, and to share best-practice models.
- Assess measures in the workplace to achieve transformation in terms of gender and disabilities.

The entities called to account at these hearings were the following:

- Department of Public Works and Roads
- Department of Education and Sport Development.

These two entities were appearing before the Commission as they had not been able to appear during the Supplementary Hearings held on 17 and 18 February 2015 in Johannesburg as the Head of the Department of Education and Sport Development had fallen ill and sent the Commission a sick note, saying he would not be available to attend, and the acting Head of the Department of Public Works and Roads assumed her position days before the hearing, and could therefore not provide adequate testimony as she could not readily know the transformation efforts of the Department.

OVERVIEW

The Commission began the hearing by thanking the two departments for availing themselves for the hearing.

The Commission outlined the legal framework that guided and promoted its work. This included:

- Section 187 of the Constitution, which requires the Commission to promote respect for and the protection, development and attainment of gender equality.
- The CGE Act No. 39 of 1996, which sets out the Commission's mandate to monitor and evaluate legislation, policies and practices of the state, statutory bodies and private businesses, as well as indigenous customary laws and practices.
- The Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000, which obliges the Commission to institute proceedings against unfair discrimination.

THE LEGAL PROCESS

Each accounting officer of each entity asked to appear was served with a notice to appear in the form of a subpoena. A failure to appear, therefore, could lead to a criminal charge being brought against the accounting officer named in the subpoena.

The accounting officer of each entity was required to undertake an oath before providing evidence before a panel of Commissioners, supported by the legal officer. Each entity was allowed to have legal representation.

Commissioners were then allowed to interrogate or scrutinise the information provided in the form of a question-and-answer session.

PRESENTATIONS

There follows a summary of the oral presentations by representatives of the various entities that testified before the Commission, as well as follow-up comments and questions raised in response and an analysis of the department's compliance or lack thereof.

1. DEPARTMENT OF PUBLIC WORKS AND ROADS

Representatives: Freda Tsimane, Acting HoD, Mmbatho Mfikwe, Chief Director: Corporate Services and Dintle Tumakgole, Director: Special Programmes

1.1 Findings from initial hearing

The Department made a presentation to the Commission in 2011 and the following were the findings:

- The Department had not achieved targets set out in their EE plan.
- Their recruitment policy was inadequate and needed to specifically include women and people with disabilities.
- The Director: Human Resources Management was responsible for the monitoring and implementation of the EE Plan and would therefore be able to identify barriers to gender transformation.
- The Department was not doing well with respect to representation of people with disabilities; it needs to partner with organisations that deal with such people.
- No sufficient budget to effectively deal with gender transformation.
- No existing sexual harassment policy and no cases of sexual harassment.
- No mention of measures put in place to support women.

1.2 Update

- At Senior Management Service (SMS) level, there are 82% males and 18% females. The Department indicated that should the Commission request statistics on non-SMS level, they will be provided.
- The Department has partly achieved its EE objectives as the majority of women are still in the support services.
- Few women show an interest in going into the built environment, which is evident from the bursary intake.
- Due to reconfiguration, the Department of Transport has been detached from Public Works; the statistics could have been better had Transport still been attached.

1.3 Questions and Comments

The Commission mentioned that statements are not enough; they are not real commitments. The Commission required commitments that are written down.

The Commission wanted to know why there were no people with disabilities at SMS level.

The Commission noted that the highest concentration of females were at level 2, where there are 230 African females. The Commission was interested to know why. The higher up one goes, the fewer females there are.

The Commission noted that at level 4 African women are 27 and African males are 203.

The Commission indicated that the Department is not doing well at all. The Commission made an example of Eskom, when they met for the first time. Eskom said they do not have any women engineers and the Commission challenged them to employ women and they did. The Department must do the same.

The Commission indicated that the Department needs to venture on active recruitment of women. They should go to universities and institutions of higher learning to mentor students.

The Commission wanted to know the Department's plans to rectify this situation.

The Commission did indicate, however, that they congratulated the Department on at least noticing that there is something wrong in their department and that they are ring-fencing.

The people that recruit should not just sign off because someone has been hired; this recruitment must contribute to gender transformation.

The Commission asked the Department to go back to their district profile to see how they can recruit women.

As far as incubation is concerned, the Commission said they must be careful that in doing this, not only minority women should be targeted; women at management level should also be targeted so that they can also reach higher levels. Empowerment programmes should be developed to support women. Special Programmes should assist in this. Someone should monitor the districts as well, to ensure that women were adequately represented.

The Commission indicated that the Department has really not transformed. It will need to be brought back, perhaps in about 6 months. The Commission indicated that it is difficult to speak to people who are in acting positions. In all fairness, however, perhaps there are political impediments in the Department affecting transformation, in which case they should be talked about. There must be political will as well. Part of the Commission's work is to ensure that there is transformation.

The Commission suggested a follow-up meeting and further suggested that a letter should be sent to the Department raising issues that the Commission has and that we should meet around August 2015. The Provincial Office should monitor the Department's progress. They are to come back again in August 2015 just to check how far they are and to give support to the Department; this will not be a hearing, just a meeting with the resident Commissioner. The Commissioners will take care of the political aspects.

1.4 Response

The Department explained that it is in an Infrastructural environment and there is a scarcity of women. Due to reconfiguration, another department (Transport) was detached; had it still been there, the statistics would have been slightly better. When the Department of Transport was still attached to the department, the statistics were slightly better, but now that the department is only Public Works and Roads, few women are coming to the fore.

The Department has tried to head hunt women, but some of the challenges are that one woman did not have a permit, and even the bursaries they give out are taken by men. In their intake, the majority was male.

The Commission was unhappy about this explanation. It is unacceptable that 21 years after democracy, the Department can still be giving this explanation. Saying that departments have looked everywhere and have not found women who qualify for positions in the public works department is not satisfactory.

The Department explained that they have an accelerated management programme for women in particular, with the idea of putting them at decision-making levels so that they can be incubated to move on to management levels and are groomed as per the built environment so that once openings are available, they are able to compete for those positions.

The Commission indicated that it is not open to the Department's explanation. A plan of how to change this should be adopted.

The Department indicated that level 2 are mostly road workers, which is not conducive for employing women. The Commission said that their language is unacceptable because they want to stereotype women. This causes discrimination. This in itself promotes and protects patriarchy. We cannot still be saying that certain positions are meant for men only and not women. The Commission indicated that the Department must do more.

The Department indicated that from level 2-4, the categories are general workers, artisans, road workers. The statistics only reflect permanent employees, not the Expanded Public Works Programme (EPWP).

The Department said it will embark on a recruitment drive to target women. When a submission comes through for appointment, the submission must outline its contribution to gender transformation. It has no specific time frames, it is ongoing. The Commission wanted to know whether this plan is dependent on attrition, in that it will only be used when a person dies, or goes on retirement or is disabled and not able to continue with their duties.

The Department indicated that they have a very high vacancy rate; there are about 383 vacant posts. There has also been a very high resignation rate.

The Commission wanted to know whether posts can be ring-fenced. The Department said that they had done this in the past and it enabled the employment of women. The Department has also asked the Department of Public Administration about what they should do and how they should entice people living with disabilities.

The Commission indicated that at all levels, in all districts, men dominate. This does not show that posts are being ring-fenced. If there is indeed ring-fencing, then it is not working. It is disappointing that merit seems only to be shown by and through male eyes.

The Department said that they are embarrassed about the workplace profile but happy with the suggestions made. When the new Head of Department (HoD) is on board, hopefully the picture will change. They appreciate the engagement and they hope that the Commission will also appreciate the milestones that the Department has gone through – and any assistance from the Commission would be appreciated. Reconfiguration has also had an impact on the statistics.

Policies regarding special programmes have been made and approved. They have a career guidance programme where they talk to learners with a special focus on the Department's focus areas so that learners can develop an interest in its work. The

Commission also suggested that the Department take girl children to shadow people so they are able to see what happens in the workplace.

When it comes to issues of sexual harassment in the department 2 cases were reported, the one case in Bojanala was finalised and the perpetrator was dismissed. The other case in Ngaka Modiri Molema has not been finalised. The department also embarked on road shows on sexual harassment, targeting levels 2-6, and all districts have been done. The last cycle is yet to be done. The Commission congratulated the Department on this. The Commission indicated that they would like to meet with the MEC for introductions.

The Commission indicated that they would gladly participate in the sexual harassment road- shows if required to do so.

1.5 Analysis of the Department's compliance

The Department has an EE plan, but has not met its requirements in terms of its objectives because the majority of women are in support services and not adequately represented in senior management.

It is a struggle to secure appointments of women, despite head hunting. The Department does not seem to have a clear plan on securing employment of women.

The Department has to change its own mindset about what men and women can do because they indicated that employees at level 2 are mostly road workers, which is not conducive for women. With this kind of attitude, transformation will never take place in the built and engineering environments, which would be regrettable. Statements such as this one enforce and entrench patriarchy.

The Department has also indicated that they have a very high resignation rate, which should present an opportunity to engage more women.

The Commission is concerned that the Department is not creative in developing strategies to develop women. There are universities and schools where talent can be sourced.

Active recruitment of women is critical.

It is encouraging, though, that the Department has various programmes, including the accelerated management programme for women to ensure that they are put at decision-making levels to incubate them so they can move up the ranks and are groomed within the built environment.

The Department has not responded to the call to effect gender transformation and serious challenges are apparent. The Department has not complied with the EEA.

