

# FINAL REPORT: INVESTIGATION INTO THE STATE OF SHELTERS

## 2022/2023



Commission for Gender Equality  
A society free from gender oppression and inequality



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## ACRONYMS

<b>CGE</b>	Commission for Gender Equality (also referred to as “the Commission”)
<b>CGE Act</b>	Commission for Gender Equality Act 39 of 1996
<b>CHC</b>	Community health clinic
<b>CP</b>	Consumer Price Index
<b>DHS</b>	Department of Human Settlement
<b>DPW</b>	Department of Public Works
<b>DPWI</b>	Department of Public Works and Infrastructure
<b>ECDSD</b>	Eastern Cape Department of Social Development
<b>EMS</b>	Emergency medical services
<b>FET</b>	Further Education and Training
<b>FSDSD</b>	Free State Department of Social Development
<b>GBV</b>	Gender-based violence
<b>GBVF</b>	Gender-based violence and femicide
<b>GDCS</b>	Gauteng Department of Community Safety
<b>GRIP</b>	Greater Rape Intervention Programme
<b>LGBTQIA+</b>	Lesbian, gay, bisexual, transgender, queer/questioning, intersex, asexual, and more
<b>MOU</b>	Memorandum of understanding
<b>NASHO</b>	National Association of Social Housing Organisations
<b>NAWONGO</b>	National Association of Welfare Organisations
<b>NDSD</b>	National Department of Social Development
<b>NDOH</b>	National Department of Health
<b>NGO</b>	Non-governmental organisation
<b>NHI</b>	National Health Insurance
<b>NPA</b>	National Prosecuting Authority
<b>NPO</b>	Non-profit organisation
<b>PFMA</b>	Public Finance Management Act
<b>PHC</b>	Primary health clinic
<b>PWD</b>	Persons with disabilities
<b>SAPS</b>	South African Police Service
<b>SLA</b>	Service level agreements
<b>VEP</b>	Victim Empowerment Programme



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## 1. INTRODUCTION

The Commission for Gender Equality ("the Commission") is mandated to promote and protect gender equality in government, civil society, and the private sector.

The Commission resolved, in line with its mandate, to conduct a systemic investigation into the state of shelters in South Africa in the 2018/2019 financial year following the receipt of several complaints from victims of gender-based violence (GBV). The victims used the services offered by various shelters and experienced secondary victimisation during their stay at the shelters.

During the investigation, the Commission unearthed various issues in the administration of shelters in South Africa by the relevant stakeholders. From this, the Commission made various findings and recommendations aimed at creating a healthy, enabling environment free from harassment, indignity, secondary victimisation and inequality.

This report summarises the Commission's investigation into the state of shelters in South Africa and provides successes and challenges in the implementation of the recommendations of the Commission's 2018/2019 report.





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## 2. FREE STATE DEPARTMENT OF SOCIAL DEVELOPMENT (FSDSD)

### 2.1 BACKGROUND

The Free State Department of Social Development (FSDSD) appeared before the Commission on 2 December 2019.

The Commission found that the number of shelters in the province was insufficient to serve the population of the Free State. The Commission also found that the FSDSD failed in implementing the *National Association of Welfare Organisations and Non-Governmental Organisations and Others vs the Members of the Executive Council for Social Development, Free State and Others*<sup>1</sup> judgment (“the NAWONGO judgment”).

Pursuant to its initial appearance, the FSDSD agreed with the Commission's observation regarding the number of shelters in the province and pledged to establish a shelter in the Xhariep District.

The FSDSD further conceded that it failed in its implementation of the NAWONGO judgment and indicated to the Commission that additional funding was equitably earmarked for the shelters within the province. The additional funding ensured the progressive realisation of shelters as contemplated in the NAWONGO judgment.

Pursuant to the appearance of the FSDSD, the Commission made the following recommendations:

1. The FSDSD was to provide further information on the costing model used for the establishment of the shelter in Xhariep for the 2020/2021 financial year.
2. The FSDSD was to report to the Commission on its implementation of the NAWONGO judgment.
3. The FSDSD was to provide clarity on the remaining shelters in terms of funding sought from the FSDSD.
4. The FSDSD was to conduct an internal audit on the current number of shelters operational within the province versus the need for more shelters.

### 2.2 PROGRESS AND DEVELOPMENTS


Regarding the recommendation that the FSDSD should report on its costing model for establishing a shelter in the Xhariep District, the FSDSD confirmed that it would establish a shelter in the Xhariep District and in the Fezile Dabi District.

After a lengthy process to secure a building for the establishment of the shelter in the Xhariep District, a house was allocated by the Department of Public Works and Infrastructure (DPWI) in Gariep Dam in February 2022. The Gariep Dam house allocation placed the FSDSD in a difficult position as the financial year was ending, and the FSDSD had not earmarked Gariep Dam as the targeted area for the intervention of a functioning shelter.

During a departmental strategic planning session in March 2022, the management collective determined that Jacobsdal would be prioritised for the establishment of the shelter in Xhariep District, considering the increased prevalence of substance abuse, domestic violence and related health conditions arising from alcohol abuse. The management collective also noted that Gariep Dam was not initially identified by the FSDSD but was imposed by the convenience of the donation of the house by the DPWI.

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<sup>1</sup> [2010] ZAFSHC 73.



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The FSDSD confirmed that the house in Gariiep Dam would be used as a community service centre to implement social behaviour change programmes, and the shelter earmarked for the Xhariep District will be in Jacobsdal. The FSDSD further confirmed that the National Department of Social Development (NDSD) was informed of the decision taken by the management collective.

The Xhariep District Municipality is the largest district in the Free State and is geographically situated in the southern part of the Free State. The district is located in a semi-arid region with a dispersed settlement pattern and is known as a place of endless space and vast tracts of sheep and cattle farmland.<sup>2</sup>

In 2020, the Department of Cooperative Governance and Traditional Affairs recorded that 41.9% of the district was below the lower poverty level, and 53.3% was unemployed. These factors typically contribute to an increase in the rate of substance abuse, which in turn is an unintended catalyst for domestic violence.<sup>3</sup>

Prior to the publication of this report, the Commission became aware of a shelter established in Koffiefontein through a media release from the desk of the Minister of Public Works and Infrastructure.<sup>4</sup> Koffiefontein is located in the Xhariep District. The media release confirmed that the DPWI had handed over the refurbished building to the FSDSD to assist in providing a safe harbour for victims of GBV.

Although this information is not in line with the information submitted by the FSDSD, the Commission commends the FSDSD for its efforts in the establishment of a shelter in the Xhariep District.

In its progress report to the Commission, the FSDSD reported funding for the Sasolburg shelter in the Fezile Dabi District. The FSDSD stipulated that this shelter would be operational in August 2022. The Commission became aware, through independent news reports, that the Member of the Executive Council (MEC) opened the shelter in Sasolburg for the FSDSD and the Premier of the Free State province.<sup>5</sup>

Additionally, the FSDSD reported to the Commission that the extension to the Goldfield shelter in Welkom, located in the Lejweleputswa District, was completed in March 2022. The Minister for Social Development and the MEC for FSDSD officially opened the new extension of the Goldfield shelter in April 2022 during the Presidential Imbizo, which visited the Free State, to ensure monitoring of the implementation of the district model.

Lastly, the FSDSD reported that the shelter in QwaQwa, located in the Thabo Mafutsanya District, was allocated funds for the completion of construction of the new building to bring it to operational standards. This shelter was to be launched in August 2022. The Commission became aware through independent news reports that the MEC for FSDSD opened the QwaQwa shelter on 31 August 2022.<sup>6</sup>

The Commission applauds the FSDSD for its efforts in establishing additional shelters in the province. With the Commission's initial observation that the number of shelters in the province was insufficient and the notable efforts of the FSDSD to progressively address this observation, more vulnerable persons and victims of GBV will be able to access services throughout the Free State.

In response to the request for a progress report on the status of the implementation of the NAWONGO judgment, the FSDSD submitted to the Commission only the budget allocations in respect of each district in the Free State. The budget allocations are noted in Tables 1 to 4.

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<sup>2</sup> [https://www.cogta.gov.za/ddm/wp-content/uploads/2020/07/District\\_Profile\\_Xhariep-1.pdf](https://www.cogta.gov.za/ddm/wp-content/uploads/2020/07/District_Profile_Xhariep-1.pdf) (Accessed on 29/01/2023).

<sup>3</sup> Note above.

<sup>4</sup> <https://www.gov.za/speeches/minister-patricia-de-lille-handover-shelter-gender-based-violence-victims-8-dec-2022-0000>.

<sup>5</sup> <https://www.ofm.co.za/article/centralsa/317909/another-shelter-launched-for-gbv-victims-in-free-state>.

<sup>6</sup> <https://www.ofm.co.za/article/centralsa/317934/-bethlehemweek-new-gbv-shelter-opened-in-eastern-free-state>.

**Table 1: Mangaung Metro District**

Municipality	Town	Bed capacity	Allocation 2021–2022	Allocation 2022–2023
Mangaung	Wepener	10	R 542 676	R 629 692
	Bloemfontein	10	R 593 884	
<b>Subtotal</b>	<b>1</b>	<b>10</b>	<b>R 988 849</b>	<b>R 629 692</b>

**Table 2: Thabo Mofutsanyana District**

Municipality	Town	Bed capacity	Allocation 2021–2022	Allocation 2022–2023
Maluti–A–Phofung	QwaQwa	14	R 434 602	R 801 774
	Bethlehem	8	R 597 643	R 702 569
<b>Subtotal</b>	<b>2</b>	<b>22</b>	<b>R 1 032 245</b>	<b>R 1 597 449</b>

**Table 3: Leleweleputswa District**

Municipality	Town	Bed capacity	Allocation 2021–2022	Allocation 2022–2023
Matjhabeng	Welkom	32	R 500 000	R 894 880
Nala	Bothaville	28	R 600 000	
<b>Subtotal</b>	<b>1</b>	<b>32</b>	<b>R 1 100 000</b>	<b>R 894 884</b>

**Table 4: Fezile Dabi District**

Municipality	Town	Bed capacity	Allocation 2021–2022	Allocation 2022–2023
Fezile Dabi	Sasolburg	7		R 939 005
<b>Subtotal</b>	<b>1</b>	<b>61</b>		<b>R 4 058 030</b>

The information provided to the Commission does not include disaggregated data on the percentage of the allocation to each district compared to the total budget available. Therefore, the Commission cannot make a meaningful analysis of whether the above budget allocations are sufficient to ensure the effective rendering of services within the province.

The FSDSD confirmed that it is committed to the implementation of the NAWONGO judgment based on the departmental budget allocations. The FSDSD indicated that priority is given to the 11 must-have services based on the primary legislative instruments for social development.

It is imperative to note that the NAWONGO judgment arose from the Free State province. It accentuates funding provided to non-governmental organisations (NGOs) and non-profit organisations (NPOs) from the treasury of the NDS to provide social services on behalf of the FSDSD. The judgment noted that there were 1 400 NPOs that were being funded by the FSDSD, and the FSDSD openly acknowledged that these NPOs played a vital role in the delivery of social services throughout the province.



The continued failure of the FSDSD to ensure that a funding model is developed and implemented puts the NPOs and NGOs that provide social services in the province in a precarious position. The precarity is due to NPOs not being assured that they will receive consistent and adequate funding to ensure that they can function optimally.

In relation to the recommendation that the FSDSD complete an audit of the number of shelters within the Free State, the FSDSD confirmed to the Commission that the safe house in the Mangaung District did not apply for financing as a safe house but as a shelter for the 2022/2023 financial year. The application was submitted but was not completed correctly, so funding was not allocated or approved. The FSDSD indicated that funding for the shelter in Bothaville was suspended pending intervention to address compliance and accountability issues.

Upon the publication of this report, there was no confirmation from the FSDSD that the investigations, as noted above, were completed. The Commission notes this with concern, as these investigations directly impact the funding of the shelters in the Mangaung District and Bothaville. The Commission encourages the speedy conclusion of these investigations, as the failure to secure funding for the shelters in question will have a detrimental effect on service delivery.

## 2.3 CONCLUSION

Although the FSDSD made tremendous inroads in ensuring that it increased its footprint within the province, there are still areas where the FSDSD will need to work to ensure its progress is even more expansive. Furthermore, the FSDSD is required to be knowledgeable and transparent in terms of its investigations and monitoring of the shelters in the province. The FSDSD should ensure the proper monitoring of accountability and management of resources of state-funded shelters to ensure that potential corruption and the failure to provide the service are smothered. Monitoring should also be done with accuracy and efficiency to ensure that the FSDSD can still provide its service with dignity.

The Commission has observed that the FSDSD continues to operate without a proper funding model, which is concerning as it illustrates a blatant non-compliance with the NAWONGO judgment and the recommendations of the Commission. The failure of the FSDSD to prioritise these entities in terms of costing and funding is reprehensible, as it violates the rights of children and other vulnerable persons. It is common practice that NGOs and NPOs affiliated with the DSD serve communities that the DSD is unable to reach. Therefore, if these organisations are not funded adequately, and if the DSD is unable to reach the intended recipients, those recipients will be excluded from much-needed services. These social development services are invaluable to those most vulnerable, ensuring a dignified life. The right to human dignity and the constitutional value of human dignity is the foundation on which the post-apartheid society is built.<sup>7</sup>

<sup>7</sup> <https://openbooks.uct.ac.za/uct/catalog/download/30/44/1486?inline=1>.





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## 3. NORTHERN CAPE DEPARTMENT OF SOCIAL DEVELOPMENT (NCDS)

### 3.1 BACKGROUND

The Northern Cape Department of Social Development (NCDS) appeared before the Commission on 3 December 2019.

Subsequent to this appearance and hearing, the Commission made the following recommendations:

1. The NCDS was to establish shelters in the Namakwa District.
2. The NCDS was to ensure that the Postmasburg shelter becomes operational by June 2020.
3. The NCDS was to develop, within six months, effective and efficient mechanisms to accurately record funding allocation to shelters.
4. The NCDS was to adequately and uniformly resource shelters. As such, a uniform policy for shelter funding was to be in place and implemented.
5. The NCDS was to offer the minimum wage to housemothers.
6. The Commission will engage the Auditor-General of South Africa, the Minister of DSD and other relevant authorities regarding the significant discrepancies in the allocation of funding between DSD and NCDS, as well as possible auditing or investigation of the discrepancies.

### 3.2 PROGRESS AND DEVELOPMENTS

Despite efforts by the NCDS to establish a shelter in the Namakwa District, which includes allocating about R700 000 for the establishment, the NCDS failed to establish a shelter. The challenge cited by the NCDS is that it does not have buildings for utilising as shelters. Therefore, it must either rely on the DPWI as a custodian of public buildings to allocate buildings to it or rely on other private entities willing to establish shelters.

The lack of a shelter in the Namakwa District means victims and survivors of GBV must travel more than six hours to access the nearest shelter in a neighbouring district. The unavailability of a shelter within the Namakwa District is concerning, noting that most of the population of the Namakwa District is women, and it is common cause that women are more susceptible to GBV because of their vulnerable social and economic position.

Regarding the operationalisation of the Postmasburg shelter, the NCDS reported that since its appearance before the Commission, it has relied on a private mining company to avail a building for the establishment of a shelter. There was no indication from the NCDS of any effort made to obtain an alternative building in Postmasburg for the establishment of a shelter.

The Commission unearthed significant discrepancies regarding the allocation of funding to Northern Cape shelters between the DSD and the NCDS. Pursuant to the Commission's intervention, the NCDS developed mechanisms to record the funding of shelters accurately. The accurate records will place the DSD and the NCDS in a position to allocate funds equitably, and for monitoring and evaluating the use of the funds.



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Regarding the Commission's recommendation for the NCDS D to increase the stipend of housemothers, the Commission commends the NCDS D's stance to increase the stipend of housemothers from R3 500 to R5 000. The increased stipend is noted as a valuable step towards living income for housemothers, who often depend on the stipend as their only source of income.

### **3.3 CONCLUSION**

The failure of the NCDS D to establish operating shelters in the Namakwa District and Postmasburg deprives GBV victims and survivors of access to a safe space that provides a first response, care, support and healing. The failure demonstrates the lack of commitment to providing social support services equitably within the province.



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## 4. WESTERN CAPE DEPARTMENT OF SOCIAL DEVELOPMENT (WCDSO)

### 4.1 BACKGROUND

The Western Cape Department of Social Development (WCDSO) appeared before the Commission on 2 December 2019.

The Commission made the following findings and recommendations:

- a. *“The WCDSO further conceded that access to shelters for [persons with disabilities] PWD was not initially a considered standard; however, its response indicated that it had commenced with a process of funding allocations based on the outcome report by the Commission on the State of Shelters.*
- b. *The Commission recommended that staff training, focusing on the lesbian, gay, bisexual, transgender, queer, intersex, asexual, and plus-identified community and their respective needs, be implemented within six months following the hearing.”*

### 4.2 PROGRESS AND DEVELOPMENTS

Following the presentation of the report in the 2021/2022 financial year, in which the above recommendations were outlined, the Commission observed the WCDSO's commitment to fulfilling the recommendations in the 2019/2020 financial year. Considering the above, the Commission was satisfied with the progress achieved by the WCDSO in the subsequent 2021/2022 financial year.

The Commission concluded that positive progress was made in respect of the recommendations listed above. The pace at which the department progressed to address the issues outlined by the Commission was satisfactory.

When the WCDSO appeared before the Commission it had not considered the access to shelters for persons with disabilities (“PWD”) as a standard practice. Therefore, based on the outcome of report by the Commission on the State of Shelters, it initiated a process of funding allocations. This is crucial when the protection of the constitutional rights of persons with disabilities is considered, in eliminating discrimination in social security services, especially as it relates to access to shelters.

Women and girls with disabilities often face additional marginalization in their experiences of abuse. They also face specific barriers to accessing services due to various factors such as the economic and/or physical dependence on the abuser, which challenges efforts to escape. Furthermore, once they have left and are looking for refuge, accessing shelters is often difficult due to the lack of or limitations in the physical accessibility of shelters for women with disabilities. Similar to perceptions by service providers that they cannot provide services for women with disabilities given their resource or capacity limitations.

It was important that the WCDSO recognise that it had excluded an entire segment of vulnerable persons and the importance of their action reported back to the Commission meant that the policy in terms of process in respect of the funding allocation of shelters. WCDSO would be able to ensure that there is a reduction in barriers to access and improve service delivery for women with disabilities. Secondly, the development policies, procedures, and budgets specifically designed to provide services to women with disabilities who have experienced domestic violence, sexual assault, or other forms of abuse. These mechanisms enable women with disabilities to access quality services that are integrated into the agency's operations. This contrasts with



receiving *ad hoc* services based on the knowledge or ability of the service provider to address abuse and disability intersections.<sup>8</sup>

In order to complete its outstanding recommendations, the WCDS D invited the Commission to attend the workshops. Therefore, the Commission was able to determine that the workshop content was sufficient to support gender equality in shelters specifically for LGBTQIA+ people. It was reported that the WCDS D provided information about the content of disability sensitization workshops, as well as the challenges and solutions.