2. DEPARTMENT OF EDUCATION & SPORT DEVELOPMENT

Representatives: Dr Molale, HoD, Lesley Abrahams, Human Resources

2.1 Findings from initial hearing

- The Department took matters of gender equality and transformation seriously, setting a good example to departments that do not comply.
- It is essential to establish why managers are reluctant to support issues of gender equality and gender transformation.
- There is no buy in from political heads.
- Gender Focal Persons are not getting support from political heads.
- Men still dominate at senior management levels.
- The gender unit does not have sufficient budget to effectively deal with its programmes of awareness campaigns. A submission should be made for more money.
- The person dealing with gender is at Director level, so they will be able to take strategic decisions on behalf of their Directorate.
- Not much was said about people with disabilities.
- There was no flexitime policy.
- More awareness should be created of the sexual harassment policy.

2.2 Update

- Moving from the old organogram to the new one was meeting obstacles. The Department of Public Service and Administration (DPSA) has not approved the organogram as there is a problem with the budget.
- The moratorium on filling posts is also a problem. There are people who have been acting for more than 12 months in a post because of this.
- A Commission of Enquiry was set up during the era of the alleged selling of posts. The other reason for non-compliance is due to disputes and grievances, appointments that do not support the EE agenda are made, and the Department has to go to the CCMA or court.
- When appointments are made they are not delegated to the HoD, who merely facilitates the process to the authority. The challenge picked up is that wrong appointments are made and it is up to the political appointee to choose who will be taken.
- The Department employs foreign nationals as there is a scarcity of skills as far as maths and science are concerned, with the result that foreign nationals are hired.

- The Department would have liked to have a directorate which deals with gender issues but because of budget constraints they could only afford to have a sub-directorate.
- It conceded that it is not doing well as far as its disability profile is concerned. The Department, however, is of the view that perhaps they are not up to date with their statistics as there are a number of accidents happening in schools. The Department also conceded that they are not doing well as far as the gender profile of principals is concerned in their schools.
- The Department has indicated that Africans are over-represented at levels 1-16.
- It is difficult to track incidences of sexual harassment in schools. There is no data on sexual harassment cases. People do not report them.
- The main reason for a Commission of Inquiry was due to the Department's inability to place certain categories of people in positions when posts were advertised.
- There are a fair number of women at Deputy Director level, the Department said.
- The issue of succession is also hampered by political impediments.
- Appointments are made by the political head and succession is a sensitive issue.
- Monitoring and implementing the EE Plan forms part of the performance contract of the senior manager.
- Men still dominate in senior management positions.
- The person in charge of EE is at Deputy Director level.

2.3 Questions and Comments

The Commission is concerned about the Department not doing well with disability initiatives, and a disability desk has been created. Through the office of Special Programmes, issues relating to working with the DPSA are made and they have resolved to intensify efforts to recruit people with disabilities.

The Commission wants to know whether the Department has timeframes with regard to recruiting people with disabilities.

The Commission also wants to know why the issue of sexual harassment is elusive, what causes this? The Commission is concerned about the sustainability of the training given to women; what sort of training is given? What exactly does the Department mean when talking about empowerment?

There are about 26 special schools. The Commission is concerned about the fact that most of the Department's strategies are in draft form. What is the percentage of the performance of the special schools? People with disabilities are not taken seriously. The

strategy talks to targets that needed to be reached by 2010, and we are now in 2015. Learners with disabilities should be tracked in order to know where they are after school so they can be recruited.

There is a lot of sexual harassment around disabled women and the Commission is disappointed that it seems not to be taken seriously.

The Commission stated that the disability strategy should be engendered, as should their communication strategy. Responding in a gender-sensitive way is essential. The language that has in the past been used by people representing the Department has been very graphic and not gender-sensitive. The Commission indicated that it would be really easy to reach a quota of 2% for disability; teachers who live with a disability must be retained.

The Commission indicated that departments should encourage their employees to disclose their disabilities. The Department indicated that there is a drive to do this.

The Commission noted that there is a greater percentage of males getting promoted versus women, despite the fact that more women are ready for promotion. Measures should be put in place to rectify this. The Commission advised that perhaps the Department should also speak to unions so they can assist them to ensure that EE targets are reached.

The Commission is also concerned about the Department's districts. Are they not involved in the employment of principals? If not, there will be no transformation.

The Commission acknowledges the challenges the Department faces, including political interference.

The Commission wants to know what measures will be used to ensure that there are also women principals? What remedial actions will be put in place? Is gender mainstreaming not linked to managers' performance contracts, seeing that they are not interested?

The Commission indicated that the Department should really focus on their special programmes; take a girl child to school should also focus on special schools.

2.4 Response

The Department is not able to give the Commission a specific timeframe with regard to recruiting people with disabilities as this is dependent on the DPSA approving the budget.

The Department indicated that they should have already started but there is a delay in terms of receiving a budget and also there is a delay that is caused by the reconfiguration process.

Sexual harassment is taken seriously, but the challenge lies with victims not reporting and/or withdrawing cases.

There is also a mindset problem that lies with male functionaries – the more women advance themselves, the more it upsets male functionaries who feel entitled to positions.

Training targets women in middle and senior management to give them confidence so they can move upward. It is sustainable, it is budgeted for annually.

They indicated that they would ensure that the disability strategy will be reviewed. The Department conceded that they are really not doing well in terms of transformation specifically with regards to disability. The Department asked the Commission to assist with issues of sexual harassment.

Sometimes issues of sexual harassment involve principals who have ties politically, so they are not able to proceed adequately due to political interference. More should be done in this regard.

The Department indicated that they are aware that in terms of disability, they need to have a formally adopted policy and a dedicated unit.

There is much politics involved when it comes to recruitment.

Beyond investigations undertaken, the Department centralised the appointment of principals. The union was not happy about this centralisation. The system is not perfect but at least it gives the Department some control over recruitments.

A code of conduct is put in place to deal with moral issues; for example, a person should not sit on a panel if he has an interest.

If a memorandum does not support the gender transformation agenda, then it is sent back.

There are no dedicated staff in the district. The Department is unable to appoint district level staff as far as gender transformation is concerned as they do not have a budget. This work lies with the KPA of the Director.

The amount of R500 000 for the sub-directorate is not enough. The sub-directorate should be strengthened.

The Department should mainstream and its language should be about inclusion with respect to learners and staff with disabilities. The HoD should have the political will with regard to gender transformation. The Commission encouraged the HoD to continue with what he is able to do with gender transformation. Perhaps after a year, there would be positive change.

The Department also indicated that it would be wise for them to benchmark with other departments to get best practice. They appreciated the session. The Commission has demonstrated a passion for the education sector and this is appreciated as in actual fact this sector does not seem to be taken seriously.

2.5 Analysis of the Department's compliance

The Department seems to have a challenge in relation to securing the employment of people with disabilities. The Commission is of the view that it would be easy for the

Department to reach and in fact exceed the 2% target. There also seems to be a challenge with tracking sexual harassment cases and sexual harassment is rife in schools. More should be done in this regard. The Commission is available to assist with strategies.

Because of budget constraints, the Department is unable to have a directorate that deals with issues of transformation. A sub-directorate can only do so much.

There are still more male principals than females.

The Commission is encouraged by the fact that the HoD has shown commitment to gender transformation despite the challenges.

The Department is moving in the right direction in relation to employment equity.

CLOSING REMARKS:

It would be unfair to suggest that there has not been any progress, but challenges have to be faced. The challenges reflect how far we have come from as a country.

Gender transformation does not only require a budget, but a will as well. The Commission acknowledges the challenges that the departments face in relation to a lack of political will.

The Commission cannot undermine progress made in the last 21 years, but a lot must still be done. Where there is a will, there are opportunities.

The Commission notes that it is not easy to transform when patriarchy is so ingrained. Not everyone will want to share power and transform but our Constitution states that we have to transform, it cannot just be business as usual. The departments and the provincial office should work hand in hand to ensure the transformation agenda. The Commission's role is to support the entities.

The DPSA really needs the assistance of the Commission and the Commission and the Department will reconvene once more in August 2015 for a follow-up session.

The Department of Education and Sport Development has made improvements in achieving gender transformation but there are still grave challenges to be overcome.

Supplementary Employment Equity Hearings on Gender Transformation in the Workplace

- North West • Protea Hotel Mahikeng, Mahikeng
- 10 December 2014

INTRODUCTION

This hearing was a follow-up to the initial Employment Equity Hearings on Gender Transformation in the Workplace for the North West Province, which took place in Mahikeng on 9-10 November 2011.

At the initial hearings, public and private entities were invited to give an account of their activities within the gender arena in order for the Commission to conduct a thorough investigation into gender transformation in the respective workplaces.

The initial public investigative hearing intended to:

- Assess the impact of the Employment Equity Act (EEA) on women in both the public and private sectors, and address institutional and systematic barriers to their economic progress.
- Hold public and private sector directors accountable for non-compliance with the Act.
- Raise awareness of relevant international commitments and the importance of compliance.
- Assess what measures had been put in place in the workplace to bring about transformation in terms of gender and disability.
- Share experiences and identify challenges faced by CEOs and Director-Generals in the implementation of the Act.
- Strengthen the working relationship between constitutional bodies and civil society in raising awareness about South Africa's compliance with international instruments, and about support and capacity interventions provided in this regard.

Following the initial hearings, the Commission made comments and recommendations to the various entities. These entities were thus invited to report on progress against these recommendations at the follow-up hearings. The entities called to account in the North West were the following:

- Office of the Premier
- Department of Economy and Enterprise Development (previously Economic Development, Environment and Tourism)
- Department of Education and Sport Development
- Department of Arts, Culture and Traditional Affairs (formerly the Department of Sport, Arts and Culture)
- Department of Public Works and Roads
- Dr Ruth Segomotsi Mompati District Municipality
- Bojanala Platinum District Municipality
- Ngaka Modiri Molema District Municipality
- Sizwe Ntsaluba Gobodo Incorporated

The CGE for Gender Equality was represented at the hearing by Commissioner Mfanozelwe Shozi (Chairperson), Commissioner Nomsisi Bata (Eastern Cape) and Commissioner Mbuyiselo Botha (Limpopo). Legal advisers sitting with the Commissioners were Marissa van Niekerk (HoD), Masilo Letsoalo (Head Office), Mamohapi Johnson (North West) and Eunice Poto (Gauteng). Rabbuh Raletsemo (North West provincial co-ordinator) acted as the programme director.