Table 5 illustrates the workshop modules covered. The Commission notes the importance of the WCDS D workshop, its target group and the modules covered.

**Table 5: WCDS D workshop module content**

<b>Workshop:</b>	Strengthening service delivery to LGBTQIA+ persons	<b>Workshop:</b>	Module 1: Introduction to the social constructions of gender
			Module 2: Beyond binaries: Gender and sexuality, sexual orientation, identity, expression and sex characteristics
			Module 3: Barriers to a violent free society: Religion, culture and tradition
			Module 4: LGBTQIA+ victims of gender-based violence: Hate crimes, intimate partner violence, domestic violence
			Module 5: Provision of inclusive and affirming service to LGBTQIA+ victims of gender-based violence
			Module 6: Inclusive organisational policies and procedures
			Module 7: National Strategic Plan on GBVF: How to integrate and include violence against LGBTQIA+ in programmes
<b>Target group:</b>	DSD-funded social workers and social auxiliary workers	<b>Target group:</b>	DSD GBV social workers and supervisors

As it pertains to the importance of the workshop presented by WCDS D, its target group, and the modules covered. WCDS D has complied with the Commission's findings and recommendations thus far. This has paved a very effective way for service delivery to LGBTQIA+ persons to be strengthened.

<sup>8</sup> <https://www.endvawnow.org/en/articles/1397-women-with-disabilities.html>. (Accessed on 22-02-2023).





The workshop presented was especially significant in setting a path of understanding when it comes to the provision of inclusive and affirming services to LGBTQIA+ victims of gender-based violence, as evidence has shown that accessing such services was particularly challenging for LGBTQIA+ victims of gender-based violence leading to discriminatory practices and policies across the board.

The cause of Intimate Partner Violence (IPV) has many causes, and it can occur anywhere, at any time, and to any group of individuals. The prevalence of IPV is mostly associated with heterosexual relationships and assumes certain gendered roles (male batterers, female victims), resulting in severe discrimination towards non-heterosexual groups.

The term intimate partner violence (IPV) refers to violent or aggressive behaviour within the family, which is typically characterized by violent abuse of a spouse or partner.<sup>9</sup> As a result of these common assumptions regarding intimate relationships and what constitutes IPV, members of the LGBTQIA+ communities are excluded from the common assistance system. Due to this, LGBTQIA+ communities are subjected to discrimination based on their sexual orientation and are excluded from receiving much-needed assistance through the social security system.

To assist the main players in GBV service provision in understanding that LGBTQIA+ individuals take on a variety of different gender roles that do not necessarily coincide with the individuals with whom they have intimate relationships, a workshop focused on educating the specific target group was essential. The result is that they challenge traditional notions of what constitutes intimate relationships. It is also pertinent to understand that violence in same-sex relationships involves the conscious manipulation and control of one person by another through threats, coercion, humiliation, or force.

In its attempt to educate the specific target group of key players in GBV service provision, in understanding that LGBTQIA+ individuals take on a variety of different gender roles that do not necessarily coincide with the individuals with whom they have intimate relationships. Therefore, it can be concluded that the WCDS has achieved its objective. This conclusion is premised on the fact that as a consequence, constituents of the Western Cape who live in rural and semi-rural areas of the West Coast and Cape Winelands, as well as urban townships in Cape Town, are living in areas that are distinct from each other in terms of health and other services and land-based livelihoods. This is different from urban communities and rural communities that tend to have relatively limited resources. Therefore, persons part of the LGBTQIA+ community and experiencing IPV or DV would be able to access proper shelter and support. AS it is known IPV is just as prevalent in LGBTQIA+ communities as in heterosexual communities.

The social perception of IPV in same-sex relationships is one of mutual combat. Many victims within this community suffer in isolation, often facing violence as well as a struggle to accept their identity<sup>10</sup> and that LGBTQIA+ individuals are discriminated against when it comes to receiving services that would improve their quality of life. This is because discrimination and prejudice routinely directed towards anyone who is not part of a dominant cultural group is elevated. Once again, the WCDS had achieved its objective.

Furthermore, the hosting of the calibre of such a workshop creates a space of understanding and empathy in the way relevant stakeholders provide social security services which are non-discriminatory in nature and allows for the provision of support and service that is dignified for all and which is catered to all in respect of the various needs associated with the service to be rendered.

<sup>9</sup> Council of Europe (2011). Convention on Preventing and Combating Violence against Women and Domestic Violence and its Explanatory Report.

<sup>10</sup> Ristock PH. D, J., & Timbang, N. (n.d.). IPV Likely More Frequent for LGBTQ+ Couples (pp. 1-3, Rep.).



### 4.3 CONCLUSION

The Commission therefore notes that in addition to recognizing that it had excluded an entire population of vulnerable persons, the importance of their action reported back to the Commission meant that the policy relating to funding allocations for shelters would be revised accordingly. Through WCDS, barriers to access can be reduced for women with disabilities, and service delivery can be improved. Secondly, developing policies, procedures, and budgets specifically designed to help women with disabilities who have been abused, domesticated, or sexually assaulted. They enable the agency's operations to provide quality services to women with disabilities.

The Commission further notes that, continuing to offer such training is crucial for the LGBTQIA+ community in order to ensure it receives non-discriminatory social security benefits, but there are still some notable exclusions, such as; male victims of IPV receive very scant attention in the health care field, gay women also receive blatantly inadequate support from relevant stakeholders regarding GBV.

This, consequently, would lead to the introduction of:

1. There are few to no LGBTQIA+ shelter services available in many provinces. It is not uncommon for gay men to be excluded from shelters, regardless of their status as victims. Cisgender<sup>11</sup> men may push back against their presence violently, or they may be uncomfortable with any romantic intentions they perceive.
2. Due to policies grounded in the fears of unwanted romantic advances as well as the potential for discriminatory abuse, lesbian women may not be able to gain access to women's shelters.
3. Considering that same-sex populations face a basic disadvantage as a result of social stigma, it is imperative to develop a comprehensive understanding of the LGBTQIA+ community and its relationships'. The concept of stigma refers to the inferior status, low regard, and relative powerlessness that society collectively ascribes to individuals and groups that suffer from a variety of conditions, statuses, and characteristics. At the individual or structural level, it may be experienced or manifested in various ways. As a result of negative attitudes toward homosexuals, some homosexuals may internalize these attitudes.

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<sup>11</sup> Cisgender is a gender identity. Cisgender people have a gender identity that aligns with the sex that a doctor assigned them at birth. See <https://www.medicalnewstoday.com/articles/what-does-cisgender-mean#relation-to-gender-identity> accessed on 11 February 2023.

<sup>12</sup> Burwick, A., Gates, G., Baumgartner, S., & Friend, D. (2014). Mathematica Policy Research (Rep.No. OPRE Report #2014-79). Princeton, NJ: The William Institute.



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## 5. EASTERN CAPE DEPARTMENT OF SOCIAL DEVELOPMENT (ECDSD)

### 5.1 BACKGROUND

The Eastern Cape Department of Social Development (ECDSD) appeared before the Commission on 3 December 2019. The ECDSD was to set up a consistent funding criterion for shelters and the establishment of a men's shelter. Based on the appearance before the Commission and the presentation made by the ECDSD, the following findings and recommendations were established.

Taking into consideration that there was no consistent funding criteria in respect of shelters, the Commission made the following recommendations:

1. The ECDSD had to develop a funding criteria for shelters, which aligned with the decision of the NAWONGO judgment. To this end, the criteria had to determine whether a shelter was properly funded without relying on the shelter's business plan.
2. The ECDSD had to share its GBV action plan with the Commission once finalised. The ECDSD had to provide the Commission with feedback by June 2020.

### 5.2 PROGRESS AND DEVELOPMENTS

For purposes of complying with the aforesaid recommendations, firstly the ECDSD had to develop a funding criterion, which criteria was developed, in line with the funding criteria provided for in the Nawongo judgment. As said in the judgment, a criteria of this nature would ensure that shelters are adequately funded.

The established criteria further focused on programs which are efficient, economic and effective, as well as those that would adhere to the best practices of financial management.


Included in the criteria, was the ECDSD's support and commitment in sharing and transferring resources to emerging organizations as well as providing services in accordance with the service package norms and standards.

Secondly, in respect of the second recommendation by the Commission, the ECDSD had to draft and share a GBV action plan, which would speak to the implementation of the NSP on GBVF and how the ECDSD would implement the six pillars set out in the NSP on GBVF.

The ECDSD advised that it was not in the position to adopt its own action plan, as the National Strategic Plan on Gender Based Violence and Femicide ("NSP on GBVF") was already in existence. The ECDSD further advised it had to develop/ draft the Intergrated Provincial Plan along with other stakeholders, but the plan would be approved by the Office of the Premier (the office said to have the necessary competence to approve the Integrated Provincial Plan). The establishment of the Integrated Provincial Plan resulted in developing the Provincial Gender-Based Violence Action Plan taken from the ECDSD to the Premier's office.

The ECDSD further advised that the plan was drafted/ developed and handed to the Office of the Premier for approval and that they were advised that the said plan was "in principle" approved. Although the plan is said to be approved in "principle", the plan could not be recovered from the Office of the Premier, despite numerous requests made by the ECDSD to the Office of the Premier requesting the approved plan. Therefore, the Commission notes that, as it stands, no approved plan has been provided to the Commission. The Commission

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further notes that although the ECDSD advised that they had on numerous occasions attempted to recover the said plan, their response did not indicate the lengths or steps taken to recover the approved plan, as a way of showing that they indeed tried to comply with the Commission's recommendation.