The Commission acknowledged that country- and province-wide, most people were at the closing events for the 2014, 16 Days of Activism campaign, as it was. However, the hearing also spoke to issues of gender and inequality which, if not handled in the workplace, meant that no progress would be made in dealing with one of the root causes of inequality: patriarchy.

The main reason for the proceedings was to find out if the entities that had appeared before the Commission in November 2011 had made progress regarding employment equity and gender transformation, whether the Commission could help them to close gaps, and what could be learned from their experiences. It pointed out that lip service cannot be paid to Employment Equity (EE) which is a Constitutional imperative.

The Commission referred to what it termed the three elephants in the room: gender inequality, gender-based violence, and racism. Gender transformation and equality are at the core of the Commission's mandate; it explained its role as a Chapter 9 institution accountable to Parliament, and its Constitutional and statutory obligations to promote gender equality, investigate customary law and indigenous practices, undertake public awareness and education, and institute proceedings against gender inequality. The Commission's vision is to create a society free from all forms of oppression and discrimination. Very importantly, it seeks to deal with discrimination in the workplace, and ensure that employment equity redresses the effects of discrimination.

It related how the Commission had initially held EE hearings in the North West, to which HoDs, Municipal Managers and CEOs of various entities had been invited or subpoenaed. It warned that the Commission was not afraid to use the legal means at its disposal to ensure that its business was done, and would send people who were not accounting officers back to the entities they represented. The nine entities that had testified at the original hearing were read out.

Gender transformation cannot just be an afterthought; everyone must commit to it towards a society free of violence and inequality.

The representatives of each entity present were encouraged to stand and introduce themselves, and representatives of the Public Service Commission, Disabled People SA, the Legal Aid South Africa, the Public Protector and the South African Police Service were welcomed.

OVERVIEW

The Commission presented a synopsis of the EE hearings, which had begun nationally before being rolled out provincially. Nine institutions were called to account in the North West; questionnaires were sent out to them in 2011 on issues of policy and what they were doing to advance transformation. Some responded to the call; others had to be subpoenaed to appear before the Commission and account for their actions.

The purpose of this hearing was to obtain a progress report on what had been done since 2011. When the initial hearing's report was launched in 2013, some of the entities had indicated that progress had been made.

The Commission pointed out that information packs it provided contained a CD with the 2011 report, which people could peruse at their leisure; it would merely skim through the document:

- The Department of Sports, Arts and Culture, as it was then known, had failed to comply with government prescripts, in particular the EE Act; there was no budgetary allocation for gender issues, and not all policies were in place. Some things could be done without budget, it said, and the importance of policies could not be overstated. The Department had no succession policy, for example, but without one it was difficult to move forward.
- The Department of Public Works and Roads was unable to achieve its EE Plan target – with all entities there was a problem with meeting disability targets. There was no recruitment policy, and the Department needed to review this. People meant to monitor the EE Act (EEA) were not doing so; also, there was no person appointed to deal with EE issues. There was no clear strategy for reviewing policies, or the EE Plan.
- The Department of Education had been represented by the person responsible for EE within the Department, instead of the HoD. It was encouraging to see compliance with section 20 of the EEA, which deals with EE planning, and the Department set a good example in this regard. However, the department needed to understand why senior managers were resistant to supporting gender equality. Disaggregated data was provided of senior management make-up. There had been concern that there was insufficient budget to implement gender transformation measures. The person responsible for gender issues was at level 12, in other words at senior management level.
- One of the concerns about the Office of the Premier was that there was no sexual harassment policy in place. Also, the person who testified was new in the Department, which was operating without a director-general at the time. There was no compliance with government prescripts, especially the EEA, and there was a need to urgently sit down with the Office of the Premier about that issue. The Commission noted that it was critical for the person who was appointed to monitor EE implementation to know how to evaluate the EE Plan, and that this should form part of his or her performance review.

The Commission had expressed its concern about the poor performance of the Office of the Premier, and questioned its political will and commitment towards the achievement of employment equity and women empowerment in the province. The Commission had indicated it would write to the Premier to discuss the matter further.

All of the entities called before the Commission had experienced these kinds of problems, and it was hoped that the Commission would see changes in this hearing. The intention was for the entities to assist each other, it stressed. It added that each person testifying before the Commission would be required to take an oath in order to confirm the veracity of the information they presented, and it trusted that they had the authority to do so.

PRESENTATIONS

There follows a summary of the oral presentations by representatives of the various entities that testified before the CGE, as well as follow-up comments and questions raised in response and an analysis of the entities' compliance or lack thereof. All entities were advised to submit all outstanding policies, statistics and annexures within seven days of the follow up hearing.

1. OFFICE OF THE PREMIER

Representative: Faith Mashimbye, Deputy Director-General: Institutional Development Support and Integrity Management in the Office of the Premier. Ms Mashimbye had made the department's presentation in 2011 as well.

1.1 Findings from initial hearing

The Office of the Premier was found wanting in the 2011 hearings, and it did not comply with its legal obligations regarding EE and gender transformation.

It did not have an approved EE Plan in place (a draft plan for 2012-2013 existed), with stated objectives as required by section 20 of the EE Act, or a designated person responsible for implementing and monitoring the EE Plan, in terms of section 24 of the Act.

Males dominated senior management levels, holding 66% of posts; however, women representation rose as one moved down the management levels. Only minimal measures had been put in place to promote gender transformation, and there was no political buy-in for gender transformation. The department did not have a system to track the movement of women and persons with disabilities through the organisation.

There was no specific person responsible for managing gender issues. There was also no gender-sensitive budget allocated, which the Commission took as a clear indication of a lack of commitment to gender transformation.

In addition, in 2011 the Office of the Premier employed only one person with a disability, and there were no strategies in place to address the issue and increase the number of persons with disabilities.

There were no supportive measures in place to allow women employees to take time off for domestic reasons, such as a flexitime policy.

A sexual harassment policy was approved, but all other policies were either in draft form or did not exist. There had been no cases of sexual harassment reported to date.

The Commission stated its concern over the poor performance of the Office of the Premier, and questioned whether or not there was political will and commitment to the achievement of gender equality and women empowerment in the North West Province. It said it would write a letter to the Premier to express its disappointment with the status quo, and convene a meeting with the Premier and key staff members to address its concerns.

1.2 Update

The Office of the Premier based its presentation on the Commission's 2011 findings, addressing each one in turn. By its own admission the 2011 report had been dismal, but it was clear from the presentation that substantial progress had been made in terms of compliance, with a few notable exceptions.

Where the Office of the Premier had not had an approved EE Plan, it did subsequently approve a plan for the 2011-14 period; this was marketed to staff, and an EE Consultative Forum was established. That plan had now expired, but a 2014-2019 EE Plan was approved in September 2014.

Both plans conformed with section 20(2)(a) of the EE Act, in that they contained year-on-year EE objectives. In addition, they complied with section 24 of the Act in that the office's presenter had been appointed as the senior EE Manager, and Human Resources Director Ms AD Michael, who was present at the hearing, the chairperson of the EE Forum. EE now formed part of both managers' performance agreements, and would be rolled out to all senior managers.

Unfortunately, however, the situation regarding the dominance of males at senior management level persisted. Most of the men in those positions had been there for years; the status quo would remain until they left the organisation. As of 31 October 2014, 33 of 44 SMS posts were filled, of them 23 by men (52.27% of the overall total) and 10 by women (22.73% of the total). Of the six top management posts filled out of a total of eight, four were held by men (50% of the total) and two by women (25% of the total).

Regarding the finding that there were minimal measures in place to promote gender transformation, and a lack of political buy-in for transformation, improvements had been made: the approval of a Gender Equality Strategic Framework and a Gender Equality Implementation Plan for the Office of the Premier; the establishment of a Senior Management Women's Forum; the launch of the Quarterly Women Empowerment

Programme and its male counterpart; the Office of the Premier commemorated all annual gender-based events; an annual Men Seminar and celebration of Women's Day; the establishment of various training programmes for women at all levels; and the mandatory awarding of half of bursaries to women. The Office of the Premier now had a person responsible for gender issues: Ms Michael was the Gender Focal Person.

Where the Office of the Premier had employed only one person with a disability in 2011, it had since been able to increase this to nine (with two further appointment offers pending). However, while this pushed up representation by persons with disabilities to 1.28%, the Office of the Premier still fell short of its statutory target of 2%. Measures instituted to improve the situation include a partnership with Disabled People South Africa, which had seen 20 interns with disabilities undergoing experiential learning, and the acting Director-General had approved the consideration of persons with disabilities for all entry-level positions.

Disaggregated data of non-SMS posts showed 44 employees in the unskilled and defined decision-making category (levels 1-3), 403 in the semi-skilled and discretionary decision-making category (levels 4-6), 131 in the skilled technical category (levels 7-8), and 196 in the professionally qualified and experienced specialist category (levels 9-12). The Office included a detailed slide showing the current gender and racial breakdowns of each category, along with the target for each and the percentage of over- or underrepresentation. It was clear from the slide that women dominated the lower two categories, and men the upper two.

With regard to a lack of supportive measures for women to take time off for domestic matters, the Department of Public Service and Administration had amended its leave form to include part-days. This means that should women need to take time off, they simply applied for hours off. Additionally, a flexitime policy was in draft form and in the process of being benchmarked.