### **5.3 CONCLUSION**

The Commission commends the ECDSD for complying with its recommendations made in respect of establishing the funding criteria.

It is the Commission's view that the chain of command concerned seems to be frustrating the process, instead of it expediting the approval of the plan. The Commission is further of the view that not only does the chain of command frustrate the process, but it may also have a negative impact on the implementation of the plan, leaving the victims, which this plan seeks to assist in a vulnerable position. It is delays of this nature that undermines the spirit in which the NSP was initially adopted for, more especially if the ECDSD does not explore the constitutional and legislative mechanisms in place to escalate the matter, to ensure expedience in the plan being approved.



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## 6. GAUTENG DEPARTMENT OF COMMUNITY SAFETY (GDCS)

### 6.1 BACKGROUND

The Gauteng Department of Community Safety (GDCS) appeared before the Commission on 2 December 2019. In doing so, the Commission conducted the above hearing to ascertain the role played by the GDCS in the provision of services to survivors of GBV regarding the shelter investigation.

In respect of the above, the Commission concluded that:

- As a victim empowerment centre, there was a need for a review of its sexual harassment policy. This was because it needed to bring it in line with the Code of Good Practice on Sexual Harassment Cases in the Workplace, 2005.
- It was evident that Ikhaya Lethemba (IKL) should review its policies to ensure the elimination of discriminatory practices against PWD and LGBTQIA+ people.

In addition, the Commission concluded that a need existed for a breakdown of the various NGOs and their staff, including a breakdown of their proper qualifications and skills.

- There is a need for IKL to conduct sensitisation workshops with clients regarding the LGBTQIA+ community within six months of issuing the report, as well as provide the Commission with the seminar content and registrations within two months of completing the workshop.

IKL should develop standard operating procedures (SOPs) for accommodating victims with disabilities and the LGBTQIA+ community.

Based on the above conclusions, the following recommendations were made to GDCS:

1. The GDCS was to ensure it follows the Code of Good Practice on Sexual Harassment Cases in the Workplace, 2005, and review its sexual harassment policy.
2. IKL was to review its policies to not discriminate against PWD and LGBTQIA+ people.
3. IKL was to provide a breakdown of the various NGOs and their staff composition. Proper qualifications and skills are to be listed.
4. The IKL was to conduct sensitisation workshops with clients regarding the LGBTQIA+ community within six months of issuing the report and provide the Commission with the seminar content and registrations within two months after completing the workshop.
5. IKL was to develop SOPs for accommodating victims with disabilities and the LGBTQIA+ community.

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## 6.2 PROGRESS AND DEVELOPMENTS

According to the GDCS, its Sexual Harassment (SH) policy was reviewed in per the Code of Good Practice 2005. Although the GDCS complied with the set recommendation and finding, the Commission observed that GDCS's Sexual harassment policy should be updated. The policy must align with the updated Code of Good Practice which came into effect in March 2022. Regarding the SOPs, IKL explained that the shelter caters for GBV victims, including victims with disabilities and the LGBTQIA+ community.

Additionally, IKL pledged to review its policies to prevent gender discrimination.

Centres that work with Ikhaya Lethemba, among others:

- Ithemba Rape and Crises Centre
- The Teddy Bear Clinic
- Lifeline Benoni.

The sexual harassment policy allows people of the same gender to report violations, as someone of the same sex may be victimised in this way. The policy aligns with the Code of Good Practice 2005, and the Commission observed the policy as gender blind. However, the policy failed to address instances of bullying and victimisation. The failure can be remedied with the updated version of the Code of Good Practice of March 2022.

Pursuant to the recommendation that IKL provides information on the NGOs that it partners with, as well as the staff complement and their qualifications, IKL listed only 13 persons, and it was unclear what their responsibilities were. In addition, IKL has not provided clear admission criteria for LGBTQIA+ persons and PWD. Although it was suggested that IKL accommodates all persons and does not discriminate, no information was provided on the selection criteria for PWD and LGBTQIA+ persons.

As outlined in the last progress report to the Commission, the GDCS made adequate progress in implementing the sexual harassment policy recommended by the Commission. This was done by ensuring that measures were in place to combat sexual harassment. The IKL centre, staff members are included in the policy, however, not victims (NSP – victim centred approach). Since the Commission investigative report, the GDCS has not conducted workshops to sensitize clients about LGBTQIA+ issues. Furthermore, the GDCS was to provide a proper breakdown of the various NGOs and their staff composition, including qualifications and/or skills.

In August and September 2022, the Commission requested a progress report on its recommendations from the Head of Department at the Department of Community Safety, Gauteng.

Subsequent to the above, the GDCS has not tendered a response or acknowledgement to the Commission, resulting in noncompliance. In addition, despite ongoing requests from the Commission, the GDCS has not informed the Commission of its progress. Following the remarks made by the Constitutional Court in the *Economic Freedom Fighters v Speaker of the National Assembly and others*<sup>11</sup> judgment, the accounting officers of government departments should be seen to be actively supporting and protecting the constitutional imperatives bestowed on Chapter 9 institutions.

The neglect and/or failure of the GDCS to engage the Commission on the implementation of the recommendations directly undermines the mandate and powers of the Commission.



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### 6.3 CONCLUSION

Failure to comply with the Commission's recommendations leaves constituents vulnerable and violates their enjoyment of their constitutional and statutory rights.

The rights include the right to social security and assistance that can be realised through reasonable legislative and other measures possible regarding available resources.

Firstly, harassment is a form of discrimination. The application of sexual harassment policies to shelters must include victims and survivors, as they may fall prey to sexual harassment predators on site. The GDCS's failure to implement the Commission's suggests that the GDCS may not be concerned by the discrimination and discriminatory practices at shelters that do not have the relevant policies in place.

Secondly, sensitisation training is required for the GDCS staff providing service delivery to the LGBTQIA+ community. As the GDCS is not offering workshops and training, the GDCS is not setting a path of understanding for staff to provide inclusive and affirming services to LGBTQIA+ victims of GBV. Research shows that LGBTQIA+ victims of GBV have difficulty accessing such services, resulting in discriminatory policies and practices. Access to services is particularly pertinent because IPV has many causes, and it can occur anywhere, at any time, and to any group of people.

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## 7. DEPARTMENT OF SOCIAL DEVELOPMENT, MPUMALANGA (MPDSD)

### 7.1 BACKGROUND

The Mpumalanga Department of Social Development (MPDSD) appeared before the Commission on 2 December 2020.

Subsequent to the appearance and hearing, the Commission made the following findings, recommendations and/or requests:

1. SOPs and policies for admissions in Mpumalanga shelters
2. Information per shelter for the past three financial years in terms of bed capacity per month, number of family rooms per SAPS station, accessibility for PWD, and number of female and male children admitted in shelters
3. Code of conduct in shelters
4. Sexual harassment policy
5. Skills programmes offered in the shelters and proof of their accreditation
6. Processes followed in allocating funds to the unregistered GRIP Mkhonto shelter
7. Information on how the MPDSD measures or tools the MPDSD uses to assess the impact of services in shelters to ensure that it offers objective criteria
8. A detailed report on why the National Shelter Movement received the second-largest funding in its first financial year
9. Reasons why there was no consumer price index (CPI) related increase from 2018/2019 to 2019/2020 for the following shelters:
  - GRIP
  - Grace Shelter
  - Calcutta Shelter
  - Mhala VEP Centre
  - Vuwiselo VEP
  - Khayalokuthula
  - Tirhisano
  - Middelburg VSC.





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## 7.2 PROGRESS AND DEVELOPMENTS

In its progress report, the MPDSD reported an existing sexual harassment policy that ensures that workers (especially vulnerable workers) are safe in their working environment.

The Commission initially noted that funding was inconsistent, and there was nothing to support the notion that assessments were done before the allocation of funds. In this regard, the MPDSD reported that the funding of each shelter is informed by the business proposals, the shelter's needs, the shelter's bed capacity, and the programmes offered by that shelter.

During the monitoring period, the Commission enquired about security at shelters in Mpumalanga. The enquiry prompted the MPDSD to assess each shelter's security needs and devise a plan to improve security at the shelters to create a safe environment for GBV victims and survivors. Upon follow-up, the MPDSD submitted to the Commission that it took the relevant steps in line with its plan of action to ensure that the security was improved at the shelters in line with its reports.

In the MPDSD's preceding report, the MPDSD reported that it has nine shelters accredited for human trafficking victims. In its recent progress regarding the accreditations, the MPDSD advised that it has successfully assisted two shelters obtain accreditations for human trafficking victims and is assisting one other shelter with its compliance.

The MPDSD submitted to the Commission that human trafficking cases were much lower in the province between the 2018 and 2021/2022 financial years. In this financial year, the MPDSD has received a higher number of cases in comparison to previous years. The two currently active shelters are adequate for accommodating human trafficking victims.

The MPDSD submitted the standardised policy on the remuneration of social workers and social auxiliary workers in shelters in accordance with the Commission's recommendations. The NDSD developed the policy. Compliance with the recommendations by the NDSD ensures fairness and guarantees equal pay for equal work for social workers and social auxiliary workers across shelters in South Africa.

The service level agreements shared with the Commission reflect a consistent increase in the funding advanced to shelters, demonstrating that the Department considers increases in terms of cost of living.

The Commission noted the name change of the Amazing Grace Shelter to Uthandiwe Children's Home and is satisfied that the MPDSD gave sound reasons for the name change.