Approved policies included: sexual harassment, wellness, HIV/AIDS and TB management, funeral and bereavement leave, transfer, precautionary suspension, grievance, bursary, occupational health and safety, protective clothing, remuneration, employment, performance management, retention and career management, service termination, exit interview, gender equality, health and productivity management, resettlement, PERSAL users, and training and development. Flexitime and dress code policies were in draft form. All policies were placed on the department's intranet and emailed to all staff. Information sessions were held with all staff to ensure they understood all the policies.

The lack in 2011 of sexual harassment cases continued, three years on. The Office of the Premier objected to the statement that it had "painted a picture" regarding sexual harassment, saying this was not so. The policy on sexual harassment is in place, it has been circulated to staff and they have attended information sessions about it. A lack of cases indicates the Office's efforts to stamp out sexual harassment, which is the policy's intention.

On raising awareness around issues of discrimination, the Office's EE Forum was composed of representatives from all constituencies, to which they reported back and with which they conducted information sessions.

Recruitment policies specifically targeted women and persons with disabilities, especially at lower levels, and this was indicated in advertised posts; the EE representative participated in shortlisting and interviewing all candidates. Also, the Office had a strategic framework and an implementation plan, both approved, for the recruitment and retention of persons with disabilities. There was still no specific budget for gender issues, but every transformation event was costed in annual human resource management planning, and budget was allocated.

Gender transformation successes included approved policies, and empowerment and training programmes put in place; also, SMS-level women attended the Public Service Women Manager's Week. A challenge remained that women were underrepresented at senior management levels. However, women at that level attended a mentoring and coaching programme, and had to supply portfolios of their work. Additionally, they would be assigned mentees in middle management to prepare for advancement. The retention and career management policy and implementation plan, which advanced women and people with disabilities, were approved and being used.

The Office concluded by asserting that transformation efforts had been accelerated since 2011, so that the Office of the Premier could avoid another such report. While significant challenges remained, it averred that remarkable strides had been made also; by the next hearing, the Office anticipated having advanced even further.

1.3 Questions and comments

The Commission thanked the Office for its submission, but said it was disappointed. Nothing would change until male senior managers left, and there was no gender-specific budget. Specific, costed, time-bound frameworks were required, as things did not happen on their own. Regarding sexual harassment, how did the Office of the Premier know that a lack of cases meant that sexual harassment was not taking place? And how many employees had access to the intranet, to view policies? It asked for a gender breakdown of the nine employees with disabilities, and which kinds of disability they have.

The Commission said the Office of the Premier is central, and oversees other departments regarding gender equality, disability integration, and older persons and young people. It hoped the absence of the Director-General in the Office of the Premier had been adequately explained, with supporting documentation. Regarding senior managers having EE in their performance agreements, it would be nice to see their progress noted in regular reports. In terms of observing gender-related events, Gender Focal Persons must move away from being events managers. It criticised the department for referring to "cleaners", which was discriminatory language, suggesting "general assistant" instead.

The Commission was complimentary about the Gender Focal Person, Ms Michael, being a Director-level appointee, but it questioned whether she sat at top management level. Targeting women and persons with disabilities at entry level was not good enough – South Africa had various international commitments regarding transformation and was obliged to meet them, and also report on them.

It also commended the Office of the Premier for giving women more freedom regarding flexitime, but it wanted to hear more about how the sexual harassment policy had been rolled out. It did not believe there was no sexual harassment, as this was an endemic problem in South Africa.

The Commission highlighted a tendency to seat transformation within the Human Resources department, which was invariably overburdened and unable to achieve anything; it requested information about this within seven days. With regard to mentoring and coaching, it said women received a tertiary education, but in the workplace were being told to be mentored by men; when would senior management reach a 50% gender balance?

The Commission then asked when the Office of the Premier would finalise its flexitime policy. Also, it questioned what was discussed in EE forums, and asked to be provided with meeting minutes.

The Commission said it had met with the province's former Premier to discuss issues in the previous hearing's report, and needed to meet the new Premier. One issue that came across as arrogant, it said, was the contention that one could not get rid of the men in senior management. The Office of the Premier had several vacant senior positions, but had said nothing in its presentation on how it would use them to employ women and persons with disabilities. It asked if the EE forums promoted women and persons with disabilities. Also, people would retire, and then those positions would be freed up – it was not so much a matter of getting rid of people, as a matter of planning.

The Commission asked if a working environment had been created that was conducive for women, and what was being done, and if the Office had done an audit of who they procured from. It applauded the Office for having a Gender Focal Person, but asked what further was being done – was direction being given to the equality agenda in the province?

The Commission asked why there were no white, coloured and Indian persons reflected in some of the employment categories, and whether this was a reflection of the province's demographics.

Response:

The Office apologised for the slide the Commission had criticised for being arrogant; but it pointed out that the target was 50% female representation; also, it had to be borne in mind that while women were recommended for SMS positions, their political principals made the employment decisions.

Ms Michael had launched the sexual harassment policy with top and senior management, and also provided guidance and information on disciplinary measures should there be allegations of sexual harassment. Data on staff who had attended information and training sessions had been provided to the Commission. No allegations of sexual harassment had been raised, however, despite all the efforts made, and the Office was open to advice to get people to speak out about sexual harassment. The Office did monitor sexual harassment, and reported regularly to the DPSA.

Regarding access to the Office's policies, there were regular information sessions with staff and computer access was being arranged for those who did not yet have it, such as general assistants, but more could be done.

The Office of the Premier said it tried to retain persons with disabilities who had had internships, and made entry-level positions available for them. The Commission responded that there were no clear, targeted programmes and vision. The Office pointed out that the EE Plan set annual targets, particularly for persons with disabilities. The Office of the Premier did promote employment equity in the province but initiatives around older persons, persons with disabilities and the youth resided with the Department of Social Development. The presenter would chair the provincial EE Forum, to ensure delivery across provincial government departments. The Office would supply a letter from the Director-General, who was chairing a provincial planning meeting, to explain his absence from the hearing. The Commission said a letter of delegation, showing the presenter had been sent in his place, was also required.

Commissioner Shoji said the commission would contact the premier and request a meeting, to deal with the issues arising from the hearing.

1.4 Analysis of the Office of the Premier's compliance

The Commission is disappointed that the Office of the Premier is still lacking in a lot of respects as this office is central, and oversees other departments regarding gender equality, disability integration, and older persons and young people. It is critical that the Office of the Premier set a high standard to all other departments and it is crucial that the Office comply with the EE Act.

With that being said, the Commission will not overlook the fact that there has been progress. In 2011, the Office did not even have an approved EE Plan, but because there was a will on their part, they formulated it and it was approved, this is a step in the right direction. The Commission is also encouraged to note that the Office even went further to establish an EE Consultative Forum.

The Commission is disappointed, though, that men still dominate senior management positions, while women dominate the lower two levels in the tier, the Office does not seem to have a clear, concise strategy on how to achieve transformation in this regard as they indicated in their presentation that the men have been in those positions for long and there will not be change until they leave.

This is defeatist language and should change, the Office should plan and have succession plans in place and women should be groomed to take over these positions.

The Commission is encouraged however, by the fact that the Office's recruitment policies target women and people with disabilities, also encouraging is the fact that the EE representative participates in the short listing and interviewing of candidates, this must mean that more women and people with disabilities will be hired and this should also be the case for women and people with disabilities in senior management positions.

The Commission applauds the Office for incorporating the monitoring and implementing of EE targets in the performance agreements of both the Deputy Director General, who is the Senior EE Manager and the Human Resource Director. It is encouraging that this would also be rolled out to other senior managers.

The Commission recommends that the Office's flexi time policy be finalised. It is encouraging to note that while in 2011 the Office only had one person with a disability, to date they have 9 persons with disabilities, which amounts to 1.28%, although the Office has not reached the 2% target, it is encouraging to see that they took the Commission's concerns and recommendations to heart by engaging Disabled People South Africa in efforts to meet their target.

The Office of the Premier plays an oversight role over all other departments and it is critical that they lead by example, it is also crucial that there be political buy in to the transformation agenda.

2. DEPARTMENT OF ECONOMY AND ENTERPRISE DEVELOPMENT (PREVIOUSLY ECONOMIC DEVELOPMENT, ENVIRONMENT AND TOURISM)

Representative: Moeketsi Sengqhi, Chief Director: Corporate Services

Mr Sengqhi apologised for the absence of the acting HoD, Mr Kunene, and would obtain letters of delegation and apology. The Commission reminded him that the letter of apology should contain reasons for his absence.

It remarked that HoDs in the North West did not respect the Commission's processes, and therefore the promotion and protection of gender equality in South Africa. One would see that arrogance in the way programmes were initiated. The first page of the Constitution referred to equality and human dignity, yet people were undermining it.

2.1 Findings from initial hearing

The previous submission by the department – then the Department of Economic Development, Environment and Tourism – revealed a mixed bag of interventions, with substantial progress in some areas and nothing in others.

The department had an EE Plan in place, and it was submitted to the Commission, but it was under review because the department was undergoing reconfiguration. The objectives of the EE Act were not being met, because of insufficient funding. Efforts would be made to approach associations for persons with disabilities, in order to identify potential employees.

The Corporate Services: Employee Wellness Directorate contained the Gender Focal Person, and was responsible for monitoring and evaluating the EE Plan and gender transformation and for ensuring that EE targets were met.

Advertised posts reflected the department's commitment to representivity, and the preference given to women and persons with disabilities. The department also ensured the

promotion of female middle managers to senior positions. However, the top two management levels (levels 14-15) were occupied entirely by men (four positions), but levels 12 and 13 contained a majority of women (58% of 16 positions and 67% of 12 positions respectively).

Women's upward mobility was supported through application of the Basic Conditions of Employment Act code of good practice on the protection of employees during pregnancy and after the birth of a child, and the DPSA leave policy on family responsibility.

All staff were afforded the opportunity to comment on draft policies. Finalised policies were communicated by email to staff, followed up with employee briefing sessions. Policies in place included recruitment, employment equity and time off for women after giving birth; draft policies included HIV/AIDS, occupational health and safety and sexual harassment.

But the department admitted that nothing had been done to raise awareness around issues of gender equality and discrimination in the workplace. Budget existed for activities and projects targeting gender issues, in the SMME, consumer, liquor, and employee health and wellness budgets.

The Commission requested more information about whether or not EE formed part of senior managers' performance reviews. It commended the department for having 50% representation of females in senior management, but expressed disquiet that the Gender Focal Person was at Deputy Director level, where Director or Chief Director was preferable. Although good progress was being made in terms of gender, it was concerned that little attention was being given to persons with disabilities. It was also unsatisfied at the way flexitime for women was being handled, saying it was at the discretion of senior managers; a proper flexitime policy was important. The Commission was unhappy at the fact that the sexual harassment policy was in draft form, and demanded an approved policy within three months. It was unimpressed that no cases of sexual harassment had been reported, and said an enabling environment had to be created for people to step forward.

2.2 Update

The department indicated that the Department of Economy and Enterprise Development had previously been the Department of Economic Development, Environment, Conservation and Tourism, which was split up. It based its presentation on the Commission's formal questionnaire.

Regarding section 20(2)(a) of the EE Act, the department had improved its statistics regarding persons with disabilities, from 0.3% to 3.1%; it employed five males and females each. In terms of section 24, the Director: Human Resource Management had been appointed to take responsibility for monitoring and implementing EE.

The top and senior management level breakdowns by gender were: one male at level 15, three males and one female at level 14, and two males and six females at level 13. Females, in total, represented 53.85% of these management levels and males 46.15%. However, the

department had no system in place to draw women and persons with disabilities into senior management; most people with disabilities were at the clerical level, but formal training to prepare them for promotion was available.

The person responsible for gender transformation was at level 12, for two reasons: the size of the department and because the provincial co-ordinator was at level 13.

Regarding measures to support women to be able to perform at work and still attend to domestic responsibilities, the department followed the principles of the Basic Conditions of Employment Act.

Unfortunately, the sexual harassment policy was still in draft form: as the department was about to sign off its policy, the DPSA proclaimed a new strategy, forcing the department to amend its policy. This was still being done. The department continually made information universally available, and requested input, by way of its communications unit. There had been no cases of sexual harassment reported (in one instance a complaint was withdrawn), but the department has identified that it needs to create an enabling environment for complainants to come forward. There would also be continuous awareness-raising sessions.

The department had been conducting gender equality and discrimination awareness workshops, and diversity management sessions would be rolled out in the next financial year with the Department of Social Development.

The recruitment policy did not address targeting women and persons with disabilities, but the department was explicit about this in advertising posts. It was working to improve representation of persons with disabilities at middle and senior management levels.

It did not have a budget specifically for gender issues. For gender-related activities to be rolled out, funding was solicited from a respective unit's budget. Successes include the appointment of three female officials at SMS level, one a Chief Director and the others Directors. If budget was available, the department intended providing training for women. It, however, did not have a succession plan or mentoring policies and promotion initiatives in place for women. Where an SMS-level vacancy existed, officials were made to gain the necessary skills and knowledge; female candidates were tested in a formal interview process. Also, the department was finalising a new HR plan, which would address posts for women and persons with disabilities.

The department had the following approved plans: employment equity, recruitment and selection, disciplinary and grievance procedure, employee wellness and staff retention plan/strategy. It relied on the DPSA for its code of good practice and working time, leave and overtime, and induction policies. It used the province's performance management policy. Training and development, sexual harassment and exit interview policies were in draft. There were no uniform and protective clothing, succession plan and career pathing, retirement, emergency work, smoking and substance abuse policies, and the status of an HIV/AIDS policy was unknown.

Turning to disaggregated data for non-SMS employees, the professionally qualified and Deputy Director level positions had 16 African males, 12 African females and one coloured female, none of them persons with disabilities. The skilled technical and junior management levels had 17 African, one coloured and one Indian male, and 10 African and one Indian female; one person had a disability. The semi-skilled and discretionary decision-making levels had 13 African males, 37 African women and one coloured woman, none with disabilities. The unskilled and defined decision-making levels had 21 African and one coloured male, and 57 African women, including four male and five female people with disabilities. There were five male and four female temporary employees.

2.3 Questions and comments

The Commission said everything was in draft form, and people were acting in positions. It was profoundly disappointed that there had been little movement by the department, and said the presenter was not in a position to commit to anything before the Commission.

The Commission said regarding the submission on compliance with the EE Act, HoDs were not serious about EE. They had to make a written apology for their absence even in the public service, and if they in future sent lower-level people to the Commission in their stead, they would be subpoenaed to appear.

It was a shame that the sexual harassment policy was still in draft form. The Commission questioned why training on gender transformation was directed at women only, as transformation was for men as well; also, gender mainstreaming was apparently not part of senior managers' KPAs.

It suggested the department obtain the White Paper on disability transformation, from 1998, to guide it on training and development of persons with disabilities. Disability was no longer a welfare issue, but a developmental issue in a developmental state.

Regarding the outstanding sexual harassment and discrimination policies, the Commission expressed unhappiness and wanted to know when they would be in place. The department was weak on the issue of sexual harassment. It wondered how a department could function without proper policies, such as succession planning, mentoring and promotion, or a human resources plan. South Africa had international obligations regarding protecting workers, such as protective clothing policies. There was no smoking policy – yet the current tobacco products legislation was formulated in 1998. The Commission was not happy at all.

The Commission said the assumption was that the department was a new one, but that was not so – most of the staff were the same as before. This had presented the department with an opportunity to reconfigure its strategy, to accommodate women and persons with disabilities.

It congratulated the department on its SMS-level gender statistics – but, it asked, who took the decisions? The two top layers were almost exclusively male, but there was a pool of six females from which to choose in the third-highest level. It commended the department for

its having increased the representation of persons with disabilities, from 0.3% to 3.1%, but it could go as high as 10%.

The issue of budget remained a problem, the Commission said. If there was no budget for gender transformation, then it would not happen. The Premier of the province should lead the way. Regarding procurement, what was the target regarding women-run businesses, and what budget was there for training such women?

The Commission appreciated that the department adhered to the Basic Conditions of Employment Act regarding family responsibility time for women staff, but averred that women workers would be much more productive if flexitime was in place. Also, gender activities should be incorporated in programmes – and then budget could be allocated for them.

Turning to the hearing process, the Commission said that when a notice to appear was issued in terms of section 12 of the CGE Act, a person who failed to appear could be criminally charged and fined or incarcerated.

The Commission said it was important to understand the economical consequences of women's empowerment, and of the failure to promote it. Its frustration was that the presenter was not able to commit to certain actions on behalf of the department.

Response:

The department thanked the Commission for its comments, which would be communicated back to the HoD. The department would ensure that it complied with the Commission's findings, he added.

2.4 Analysis of the Department's compliance

The Department is still lacking in critical areas. It is encouraging however, that there is over 50% representation of women at management levels, however it is disappointing that at these levels there is no representation of people with disabilities, they are only represented at clerical levels.

The Commission is disappointed that the Department still does not have a sexual harassment policy, it is still in draft form. They indicated that it could not be adopted as the DPSA proclaimed a new strategy forcing it to amend its policy, hence the document still being a draft.

The Commission recommends that the Department approve and adopt a sexual harassment policy as a matter of urgency, the fact that there have been no reported cases of sexual harassment could be due to the fact that people do not have guidelines on how to proceed and are uncertain.

The Commission congratulates the Department for managing to exceed the 2% target of people with disabilities and reaching 3.1%, the Department should share best practice methods in relation to this aspect with other departments.

There is still no flexi time policy as had been recommended by the Commission, the Commission once again encourages the department to adopt one.

The Department still has a long way to go with respect to transformation but they are steadfastly and surely moving in the right direction.

3. DEPARTMENT OF EDUCATION AND SPORT DEVELOPMENT

Representative: Leslie Thapelo Abrahams, of the department's Human Resources management team.

The Commission took a dim view of Mr Abrahams' status within the department.

Mr Abrahams said, upon being questioned, that the HoD, Dr Molale, and Chief Director were unavailable to appear before the Commission because of a DMT activity on the 10 and 11 December 2014. The Commission asked if they thought their other engagement was more important to appearing before it. Mr Abrahams said he would obtain the necessary letters of delegation and apology for the Commission. Asked if he knew the department had been subpoenaed to appear, Mr Abrahams said he had been told that documentation had been sent to the HoD's office, and he was supposed to come and answer questions before the Commission.

The Commission said the previous entity to testify, the Department of Economy and Enterprise Development, had not been subpoenaed and had willingly come to testify before it; that willingness was taken into account when allowing departmental subordinates to testify. However, it would be different with the Department of Education and Sport Development: it had not responded to an invitation to appear, necessitating a subpoena. The Commission could therefore not hear its submission. It would not have the HoD arrested immediately, as it had the power to do, but it would convene another hearing in Johannesburg and he had to appear in person to lead the submission.

If he disrespected that hearing, the Commission would go to the police and make history. It thanked and excused Mr Abrahams, recommending that Mr Abrahams read the CGE Act and its subpoena provisions. The HoD should appear before the commission at the end of January 2015. The Commission would write a letter to the HoD – copied to the Premier and MEC, reflecting its displeasure at the HoD's disrespect for the Constitution.