The Commission commends the MPDSD on closely monitoring the Umjindi Victim and Empowerment Centre (Umjindi VEP), which is situated close to a police station and caters for, amongst other places, KwaMashayana Farm and Barberton, which has a statistically high number of GBV and sexual offences. Umjindi VEP offers first-response services to GBV and sexual offences victims, such as trauma counselling, aftercare and overnight services (victims in the area who often use the centre in the very early hours and over the weekends). Overnight services play a significant role in ensuring that victims of GBV do not feel powerless and have to return to the same place as the perpetrator, exposing them to re-victimisation.

The MPDSD submitted to the Commission that it is no longer funding Hlayisani Centre of Hope because it relocated to a shopping centre complex, which upon assessment, the MPDSD discovered was not a safe location for a shelter. Hlayisani Centre of Hope is improving poor security and access control measures. The Commission is satisfied with the MPDSD's stance, which will prevent wasteful and fruitless expenditure.



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In relation to the shelter in Badplaas, which will service GBVF victims, the MPDSD submitted a schedule depicting that repairs to the building were scheduled to commence in October 2022 and be completed in June 2023. The Commission deems it necessary that stakeholders take all the necessary steps to ensure that the shelter is fully equipped, functional and on schedule, as the delay is prejudicial to victims who should already benefit from its establishment.

### **7.3 CONCLUSION**

The Commission commends the MPDSD for the expended effort in implementing the Commission's recommendations. The MPDSD must ensure that all the necessary engagements and steps occur so that the Badplaas shelter becomes operational in the next financial year.



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## 8. DEPARTMENT OF SOCIAL DEVELOPMENT, NORTH WEST (NWSD)

### 8.1 BACKGROUND

The North West Department of Social Development (NWSD) appeared before the Commission on 4 December 2019.

It must be noted that the NWSD did not submit the required information before and during the investigative hearing. As a consequence, the following findings were made:

- The NWSD had not properly advised the Commission on what informs the annual decrease in the funding advanced to shelters.
- The NWSD availed funding to shelters late which affected the implementation of projects and programmes in shelters.
- The NWSD did not submit the required information before and during the investigative hearing. Relevant information was only submitted after the hearing.
- The findings captured in the Commission's 2015 report, 'A ship without a captain', remains applicable to the NWSD. An overview of the findings by the Commission in this report again indicated a lack of clarity between the Victims Charter and the VEP.
- The NWSD has not developed a proper funding model to protect victims of crime, and as a result, some shelters have closed or are not receiving funding.

The Commission accordingly made the following recommendation:

1. It is recommended that the cost centre model and the equitable share be studied in detail to ascertain whether it works fairly for all shelters.
2. In addition, the NWSD must provide a plan with proper timelines on how the late payment of funding will be addressed so that shelters and survivors are not adversely affected by the late payment of funds.

### 8.2 PROGRESS AND DEVELOPMENTS

The NWSD reported the following progress in respect of the recommendations mentioned above:

The Department advised that, in consultation with stakeholders, they facilitated the development of a draft that integrated North West's provincial Gender-Based Violence and Femicide Response Plan. The response plan is derived from the National Strategic Plan on Gender-Based Violence and Femicide (2020–2030). This plan guides stakeholders on the provision of services.

The NWSD also advised that NGOs that provide victim empowerment services apply for funding in line with the Public Finance Management Act 1 of 1999 and other relevant legislation regulating payments to entities and non-profit organisations. As a result, the NWSD developed a funding plan for NPOs providing services to victims.

The following are considered when allocating funds to the NPOs:

- Programme mandate
- Availability of budget



- Compliance with programme guidelines
- Compliance checklist.

The Commission notes that the North West province has two shelters, Dr Ruth Segomotsi Mompoti District's Khuseleka One Stop Centre and the Grace Help Centre.

### Dr Ruth Segomotsi Mompoti District's Khuseleka One Stop Centre

Dr Ruth Segomotsi Mompoti District's Khuseleka One Stop Centre is a state-run shelter providing 24-hour services to the victims of GBV and domestic violence and is located in Vryburg at Naledi Service Point. The centre was launched in the 2011/2012 financial year with a 40-bed capacity and its services were outsourced to Lifeline pending approval of the organogram of the shelter. The centre now has an approved organogram. Table 6 summarises the budget allocated from the equitable share.

**Table 6: Dr Ruth Segomotsi Mompoti District's Khuseleka One Stop Centre budget allocation**

Name of shelter	Budget		Comments
	F/Y	Budget	
Dr Ruth Segomotsi Mompoti District's Khuseleka One Stop Centre	2020/2021	R1 900 000 (R 1 400 000 + R 500 000)	The initial allocation from the equitable share was R1 400 000 for operational costs. R500 000 was added for the improvement of security at the centre and purchasing a generator
	2021/2022	R7 711 000	For compensation of employee's goods and services
	2022/2023	R8 778 000	For compensation of employee's goods and services

There were no budget cuts at the Dr Ruth Segomotsi Mompoti District's Khuseleka One Stop Centre, which indicates positive progress in the running of shelters in the North West province.

### Grace Help Centre

The Grace Help Centre is an NGO-run shelter with 24-hour services provided to the victims of domestic violence and GBV. The centre has two components:

- VEP shelter
- Place of safety for children.

The Grace Help Centre received funding from two directorates of departments: Children Services Directory and the Victim Empowerment Programme. Its budget for the previous years were as follows:





**Table 7: Grace Help Centre budget allocation**

Name of shelter	Financial year	Budget from victim empowerment programme	Budget from childcare services	Comments
Grace Help Centre	2015/16	R1 500 000		The budget was increased for improvement of security at the centre
	2016/17	R900 000	N/A	Reduction of allocation was due to limited budget that had to be distributed to 19 NPOs providing 24-hour care and support services as well as prevention programmes within this financial year.
	2017/18	R870 000	N/A	
	2018/19	R1 000 000	R2 400 000	
	2019/20	R1 200 000	R2 400 000	
	2020/21	R1 350 000	R2 400 000	
	2021/22	R1 350 000	R2 400 000	

No information was provided on the funding of this shelter for the 2022/2023 financial year, which raises concerns about whether the shelter is still operational. Prior to the publication of this report, the Commission sought clarity from the Head of Department of NWDS who failed and/or neglected to give clarity as sought by the Commission.

According to the progress reported to the Commission by the NWDS, there is an increase in the annual funding advanced to NPOs, including crisis centres rendering victim empowerment services. The Commission commends the NWDS on the stance, which lessened the impact of the financial strain that comes with the constant increase in living costs.

The Commission recommended that the NWDS advise how the challenge of late payments will be addressed so that victims do not suffer.

The NWDS, in its implementation report, advised that they still experience challenges with late payments due to non-compliance by the organisations.

The following challenges were noted:

- Non-compliance with the Central Supplier Database requirements
- Inconsistent addresses on business and bank details
- Incomplete sign-off of business plans
- Negative audit outcomes
- Financial mismanagement
- Outstanding narrative reports in terms of the NPO Act 71 of 1997



The NWDSO also advised that non-compliance could result in risk factors for the Department. Therefore, the NWDSO assists the organisations in complying with the compliance checklist before signing off, per the service level agreement. Organisations where non-compliance issues cannot be resolved run the risk of not being funded. The NWDSO also advised that they continue to build the capacity of NPOs in line with departmental NPO capacity-building guidelines. They also advised that they conduct visits to monitor compliance.

The NWDSO standardised stipends for NPO volunteers and managers in the 2022/23 financial year. The NWDSO outlined all the challenges regarding the late payment issues and provided the NPO with a way forward for complying with the compliance checklist before signing off. The NWDSO established a capacity building with the NPOs in line with the capacity building guidelines, and a visit was conducted to monitor compliance by the NPOs. The NWDSO complied by developing a plan to assist the NPOs providing services to victims to facilitate applying and complying with funding requests.

In relation to the recommendation on the costing model, the NWDSO reported that it is developing a costing model for funding victim empowerment organisations. The model is anticipated to be finalised during the 2022/23 financial year. The NWDSO standardised stipends for NPO volunteers and managers in the 2022/2023 financial year.

The NWDSO conducted visits to monitor compliance. The NWDSO advised that it created a cost centre model and allocated the budget through the equitable share formula. However, the NWDSO did not fully comply with the Commission's recommendation on whether shelters operate with a standard operating procedure. The NWDSO did not indicate whether they have examined the equitable share formula and the cost model to establish to what extent it can be improved. The NWDSO did not fully comply with the Commission's recommendation on the reasons for the reduction in funding of the NPOs.

The NWDSO advised that it created a cost centre model and that the budget was allocated using the equitable share formula. The reason for conducting an investigation by the Commission was to ascertain in no uncertain terms whether shelters in the country had procedures or operated on uniform, standard operating procedures. Shelters operate differently, particularly regarding funding, as mentioned in the report. Therefore, the cost centre model must be explained in detail in relation to the funding processes.


*"The equitable share formula is the formula used by National Treasury to decide how to divide the state revenue between the national government, provincial governments and local governments. Social development services for vulnerable groups are mainly delivered at a provincial level; therefore, the provincial departments of social development must receive an adequate budget from fulfilling their service obligations. However, evidence shows that social development services are not adequately budgeted for at the provincial level. Therefore, the formula does not have a component for social services to vulnerable groups".*

Considering the definition of equitable share, the shelter funding model did not provide adequate funding if the formula did not have a component for social services to vulnerable groups.

The NWDSO has not adequately responded on whether they examined the cost model and the equitable share formula and to what extent they have done so. It was further not stated if the cost model could be improved and to what extent. The NWDSO was directed to address this aspect comprehensively.