4. DEPARTMENT OF ARTS, CULTURE AND TRADITIONAL AFFAIRS (FORMERLY THE DEPARTMENT OF SPORT, ARTS AND CULTURE)

Representative: Petite Sebetlela, Special Programmes Manager (Deputy Director level).

4.1 Findings from initial hearing

The department was strongly criticised for not having met its legal obligations around EE and gender transformation.

It began its presentation by explaining its vision and mission statements, and its strategic objectives, which included the promotion of transformation in sports, arts and culture, empowerment of communities and the creation of legal frameworks.

The department had a 2011-2015 EE Plan to enforce gender transformation, monitored by the director of human resource management, and had established an EE Committee to develop programmes that promoted gender transformation. Women and people with disabilities were given preference in selection and recruitment criteria. A Management and Development Programme offered by the department prepared women for senior positions.

A level 11 Deputy Director had been assigned to manage issues and programmes around gender, assisted by two level 8 senior administrative officers. The department used its EE Report to ensure the monitoring and measuring of progress on EE and gender transformation.

The department's policies and standard provincial policies were audited every five years. It did not have a sexual harassment policy, and no cases of sexual harassment had been reported. Policies and procedures were communicated to staff members during in-service training on labour matters.

The department was criticised by the Commission for its lack of compliance with government prescripts, the EE Act in particular. Its EE Plan did not indicate how compliance would be monitored which was essential for it to function.

The department was also falling flat in terms of employing persons with disabilities, especially at senior level, and it was suggested that it amend its recruitment policy and partner with organisations representing the disabled.

The department had nine African males (one a person with a disability), seven African females and one white female at senior management level. The Commission expressed concern that males continued to dominate senior management and females were overrepresented at middle management level, and also that Gender Focal Persons did not enjoy political support. The person responsible for gender transformation was, at Deputy Director level, too junior for the Commission. It also felt that a five-year cycle was too long for reviewing policies, which should be done annually.

On the issue of work and family responsibilities, the Commission said plans were in place, but nothing was being done. A flexitime policy was also needed. The department needed to formulate its own sexual harassment policy, and create an enabling environment for people to come forward with complaints. It needed to communicate policy more often than it did, and consider unskilled workers in its awareness efforts. It needed to be clear on recruitment, training and bursaries, and come up with ways to find suitable women and persons with disabilities. The Commission stressed the need for adequate gender-specific budgeting, the importance of adequate policies, and a dire need for the department to realise its objectives through succession planning for women and persons with disabilities.

4.2 Update

The Commission said it regarded the presenter as a junior employee of her department, but was being allowed to present her submission because her department had not been subpoenaed to appear.

It said a year previously, on 10 October 2013, the report of the previous hearing was launched in North West and given to all stakeholders. The purpose was for them to study it and effect its recommendations. These recommendations were known in 2011 already, when the Commission then wrapped up its hearings at the time.

The Commission also questioned whether the document before the department was a letter from the office of the HoD, or the department's actual submission to the Commission. It would be considered, but it was not a report to the Commission. It was discerned that the Commissioners and the presenter did not have the same document before them, and the department stood down for this to be resolved.

When the department's submission resumed later in the day, it began with an explanation of specific challenges that the department had experienced: it underwent a reconfiguration process in 2014, ending in September, with Traditional Affairs joining the department and Sport moving to the Department of Education. There were still challenges to overcome in relation to this. Also, there was a challenge in finalising composition and statistics for SMS-level staff, and issues with numbers around persons with disabilities and gender composition. The rest of the presentation was structured according to the Commission's findings in 2011.

The format of the department's submission then followed the findings of the 2011 report, providing responses to each criticism and recommendation.

Regarding the lack of compliance with government prescripts, in particular the EE Act, the department had an approved EE Plan, which had to be changed when the department was reconfigured. It was benchmarking with the Office of the Premier regarding implementation of the EE Act, and the Women Manager's Forum plan of action of the HoD's 8 Principles Regarding Gender Equality and Women Empowerment.

The departmental recruitment policy was to be reviewed by the end of March 2015, which would make it easier to employ persons with disabilities. The Human Resources Manager, a Mr Mpuisang, had been appointed as the EE Manager and it had been recommended that an EE performance indicator be included for all managers, in order to enforce EE implementation. Males still dominated senior management levels, with 15 males and seven females, and no persons with disabilities; the department wished for the political will to address gender equality issues, especially in senior management.

The Special Programmes Unit worked with other directorates on various advocacy and campaign activities, and the submission contained a list of strategies that included various forums, events, training and seminars and the bursary policy. The unit was established to deal with gender issues, with a manager at Deputy Director level, and the HRD manager

was designated to enforce the EE Plan; there was a need for the two units to co-operate better in order to achieve gender transformation.

The department embarked on an internship programme in 2013-2014 with DPSA for persons with disabilities, and a programme for visually impaired library assistants. The challenge was that they were contract workers; the department needed to employ them permanently. A Disability Forum had been established, and officials with disabilities had developed a plan of action for empowering persons with disabilities. Only once the outstanding transfer of Traditional Affairs personnel into the newly configured department was finalised, could a full gender and disability audit be done and measures taken to support persons with disabilities.

The department had established the post of policy and research manager, and existing policies had been reviewed with relevant managers. They and new policies would be reviewed again within two to three years, instead of five years as before.

Disaggregated data for non-SMS staff showed that females dominated in levels 2-7, but males dominated in levels 8-12. In total there were 363 female staff members, and 282 males. Child facility and flexitime policies for mothers had been discussed and committed to. Leave forms had been amended to allow men and women to take hours off for domestic matters.

While the department did not have a sexual harassment policy in 2011, one was approved in 2014 following consultative workshops with all employees; it was available on the intranet and in hard-copy form. No cases of sexual harassment had been formally reported, due to victims withdrawing complaints. However, staff better understood what sexual harassment was, thanks to workshops; both genders were encouraged to lodge complaints.

Regarding recruitment of women and persons with disabilities, the department relied on the national recruitment policy. The 2% disability target was still not reached, but this would be finalised once the department was fully reconfigured.

It was a problem to separate gender budgeting from the Special Programmes budget, which was intended for all vulnerable groups. It was difficult to do so, and the department needed assistance in this regard.

Departmental successes included the appointment of a woman as Director: Supply Chain Management, the appointment of a hearing-impaired woman for its sign language programme, and the approval of the following policies: sexual harassment, bursary, special leave, HIV/AIDS, STDI and TB in the workplace, occupational health and safety, grievance, monitoring, staff retention, and evaluation and performance management.

Challenges included a poor attitude to gender and disability issues, lack of implementation of the HoD's 8 Principles For Gender Equality And Empowering Women, poor commitment to employment equity for women and persons with disabilities, the level of the Gender Focal Person and the location of the Gender Co-ordinating Unit in the Office of the MEC, and senior managers not attending all policy workshops and training.

Gender mainstreaming training was done quarterly, as well as disability management training, by the National School of Government.

A staff retention policy had been approved and targeted women and persons with disabilities, but there were challenges in its application and it needed an improved approach.

The submission concluded by saying the reconfiguration of the department had led to improved communication and application of policies, but programmes for gender equality and transformation, as well as for empowering women and persons with disabilities, needed to be integrated better. Most importantly, political will and buy-in from senior managers was needed.

4.3 Questions and comments

The Commission applauded the department for its honesty with the Commission, saying the departmental reconfiguration had taken it backwards, to pre-2011 levels.

The Commission asked if officials should be penalised for non-compliance, or if there was a deeper disease: a lack of political commitment and will to EE and gender transformation. Until there was enforceable policy, nothing could be done to remedy the situation. The reconfiguration had confused everyone.

It commented that the department was the picture of doom and gloom. Reconfiguration did not mean losing institutional memory; people in the department were not serious about transformation. A problem it had with the department's report, other than that persons with disabilities did not feature, was that the presenter herself had had to craft it rather than the managers responsible for its contents.

The EE targets were also not being met, and the Commission thought the managers did not care about this; this was a bad reflection on the department. When the department decided on a Gender Focal Person, it took no cognisance of the Constitution or the law, which clearly states the level at which a Gender Focal Person should be; on top of this, where was the department's allocation? Regarding policies, the Commission said that the department's statements sounded like a broken record, with policies still not approved and at draft stage.

It said it had nothing positive to say and did not know how the Commission could intervene, but felt the HoD – whoever he is – should be pinned down in terms of the CGE Act. The situation was unacceptable.

Response:

The department responded by raising the issue of political will. The HoD had been in his position for five months, and had been driving the women agenda. The challenge came in making appointments: recommendations were made, but the MEC made decisions as the political head of department.

There had been two sexual harassment complaints, but both were withdrawn by the complainants.

The Commission asked if the presentation had been shared with the HoD; the reply was that it had. The Commission felt it necessary to call the HoD to account, as the presentation was full of inconsistencies, challenges and problems about which the presenter could do nothing. Therefore, the Commission would subpoena the HoD to appear before it in January 2015 along with other defaulters, and the Commission asked the presenter to convey this information to him, and that he would be required to make a presentation to the Commission.

4.4 Analysis of the Department's compliance

This Department has failed to comply with the EE Act. The presentation was crafted by the Deputy Director and not the HoD himself and it was full of inconsistencies and challenges that the presenter could do nothing about.

The HoD would be subpoenaed to appear before the Commission and make a presentation.

5. DEPARTMENT OF PUBLIC WORKS AND ROADS

Representative: Mmabatho Mfikwa: Deputy Director .

Asked if she was the HoD, she replied that she was not, nor did she have a letter of delegation from the HoD. She had been asked by the HoD, who was in a meeting with forensic auditors appointed by the Premier, to attend the hearing.

She had been asked the previous day to attend the hearing, but the HoD had neither written a letter of delegation nor a letter of apology to the Commission. She did know that the HoD had been subpoenaed and what the consequences of failing to obey the notice were, as the department had also been subpoenaed in 2011.