The following are the positive effects of full compliance with the Commission's recommendations by the NWDSO:

- Shelters will receive funding timeously, and victims will not suffer as a result
- Progressive realisation of fundamental human rights enshrined in the Constitution
- Enabling NPOs providing services to the victims to execute their mandate fully

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- Determining whether the funding received by the NWDS from the National Treasury is enough for the NWDS to execute its mandate fully
  - Determining whether the funding model in place is effective and yields good results
  - Assisting NPOs to function effectively without shutting down due to non-funding
  - Establishing whether there are enough shelters within the province.

The following are the negative effects of the NWDS's non-compliance with the Commission's recommendations:

- Shelters shutting down due to lack of funding.
- GBV victims not receiving assistance due to a lack of shelters within the province.
- Unable to determine whether the funding model in place is effective or defective.
- NPOs shutting down due to non-funding and victims not receiving any assistance from the NPOs.
- No progressive realisation of the fundamental human rights enshrined in the Constitution.
- Escalation of GBV cases due to lack of proper service delivery.

### **8.3 CONCLUSION**

The NWDS complied partially with the Commission's findings and recommendations and is willing to comply fully with all the outstanding findings and recommendations. The NWDS must continue to aim for full compliance with all the Commission's recommendations.

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## 9. GAUTENG DEPARTMENT OF SOCIAL DEVELOPMENT (GDSD)

### 9.1 BACKGROUND

The Gauteng Department of Social Development (GDSD) appeared before the Commission for Gender Equality on 2 December 2019. The hearing constituted a fact-finding mission regarding how the GDSD is providing shelter services to victims of GBV. At this hearing, the Commission found:

- Inconsistency regarding the existing funding model and/or costing model, used by the GDSD which affected the consistency of budget allocation.
- A lack of criteria and gender-sensitive guidelines in respect of the admission of non-standard children.
- GDSD staff were not offered sensitisation training.
- GDSD should pay special attention to the subsidy budget as it pertains to women and children in shelters.

From the appearance before the Commission, the following recommendations were made regarding the GDSD:

1. The GDSD was to ensure consistency with the funding model and/or costing model, the GDSD's funding model and budget allocation were to be reviewed.
2. The GDSD was to properly define the criteria for admission of children who did not meet standard criterion. The GDSD was to ensure that its guidelines are gender sensitive.
3. The GDSD was to provide sensitisation training to the GDSD staff i to ensure their awareness.
4. The GDSD was to review its subsidy budget for women and children in shelters as soon as the report was released.


### 9.2 PROGRESS AND DEVELOPMENTS

For the 2020/2021 financial year, the GDSD reviewed the funding model and budget allocation to ensure consistency. As a result, the GDSD provided a funding model, but the budget allocation was inconsistent, and shelters were not equally funded. The GDSD developed a budget allocation model in April 2021. The GDSD revised admission requirements for children who did not meet standard criteria. The GDSD's guidelines should be further reviewed to ensure they were gender sensitive. Gauteng has 22 shelters, but only two (2) have family units that can accommodate children. The shelters have their own criteria for accommodating children and boys over 12 years. Regarding this finding, the GDSD reported that it did not have shelters that were under its management.

Furthermore, that there are currently 21 shelters in Gauteng, and 20 of the 21 are managed by an NPO and one are by the Department of Community Safety. Furthermore, GDSD in discussion with shelters identified with sufficient t space in their properties to admit boys under the age of 18. The structure of most shelters is such that beneficiaries share bedrooms as well as bathroom facilities. Five shelters (1x West Rand, 1x Johannesburg, 2x Ekurhuleni and 1x Tshwane) were identified and funded to modify the space/add additional structures to accommodate families with boys under the age of 18 years.

In light of the second recommendation, the GDSD was urged to develop its staff, and those of NPOs. Training and awareness of LGBTQIA+ issues were the foundations of capacity-building. The acceptance of LGBTQIA+ persons in the GDSD was based on perceptions, and not on face value. There are few to no LGBTQIA+ persons in shelter services in many provinces.





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In its report to the Commission, the GDSD advised that shelters in Gauteng are admitting PWD. Upon admission of a visually impaired victim the shelter will work with the Association of the Blind for guidance and orientation to the staff and victim to ensure smooth integration into the shelter. The shelters face challenges regarding sign language, but DEAFSA and the internal Disability Unit are actively engaged.

Due to the lack of medical personnel in Gauteng shelters, nor psychiatrists or psychologists in Gauteng Shelters, victims with profound mental disabilities are not admitted. However, the GDSD funds NPOs that offer services to persons with multiple physical and profound mental disabilities. Gauteng shelters have admitted persons from the LGBTQIA+ persons. The placement of trans-women remains a challenge, shelters with additional family rooms provide to for transpeople should there be a need.

Implementation of recommendations regarding LGBTQIA+ persons is especially crucial. Training would assist shelter care workers in understanding that domestic violence and IPV affect many people and not just heterosexual couples. Additionally, it is common for gay men to be excluded from shelters, regardless of their victim status. Implementation assists in the eradication of the of discrimination LGBTQIA+ persons would face when trying to access shelters.

Due to policies grounded in the fears of unwanted romantic advances as well as the potential for discriminatory abuse, lesbians may not be able to gain access to women's shelters. Compliance is also imperative as same-sex populations face a basic disadvantage due to social stigma. Developing a comprehensive understanding of the LGBTQIA+ community and its relationships is imperative. The concept of stigma refers to the inferior status, low regard, and relative powerlessness that society collectively ascribes to individuals and groups that suffer from various reason conditions, statuses, and characteristics. Stigma may be experienced or manifested in various ways at the individual or structural level. As a result of negative attitudes toward homosexuals, some homosexuals may internalise these attitudes.

In respect of the costing model, emphasis should be placed on the importance of a comprehensive and consistent costing model. Despite the NAWONGO judgment being based on a proper costing model regarding NPO's it is not irrelevant applied to DSD offices in different provinces. There must be a consistent funding model as well and a proper costing model. The necessity for these models is to adequately address contextual realities faced by shelters and the needs of domestic violence victims. Moreover, these models must also be adequate when providing services for children.

### 9.3 CONCLUSION

There are significant gaps that need to be addressed by the Department in order to comply with the recommendations of the Commission. This refers to the necessity of accommodating boys under the age of 18 and ensuring that they are accommodated. As outlined in literature, interventions are necessary to reduce the impact domestic violence has on both current and future generations, as well as to prevent the cycle of violence from continuing. Women and children, especially from disadvantaged communities, are sheltered because they are unable to afford alternative resources and accommodation.<sup>13</sup>

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<sup>13</sup> Vermak L, "Trauma and Secondary Victimization of Children Exposed to Domestic Violence: Lindi Vermak, People Opposing" Women Abuse, South Africa.

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## 10. NATIONAL DEPARTMENT OF HEALTH (NDOH)

### 10.1 BACKGROUND

The NDOH appeared before the Commission on 6 December 2019. The hearing was constituted as a fact-finding mission to understand the NDOH's role in supporting victims outside its mandated functions as a health service provider in the instances of GBV and the prioritisation of GBV victims.

From this appearance, the Commission made the following findings: The NDOH lacked “norms and standards” for the provision of services for domestic and GBV survivors, including:

- a. Lack of an area-relevant shelter referral list
- b. Lack of sensitisation training for staff to facilitate staff providing sensitive treatment of survivors of GBV
- c. Lack of the required services and the duty of care at shelters for survivors and their children
- d. Lack of prioritisation of survivors of GBV at clinics and hospitals
- e. Lack of prioritisation of transport for survivors to health facilities
- f. Lack of primary healthcare at shelters
- g. Lack of clear, sensitive norms for the provision of services for the LGBTQIA+ community, PWD and other vulnerable survivors

From the above findings, the Commission made the following recommendations:

1. The NDOH was to develop a circular by the end of December 2019 on the prioritisation of GBV survivors at health facilities at all levels. A copy of the circular was to be provided to the Commission.
2. The NDOH was to develop a programme on harmful social norms and myths that facilitate the spread of GBV rather than to focus only on a legislative approach.
3. The NDOH was to make mental health services and detoxification facilities more accessible to shelter residents. The NDOH had to revert to the proposed roll-out plan.
4. The NDOH was to provide a report on the training that frontline staff, managers and senior managers received on GBV.
5. The NDOH was to educate communities about health issues, engage the community regarding the stigma surrounding survivors and advise where to seek help.
6. The NDOH was to partner with the SAPS to develop a shelter referral list at healthcare centres and ensure that those were kept in a safe space.

### 10.2 PROGRESS AND DEVELOPMENTS

During the appearance before the Commission, the NDOH advised that it received a National Shelter List. It also advised that the list receives attention from the NDSD and the South African Police Service (SAPS). They also advised that they held a meeting in October 2020 to plot health facilities against the national list, using the referral system of the SAPS, in terms of required services for survivors and their children at shelters and duties of care. The NDOH advised that it developed guidelines regarding occupational and non-occupational exposures for managing post-exposure prophylaxis (PREP).



In relation to the recommendation that survivors of GBV should be prioritised at clinics and hospitals, the NDOH advised that it is still discussing a circular to alert Heads of Health Departments in provinces that survivors of GBV should be prioritised when they attend clinics and hospitals.

The United States Agency for International Development (USAID) wrote in a research paper on the crucial role of health services<sup>14</sup> beyond the immediate medical attention afforded to survivors of violence. For example, survivors may also need psychological support, legal or housing support, and access to employment. Although the health care services cannot respond to all the needs of these victims, they can act as a link for social and legal services that address violence to avoid duplicating efforts to assist victims.