The Commission said that it was its view that it was being disrespected by the department, for the second time. The HoD had not had the decency to write back to the Commission, to explain why he could not appear before it. The Commission would write to the HoD, copying the MEC and Premier, to explain the issues and subpoena him to appear before the Commission in Johannesburg in January 2015. Ms Mfikwa was excused.

6. DR RUTH SEGOMOTSI MOMPATI DISTRICT MUNICIPALITY

Representative: Zebo Tshetlho, Municipal Manager

6.1 Findings from initial hearing

The municipality had a rocky experience at the 2011 hearing, and had at the outset had to defend itself when asked why it had ignored a questionnaire sent to it, and was then subpoenaed. The explanation given was that there had been an internal miscommunication, and there had been no intention of not attending the hearing.

The municipality testified that it had developed an EE Plan early in 2011, and in April 2011 received feedback from the Department of Labour on the document. The final draft was due to be approved by council in November of that year.

Senior management makeup was almost entirely male: the municipal manager and six of the seven senior managers accounted for a total of 89%. However, at managerial level there were more women. The municipality had appointed Ms Koketso Mothibi to be responsible for Special Programmes, with a budget allocation of R100 000 located in the office of the executive mayor.

The Commission criticised the municipality for having an EE Plan in place, but not having employed a single person with a disability; this was tantamount to it being in breach of the EE Act, and it needed to urgently remedy the situation. The municipal manager had to engage with the municipality's political heads to ensure that objectives were met; it had identified the problems, and the time had come to identify solutions. EE had to be built into all managers' performance agreements, in order for compliance with the EE Plan to be monitored.

The Commission was concerned that out of eight senior managers, only one was female (and the presentation had noted five African males, not four); recruitment had to follow the EE targets, and advertisements had to note target groups such as women. But it commended the municipality for having appointed someone to oversee gender transformation, taking this as a sign that it took the matter seriously. The Commission was also concerned that while the municipality was doing well in terms of addressing issues of race, it was not doing that well in terms of gender equality and disability.

It recommended that the municipality adopt a flexitime policy to improve working conditions for women. Policy workshops needed to be held more frequently, in order for messages to be understood well. It was unacceptable for the municipality to say there were no cases of sexual harassment, given its pervasiveness in society; it had to do more to bring the issue to the fore, and create a climate conducive for people to make complaints. The municipality also had to explain what interventions it envisaged for recruiting more persons with disabilities, train staff and allocate bursaries.

The Commission commended the municipality for having a gender mainstreaming budget, but said it was insufficient. The municipality, and Municipal Manager in particular, needed to secure political buy-in in order to generate additional budget allocation for gender transformation.

Policies in draft format included EE, recruitment and selection, and funding of local economic development projects (business enterprises). Approved policies included a code of good practice, training and development, employee wellness programme, staff retention plan/strategy, HIV/AIDS policy, sexual harassment, acting allowance, vehicle allowance, leave and overtime, induction, internship, performance management and relocation. Succession planning/career-pathing and retirement policies were not available, and the status of a disciplinary and grievance procedure and a uniform/protective clothing policy was unknown.

6.2 Update

The municipality's presentation followed the format of the questions for the 2011 hearing and included information on the status then and the current situation.

Whereas in 2011 the municipality's EE Plan was under review by the Department of Labour, so too was the 2014 EE Plan; the latest plan was approved by council on 26 June 2014. But the municipality continued to struggle with fulfilling the requirements of section 20(2)(a) of the EE Act, citing the same issues as before: the municipality's geographical location, a shortage of skills, political deployment, a rigid organisational structure and SALGA salary guidelines; a fresh challenge was the recent CoGTA regulations on the remuneration of municipal and senior managers. Responsibility for monitoring and implementing the EE Plan, in terms of section 24 of the EE Act, had been assigned to the senior manager for Corporate Services, and EE was being integrated into senior managers' performance agreements.

In 2011, senior management consisted of eight males (five African, two white and one Indian) and one female (African); in 2014, this had shifted to five males (three African, one coloured and one Indian) and four females (all African). As in 2011, none were persons with disabilities. The 2014 EE Plan laid out clear numerical goals for the following five years. Mrs Koketso Maje (formerly Ms Mothibi) remained responsible for gender transformation, and occupied a managerial position. Additionally, the EE committee – as in 2011 – was empowered to track EE implementation regarding women and persons with disabilities.

Regarding policies, they were reviewed and approved on 28 August 2014; copies had been provided to the Commission. Policies were reviewed annually, or as needed, such as the recruitment policy that was amended to incorporate the EE Amendment Act and adopted by council on 4 December 2014.

Disaggregated data for non-SMS staff (but including top and senior management data for 2014) added to the information above about top management. Additionally, there were six African females in senior management, as well as one coloured and one white woman; there were 14 African men and four white men in senior management. In total, the municipality employed 192 people: 95 African males and 75 African females, six coloured males and two coloured females, one Indian male and female each, and seven white males and five white females.

In terms of supportive measures for women so that they can attend to domestic responsibilities, the status quo remained that all employees were allowed time off for this purpose upon request.

The sexual harassment policy had, with others, been reviewed and adopted on 28 August 2014. Employees regularly attended workshops about it, and policies were available in both electronic and hard-copy formats. Two cases of sexual harassment had been registered since 2011, and both had been resolved internally; the council had copies of declarations by the parties, admitting their actions and apologising.

The municipality raised awareness of gender equality and discrimination in various forums: departmental meetings, policy workshops and trade union constituency meetings. The recruitment policy specifically provided for preference for women and persons with disabilities. The municipality's 2011 budget of R100 000 for gender mainstreaming, had increased to R175 000 in 2014. A notable success for the municipality was that council was fully supportive of gender transformation; for example, eight women had been employed in the past two months.

The municipality was the beneficiary of capacity-building programmes to promote gender transformation, implemented in the province by SALGA North West. Its recruitment and selection policy adhered to the amended EE Act in respect of policies, plans and initiatives to advance women and persons with disabilities. Its supply chain management processes gave preference to EE suppliers.

Regarding EE in general, the municipality reiterated its overriding challenges in meeting its obligations: its remoteness and lack of amenities, a shortage of skills, a rigid organisational structure, and SALGA and CoGTA salary guidelines for senior managers. The Commission asked why another reason in its copy of the presentation – political deployment – was being omitted; the municipality said it was no longer in the presentation.

The municipality had established an EE Committee that tracked implementation, met quarterly and reported regularly to council. Unfortunately, however, financial constraints meant that the gender mainstreaming budget was restricted to R175 000.

6.3 Questions and comments

Mr Tshetlho was joined at the podium by the municipality's Senior Manager: Corporate Services, Ms Dorcas Dambuza.

The municipality received a generally favourable review for the strides it had made in the past three years, with a few exceptions. Where it had been severely criticised in 2011 for its failures, it was recognised for having taken action in terms of EE and gender transformation.

The Commission likened the municipality's presentations at the 2011 and 2014 hearings to apples and potatoes, and said it had made giant leaps in accommodating the gender agenda. It pointed out, however, that whites, coloureds and Indians – minorities – should not be left out of the EE mix. It asked to whom Mrs Maje reported, because in some municipalities that function fell under the Speaker's office, and whether or not she participated in decision-making. It was good that policies were reviewed annually. It noted that budget had been allocated to gender, and gender was accommodated in other cost centres.

The Commission recommended making contact with organisations such as Disabled People South Africa, the Blind Society and Deaf SA, which have databases of persons with

disabilities and their qualifications, in order to find suitable candidates for employment. It requested that the municipality provide statistics showing what percentage of supply chain management spend and IDP budget goes to women suppliers.

It pointed out that the problem of a rigid organisational structure had to be managed on a municipal level, yet it was an issue that persists. It asked if the municipality and its districts had women's caucuses.

The Commission said the example of flexitime given in the presentation was not enough. The municipality should have a policy in place, as it was important not to depend on the whims of an individual manager; people came and went, but institutions did not. It asked if there was a succession policy in place to advance women. The senior positions held by men were critical and substantive – it was no accident that such posts were invariably held by men.

Noting the R175 000 gender mainstreaming budget, the Commission asked if there were programmes in place. What were their intentions, and what was their thinking? Sometimes programmes ended up “male-streaming” instead of mainstreaming.

This municipality had been a boys' club at the 2011 hearing, the Commission said, and it asked what it had done to change itself so that others may learn from its example.

It had an issue with why it took the municipality so long to adopt its EE plan, from 2011 to 2014. It asked the municipality to reveal the entire budget, including grants, and then reflect as a percentage what the gender mainstreaming budget represented. Turning to the 2014 statistics, the municipality needed to recruit more females and persons with disabilities at lower employment levels, not just in top management, and achieve gender parity on the semi-skilled and skilled levels.

The Commission asked if the municipality was supporting the SALGA Women's Commission and how, as the Commission was interested in its work. It asked the municipality's sense of gender equality in the municipal districts: how many women councillors were there, and Standing Committee chairpersons? The Commission added, was the MMC for Economic Development or Finance male or female? The municipality replied that the MMC was female.

Response:

The municipality thanked the Commissioners, and responded to the questions in turn:

- The person responsible for gender transformation, Mrs Maje, was now located in the Executive Support Department, under the Executive Mayor's authority
- The municipality noted the recommendation to engage with organisations representing persons with disabilities

- The last slide in the presentation noted that there were three persons with disabilities employed by the municipality. Two were managers
- The municipality did not capture data around who benefited from supply chain management in terms of gender, but its system was being changed to do this
- It took note of the advice regarding flexitime, and would see that it was incorporated in future
- It believed that every Municipal Manager in South Africa would be foolish not to take succession planning into account. Very few municipal managers completed their term of office, which was a fact. The Municipal Manager always ensured that he appointed colleagues, especially women, to act in his place when he was out of the office; there was no succession plan, but in practice this supported the concept of succession
- The municipality's Chief Financial Officer was a woman
- Regarding how senior management had been so radically transformed in three years, three male senior managers' contracts came to an end and were not renewed. Capable women were appointed in their places. A woman left, and a coloured male was appointed in her place
- The R175 000 gender mainstreaming budget was for special programmes and projects; the municipality could provide a document reflecting them
- Flexitime formed part of the leave policy and could be applied irrespective of the manager, but this could be looked into
- Regarding succession planning, it could be difficult because senior management posts must by law be advertised externally. The municipality requested the assistance of the Commission into looking into amending the legislation, to enable succession planning from senior management level
- The time taken to conclude the EE Plan was indeed long, but there were delays while assistance was received by the Department of Labour and in obtaining council approval
- The municipality supported the SALGA Women's Commission, and one of the councillors was a commissioner
- The council had six portfolio committees, three each chaired by men and women
- The percentage of the total budget that was allocated to gender transformation had to be checked, but the overall budget was R455-million

The Commission said that when talking about gender, the municipality should always ensure that gender issues were never left out of municipal issues. Even when roads were constructed, gender issues should be a part of it – gender mainstreaming should be in

everything that was done. There was a lot that could be done. It also suggested that out of a total budget of R455-million, even R1-million for gender issues was possible. It thanked the municipality for respecting the Commission's processes.

The Commission also raised the question of reasonable access for persons with disabilities, and asked if this was an issue for staff with disabilities.

It remarked that the three persons with disabilities made up around 1.5% of staff, which was not far from the 2% target, and it encouraged the municipality to do better.

The municipality said in terms of reasonable access, it had slightly improved by constructing a wheelchair ramp into its main offices, but it was still an issue for persons with disabilities to access the upper floors. Constructing a lift in a building older than 100 years was not an option, it said. Specific provision would be made in future budgets for this issue. The Commission responded that issues of access and reasonable accommodation was important. It further suggested having a Braille copy of the IDP in the municipal library.

The municipality thanked the Commission for its suggestions.

6.4 Analysis of the Municipality's compliance

The Commission is happy to see that there is political buy in, in this municipality and it is encouraging to note that council supports gender transformation.

The Commission has seen a marked improvement from the 2011 situation when the municipality was non-compliant with government prescripts. Women representation at senior management has improved but the Commission notes that the municipality has not reached its 2% target for people living with disabilities, at 1.5%, they must strive to reach it.

The municipality's working relationship with organisations assisting and dealing with people with disabilities should be strengthened and strategic measures should be put in place to attract more people with disabilities.

While the Commission understands the municipality's view that their building is not fully accessible to people with disabilities as it is over a hundred years old, this cannot be used as an excuse, active measures should be put in place to accommodate people with disabilities, municipalities are the hub of service delivery and not providing access to people with disabilities is tantamount to denying them service.

The Commission would also like to commend the municipality for ensuring that their supply chain systems prefer EE suppliers.

The Commission notes, however, that there is no policy on flexi time and would like to encourage the municipality to have a policy so that flexi time is not at the discretion of an individual.

7. BOJANALA PLATINUM DISTRICT MUNICIPALITY

Representative: Ntsoaki Khiba, Director: Corporate Support Services

Ms Khiba was asked if she was aware that the Municipal Manager had been subpoenaed to appear before the Commission, to which she replied that she had. Asked if she had seen the subpoena, she replied in the affirmative.

The Commission told Ms Khiba that her Municipal Manager would have to appear before the Commission to be scolded, and she would not be allowed to make her presentation. She was to return to her Municipal Manager and tell him that the Commission felt disrespected, as it had subpoenaed him and he did not communicate with it. In his place at the hearing was Ms Khiba, who was not known to the Commission.

The Commission said it would write to the Municipal Manager, and copy in both the mayor and the MEC, to explain the situation. He would be called again to testify in person before the Commission in January 2015.

It then released Ms Khiba, who said she would relay the comments to the Municipal Manager.

8. NGAKA MODIRI MOLEMA DISTRICT MUNICIPALITY

The Ngaka Modiri Molema Municipality failed to attend the hearing.

The Commission asked its legal department to confirm whether or not a notice had been sent to the municipality, when this was done, and what its response was.

It was confirmed that an invitation had been sent to the municipality to attend the hearing on its original date of 3 December 2014, but it did not respond. A subsequent notice to appear was sent for the 10 December 2014 hearing date, and again there was no response. Efforts to call the municipal offices had proved fruitless, as they were never returned. The sheriff had served subpoenas on several entities, and proof of this would be provided the following week.

The municipality had also been subpoenaed after it failed to appear at the 2011 hearing, and it was invited to the 2013 hearing report launch last year but also failed to attend that event.

The Commission adjourned the hearing for a few minutes to allow the Commissioners to decide on a course of action. When they returned and the hearing resumed, the Commission said it had been informed that the municipality had been de-established and was under administration. The assumption could be made that the municipality was in a state of disorganisation. The Commission would thus establish the municipality's current status, and get the CGE national office to engage with the relevant accounting officer. It could not even say who the correct person would be to arrest, for failing to heed the Commission's subpoena.

9. SIZWE NTSALUBA GOBODO INCORPORATED

Representative: Melusi Kubheka, Senior Manager: Human Resources.

Mr Kubheka expressed concern at the presentation that he had submitted to the Commission the previous day. He had written to the Commission the previous week, requesting not to appear at the hearing, as there had been confusion around the serving of the notice to the company. It had been served at the company's Mahikeng office and to the wrong person, and it only reached head office in Johannesburg the previous week.

He also had no background on what had transpired in the company since 2011; the people who had represented the firm in 2011, had left the firm in the interim. When he approached the Commission, he was told two days before the hearing that he had to appear. He had to quickly put together a presentation to submit the day before the hearing, but it did not reflect the questions being asked of all the entities before the Commission. He therefore requested that the firm be allowed to prepare properly, and the CEO would appear before the Commission in Johannesburg in January 2015.

The Commission adjourned proceedings briefly so that the Commissioners and their legal team could discuss Mr Kubheka's request. It said the Commission was not responsible for the company's lack of internal communication, and failure to pass the notice to appear to the correct person.

After a short adjournment, the Commission said it had decided to grant the request – but the company's CEO would be subpoenaed to testify in person. Mr Kubheka said the CEO was Mr Victor Sekese, based at the company's head office in Woodmead, Johannesburg. The Commission said he should appear with the CGE questionnaire given to all the entities before the Commission, and Sizwe Ntsaluba Gobodo Incorporated's previous report would be supplied to him.

CLOSING REMARKS

The Commission paid tribute to Commissioner Shozi, saying it was humbled under the leadership of a progressive young man. It expressed gratitude to Commissioner Botha, saying he had been articulate on how to observe best practice, and be introspective. He had raised EE compliance and gender transformation, and what he had referred to as the three elephants in the room – gender inequality, gender-based violence and racism – as well as sexual harassment. It thanked Ms Johnson for the summary of the previous hearing and its findings, and the entities that had appeared before the Commission.

It was very important to examine municipalities, because that was the level of government where service delivery happened. It was sad to hear that one of them (Ngaka Modiri Molema District Municipality) was under administration.

It said it was very impressed that Mr Zebo Tshetlho, the Municipal Manager for the Dr Ruth Segomotsi Mompati District Municipality, had come to testify in person. A lot of intervention and improvements could be seen; serious challenges remained, but the political will to deal with them was there.

Globally, a lack of compliance emerged – with legal frameworks, and regional and international instruments; there was even ignorance of the National Gender Policy Framework. Regarding policies, the matter of many being in draft or under review became a familiar refrain among the entities appearing before the Commission; also problematic were Gender Focal Persons not properly placed and not at the right level, as well as the reconfiguration of departments.

While serious challenges remain with institutions in the North West Province in relation to transformation, the Commission also acknowledges the strides that the various entities have taken to comply with the EE Act. The Office of the Premiers is a critical office and should offer best practice models to other departments. There were serious challenges and lack of compliance by the Office of the Premier in 2011, but there have been significant improvements and successes. Challenges are still there but the Commission appreciates the efforts taken by the Office to achieve transformation.

There is a serious problem with political support in the province. There is a lack of political will and this hampers transformation, be that as it may, the province is slowly but surely moving in the right direction. Entities must approach those who have best practice models like the Dr Ruth Segomotsi Mompati District Municipality, which has seen remarkable progress in their transformation efforts.

The Commission once again reiterated its commitment to seeing gender transformation in society and indeed its commitment to working together with all entities to ensure that the transformation agenda is pushed forward.

A way had to be found to share the Commission's reports with the various entities, such as on how to usher in a paradigm shift on Gender Focal Persons. Another problem was the lumping together of gender with other transversal issues.

Outstanding documents and policies should be submitted to the Commission within seven days, it said. The Commission would subpoena the HoDs and Municipal Managers who had failed to appear before the Commission, with letters copied to MECs and the Premier; the Commission was being undermined, but it had resolved to flex its legal muscles.

The Commission had to monitor the business sector and subpoenas would be issued there as well, and it called on CEOs to approach the Commission.

It thanked the North West Commission staff for their work and also praised Ms Van Niekerk, who had attended the hearing despite serious family responsibilities.

It finally thanked those present, saying that as they had learned from the Commission, it had learned from them. It wished them a peaceful and safe festive season.

The Commission concluded by calling on everyone to be partners with it, and shared the Commission's complaints number for people to report issues. It again praised Commissioner Shozi as a leader par excellence, who had led the Commission to better days.



Commission for Gender Equality

A society free from gender oppression and inequality

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