In Mexico, public hospitals and health units developed a Model for Integrated Attention to Victims and Survivors of Sexual Violence in collaboration with local and international organisations, including Ipas and the UN Population Fund (UNFPA).<sup>15</sup> The model includes the detection of violence, medical and counselling services, information registration and legal and social services referrals. From 2000 to 2007, more than 5 400 health professionals (including physicians, nurses and psychologists), social workers, and justice system personnel were trained on legal issues relating to violence in Mexico and specialised services for women survivors.<sup>16</sup> The health professionals work in conjunction with and maintain stakeholder relations in providing support services for GBV victims.

The health care sector is often the first or the earliest point of contact for victims who have experienced domestic violence. The Council of Australian Governments (COAG) submitted a National Health Reform plan in 2011<sup>17</sup> that intended to incorporate specialist workers in domestic violence and sexual assault services for alignment within the health sector.

The NDOH confirmed to the Commission the transporting of survivors to health facilities and providing primary healthcare at shelters. The Department convened a meeting on transport with the National Director of Emergency Medical Services (EMS). At the meeting, it was agreed that the director of EMS would table GBV to the National Committee of Emergency Medical Services. The tabling would include prioritising GBV survivors at health care facilities at all levels, a planned patient transportation system for GBV survivors and developing SOPs for call taking and dispatching for victims of GBV. The SOPs would be developed in consultation with relevant stakeholders. However, the NDOH noted the delay was due to the Covid-19 pandemic.

The NDOH was further required to provide a report on the training that frontline staff, managers and senior managers have received on GBV. Some of the training conducted includes the Criminal Law (Sexual Offences and Related Matters) Amendment Act No. 32, 2007 ("the Act") envisions a criminal justice system that is managed by skilled and competent health professionals who adhere to the Batho Pele Principles and the Victims' Rights Charter. Chapter 7 of the Act requires the NDOH to develop training courses to equip health professionals with appropriate skills and competencies to manage sexual offences matters adequately. The NDOH developed a training manual for nurses and doctors on managing survivors of rape and sexual violence.

The manual for the management of survivors will help service staff reduce the need for victims to retell their stories at various intervention points. A realigned and integrated information-sharing system allows information access by any official that requires it.<sup>18</sup> Proper training of officials, and the incorporation of specialised staff, will ensure that all the relevant information is captured from the victim at the point of intake.<sup>19</sup>

<sup>14</sup> <https://www.igwg.org/wp-content/uploads/2017/06/crucial-role-hlth-srvices.pdf> (Accessed on 29 January 2023)

<sup>15</sup> UNFPA, *Programming to Address Violence Against Women: 10 Case Studies*, New York: UNFPA, 2007: 65-73 (Accessed 29 January 2023)

<sup>16</sup> Christopher Bross, Ipas, personal communication, March 17, 2010 (Accessed on 29 January 2023)

<sup>17</sup> <https://www.health.vic.gov.au/publications/national-health-reform-agreement-2011> (Accessed on 29/01/2023)

<sup>18</sup> (<https://www.endvawnow.org/en/articles/665-conduct-staff-and-sensitization-training.html>).

<sup>19</sup> note above.



The Commission required the NDOH to ensure that all community engagements, education and information are paired with comprehensive health services. The NDOH confirmed that through the health calendar, it engages in various community activations and healthy lifestyle campaigns. The Department's work is also extended through funded partners such as LoveLife, Soul-City, HEAIDS, MRC, WHO and CHAI, among others across the provinces.

The importance of reinforced messaging cannot be overemphasised. Large pockets of South African society are far removed from urban life and do not have access to information through advanced social media or the internet. Increasing in-person engagement, radio advertisements, print media, social media and television will ensure that all South Africans are reached.

Subsequent to the above, the NDOH has not engaged the Commission on its continued progress, as per ongoing requests from the Commission. Following the remarks made by the Constitutional Court in the judgment of the *Economic Freedom Fighters v Speaker of the National Assembly and others*,<sup>20</sup> the accounting officers of government departments should be seen to be actively supporting and protecting the constitutional imperatives bestowed on Chapter 9 institutions.

The neglect and/or failure of the NDOH to engage the Commission on the implementation of the recommendations directly undermines the mandate and powers of the Commission.

### 10.3 CONCLUSION

Upon the publication of this report, the NDOH has not provided the Commission with an update on the following recommendations.

The NDOH has not addressed the recommendation for providing services for survivors and their children at shelters. This recommendation must be addressed, particularly as women often leave their children in the care of other people, leaving them vulnerable to further abuse when in shelters.

The NDOH failed to advise regarding the circular to alert the Heads of Health Departments in provinces that survivors of GBV should be prioritised when they attend healthcare centres.

In addition, the NDOH failed to confirm that they will be developing a plan for clear, sensitive norms when collaborating with stakeholders providing services for the LGBTQIA+ community, PWD and other vulnerable groups.

The NDOH must implement outstanding recommendations.

These recommendations are essential to ensure that the NDOH's approach is professional when assisting victims from their entry point into the system. With proper initial consultations and assessments, victims can be directed to the next levels of assistance to guide them to physical and psychological recovery.

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<sup>20</sup> 2016 (5) BCLR 618 (CC).



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## 11. SOUTH AFRICAN POLICE SERVICES (SAPS)

### 11.1 BACKGROUND

The South African Police Service appeared before the Commission on 5 December 2019. During that appearance, the Commission observed gaps in the functioning of the SAPS in addressing cases relating to domestic violence, GBV and sexual offences. The Commission made recommendations based on its findings and observations.

### 11.2 PROGRESS AND DEVELOPMENTS

The SAPS complied with the recommendation to submit to the Commission the amended National Instruction on Domestic Violence, requiring commanders ensure that SAPS members dealing with domestic violence complaints are not perpetrators. The amended National Instruction to the Commission also mandates commanders to ensure SAPS members undergo regular training on how domestic violence complaints must be resolved. Complying with this recommendation guarantees the protection of complainants from re-victimisation, ensuring that members handling domestic violence complaints are adequately trained and that justice is done regarding the complainants' domestic violence complaints.

In its progress report to the Commission during the 2020/2021 financial year in relation to developing a standalone learning course on GBV to ensure it can provide specialised training on GBV to its members, the SAPS provided the Commission with a report on the commencement of the specialised training on GBV of its members within six months during that 2020/2021 financial year. The recent progress reported by SAPS is that it embarked on sourcing the course externally. They have undertaken that training will be implemented as soon as the procurement process is finalised. The Commission is displeased with the contradictory information submitted by SAPS. The proposed specialised training will empower SAPS members to effectively deal with GBV cases and deal competently with GBV complainants.

Regarding the Commission's recommendation that the SAPS was to obtain the audit report by the United Nations (UN) delegation on the SAPS' GBV training manuals, the SAPS previously reported that it granted access to its manual to the United Nations but has not received its audit report. SAPS has not reported any steps taken or attempts to ensure the United Nations avails its report.

### 11.3 CONCLUSION

The progress reported by the SAPS regarding specialised training on GBV is unsatisfactory. As the first point of contact with the Complainants and/or survivors of GBV, members of the SAPS must be adequately and satisfactorily trained to handle GBV cases.

In terms of the statistics released by Minister Bheki Cele for the July to September 2022 period, a double-digit increase was reported for crimes against women, and almost 1 900 cases were reported for crimes against children. The Commission deems it necessary for the SAPS to prioritise the recommended training to equip its members to handle GBV and related complaints effectively.

Regarding the United Nations Audit Report, the Commission is not satisfied that the SAPS took steps to obtain the anticipated report. The SAPS must take positive steps to ensure it receives same from the United Nations. The report will assist SAPS in identifying and improving gaps in its training manuals.

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## 12. LIMPOPO DEPARTMENT OF SOCIAL DEVELOPMENT (LPDSD)

### 12.1 BACKGROUND

The Limpopo Department of Social Development (“LPDSD”) appeared before the Commission on 3 December 2019 to account to the Commission regarding the challenges and the funding model at the LPDSD. Based on the appearance before the Commission, the Commission made findings in respect of the following:

*“LPDSD did not have enough shelters to deliver services to survivors as the Commission noted that there were only two (2) shelters in Limpopo to service about five (5) million people. Furthermore, as to why its sexual harassment policy was in a draft format.”*

Thus, based on the above findings, the following recommendations were made:

- The LPDSD was to speed up the process of accreditation of its skills development programmes
- The LPDSD was to finalise its sexual harassment policy.
- The LPDSD was to submit clear plans to establish more shelters in the province.

### 12.2 PROGRESS AND DEVELOPMENTS

#### 12.2.1 ACCELERATION OF SKILLS DEVELOPMENT PROGRAMMES

The LPDSD raised accreditation issues and indicated that the NDSD was responsible for accelerating skills development in shelters, and the two departments were working on a centralisation programme for purposes of uniformity.

The Commission then recommended that the LPDSD expedite the accreditation process and suggested that the DSD signs a memorandum of understanding with stakeholders for their skills development programmes. The LPDSD confirmed that the NDSD made a decision. A concept paper was developed by the national task team, which focuses on shelters and secure care centres.

The LPDSD also confirmed a national focus on establishing partnerships with the SETAs to improve skills development. Further, Victim Empowerment Programmes and Social Crime Prevention Programmes were confirmed for rollout in three provinces, including Limpopo province. The Department identified seven SETAs. At the time of the progress report submission, the LPDSD was waiting on the potential signing of memorandums of understanding with the identified SETAs.

During the investigation, the Commission recommended that the LPDSD work on its skills development programme. This programme will assist victims in obtaining skills to empower them and enable them to be financially and economically independent. The goal was to prevent victims in abusive relationships from being dependent on the perpetrators.



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## 12.2.2 THE APPROVAL AND IMPLEMENTATION OF A SEXUAL HARASSMENT POLICY

The Commission further recommended that the LPDSD work on its sexual harassment policy and provide training to staff members. When submitting the progress report, the LPDSD confirmed that it approved and implemented its sexual harassment policy. The policy will ensure that victims of sexual harassment can find recourse within a legally informed policy. The LPDSD should train its members, employees and security personnel as the sexual harassment policy has been adopted. The LPDSD must also ensure that the NPOs providing services on their behalf also have sexual harassment policies in place.

The Commission's reasoning behind this recommendation was to avoid further victimisation of GBV victims who seek refuge from shelters.

## 12.2.3 PLANS TO ESTABLISH NEW SHELTERS

The LPDSD has two shelters that service over five million people. On this premise, the Commission recommended that the LPDSD submit clear plans to establish new shelters.

The LPDSD states that they could not comply with this recommendation due to an inadequate budget. However, they have partnered with the Limpopo Department of Public Works Roads and Infrastructure to identify unused State property. In progress reported, five buildings were identified, and construction was expected to start between 1 March 2022 and 1 March 2023. Currently, there is no indication from the LPDSD that the intended construction has started or will start timeously. Therefore, the LPDSD still does not have enough shelters to cater for its population.

## 12.3 CONCLUSION

The LPDSD embarked on a long journey of compliance during this investigation. They adopted a sexual harassment policy, catered for the LGBTQIA community and put in place 72 VET sites, some positive results were yielded, and we commend them for their effort.

However, the issue of the lack of shelters to cater for the province remains a growing concern. In addition, the accreditation of the Skills Development Programme remains a standing item.

The failure of the LPDSD to fully comply with the outstanding recommendations made by the Commission undermines the responsibility bestowed upon them in terms of their Constitutional and statutory obligations. The non-compliance results in a failure to achieve the progressive realisation of socio-economic rights.



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## 13. KWAZULU-NATAL DEPARTMENT OF SOCIAL DEVELOPMENT (KZNDSD)

### 13.1 BACKGROUND

The Commission engaged the KwaZulu-Natal Department of Social Development (KZNDSD) on the state of shelters in KwaZulu-Natal pursuant to findings and observations made by the Commission during the information gathering process.

The Commission made the following recommendations:

1. The Dundee Crisis Centre must move the recycling business together with the feeding scheme to another site as both businesses cause a huge threat to the shelter.
2. The House of Hope shelter should prioritize erecting a proper fence before it is allowed to continue with its services.

### 13.2 PROGRESS AND DEVELOPMENTS

In relation to Dundee Crisis Centre, the KZNDSD provided the Commission with information that there has been full compliance. The Commission commends the KZNDSD on ensuring that there is compliance with the Commission's recommendation in this regard as it has the effect of protecting victims and/or survivors of GBV from risk of revictimization.

Regarding the Commission's recommendation that the House of Hope shelter should prioritize erecting a proper fence before it is allowed to continue with its services, the information received from KZNDSD was that a fence was erected and the overall security at the shelter was improved. Additionally, renovations were effected to improve the standard of the shelter.

The Commission observed during stakeholder engagements that the KZNDSD has established a partnership with South African Breweries (SAB) in terms of which SAB funds the refurbishments and furnishing of new shelters once DPWI has facilitated the process of availing properties to be utilized as shelters.

### 13.3 CONCLUSION

The progress reported, noted and observed by the Commission on the KZNDSD's role in the state of shelters in the KwaZulu-Natal province is commendable both in relation to ensuring that the shelters have complied with the Commission's recommendations as well as in relation to the recent partnership with SAB.





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## 14. DEPARTMENT OF PUBLIC WORKS AND INFRASTRUCTURE (DPWI)

### 14.1 BACKGROUND

The DPWI appeared before the Commission on 9 December 2019. The DPWI was allowed to respond to a questionnaire that sought to determine its role and contribution to shelters and associated safe places in South Africa, among other issues.

Against this backdrop, the following recommendations were made. The allocation of buildings to shelters has already commenced. It was therefore recommended that:

1. The DPWI was to submit a comprehensive and final report to the Commission at the end of March 2020.
2. The DPWI DG was to request that the provincial heads of departments make properties available for the programme.
3. The DPWI was to provide a list of the type of buildings to be allocated for shelter purposes.

During the 2021/2022 financial year, the DPWI reported the following progress to the Commission in relation to implementing its findings and recommendations:

***The DPWI DG to request that the provincial heads of departments make properties available for the programme.***

Requests to provincial heads of departments were not made. However, the Minister of the Department of Public Works and Infrastructure held a virtual meeting with provincial MECs and HODs of Social Development and Public Works to make properties available for the programme on 1 June 2020. The minutes of the meeting were shared with the Commission.

***The DPWI was to provide a list of the type of buildings to be allocated for shelter purposes.***

The DPWI provided that 54 buildings in the provinces were identified as suitable for shelters. Six properties in Gauteng and six properties in the Western Cape were renovated. The lease agreements of the properties are being finalised.

The DPWI stated that the properties in the following provinces were inspected and awaiting recommendations by DSD: Mpumalanga, Northern Cape and Free State. According to the DPWI, due to financial constraints, the Minister proposed that for the 2020/2021 financial year, two properties per province be identified and renovated in preparation for being handed over to the DSD. Provincial Social Development departments were included in the project as implementation occurred in provinces (see Table 8 for a list of identified properties).

**Table 8: List of properties identified by the DPWI for shelters**


The Commission was satisfied with the DPWI's reported progress.

### 14.2 PROGRESS AND DEVELOPMENTS

During the 2022/2023 financial year, the Commission requested a progress report on the funding of shelters in Limpopo province, as per the recommendations made in the investigative report by the Commission.

Some of the properties identified by the DPWI to be used as shelters were renovated to be handed over to the DSD per the Commission's recommendations.

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Site inspections were conducted and concluded in respect of all the provinces. However, the DPWI is awaiting DSD's response to confirm which properties are preferred and suit the DSD's shelter requirements.

A meeting was scheduled by the DPWI Minister to meet up with the DSD Minister. However, the DSD Minister postponed the meeting due to their unavailability to hand over the inspected properties. The delay is on the part of DSD as the DPWI complied. Therefore, the DSD is delaying the final process of properties being renovated and handed over.

Properties were identified and inspected in Kwa-Zulu Natal (Richard's Bay and Port Shepstone), Free State (Kloofontein and Kroonstad), Mpumalanga (Lothair and Badplaas), Limpopo (Groblersdal, Mablehall and Phalaborwa), Northern Cape (1x Kimberley and 2x Barkly West), North West (Coligny, Schweizer Reneke, Orkney, Stilfontein, Christiana and Fochville), Eastern Cape (Idutywa, Butterworth, Lusikisiki, Mthatha, Styensburg, Gonubie, Mortimer), Western Cape (Lainsburg, Aurora, Aurora Moorreesburg, Heidelberg and Albertinia) and Gauteng (Observatory, Cyrildene, De Wilgers, Mountain View, Waterkloof and Salvakop).

The DPWI partially complied as some of what was recommended by the Commission was implemented. The DPWI reported that the NDSD identified properties, and some are being renovated. The renovation of some of the properties is complete, and the properties are ready for the formal handover.

The positive effects of full compliance are as follows:

- The DPWI executes its constitutional mandate fully, and the Commission may be able to report to Parliament that the DPWI does comply with its constitutional mandate.
- The DPWI ensures a progressive realisation of the rights contained in the Bill of rights.
- The DPWI compliance curbs the high rate of GBV within the country by providing buildings to be utilised as shelters.
- The DPWI receives a suitable budget whenever they request such since they can account for the funds.
- The DPWI willingly delivers its services to the public as per its mandate.

The negative effects of non-compliance are as follows:

- The DPWI fails to execute its constitutional mandate.
- No progressive realisation of human rights occurs as per the Constitution.
- GBV victims do not receive assistance due to the unavailability of shelters and have nowhere to go.
- The Commission is disallowed and disabled from executing its mandate of monitoring compliance with the rights enshrined in the Constitution.
- The most vulnerable groups within our society receive no service delivery.

### 14.3 CONCLUSION

The Commission notes that there is progress in terms of the DPWI on its implementation of the Commission's recommendations. However, the DPWI must continue actively engaging with other role players to ensure full compliance with the Commission's recommendations.



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## 15. DEPARTMENT OF HUMAN SETTLEMENT (DHS)

### 15.1 BACKGROUND

The Department of Human Settlement (DHS) was requested to appear before the Commission on 2 December 2019. Based on the appearance before the Commission, the Commission made the following findings and recommendations:

1. DHS received grants from the National Treasury, and the grants were allocated to provincial DHS over the years
2. In addition to the specifics in the Housing Act, the province was responsible for implementing the programmes stipulated in the National Housing Code
3. DHS submitted that it has the latest information on national policy developments concerning a special housing needs programme to enhance the National Housing Code.

Accordingly, this programme was designed to provide special housing needs. Regarding funding, DHS confirmed that it had not received any assistance from the government. Instead, DHS relies on donors and private sector credit. Moreover, the DHS stated that it is sending letters to provinces highlighting which projects provided shelter to victims of GBV. However, a formal confirmation of this was yet to be received by the Commission. While the Housing Act No. 107 of 1997 requires all three spheres of government to promote the housing needs of marginalised groups disadvantaged by unfair discrimination, failure to provide housing needs for PWD constitutes unfair discrimination.

Based on the Department's report back to the Commission regarding its ability to meet the recommendations from the 2019/2020 financial year, the Department will be able to comply with the recommendations in 2021/2022. The Commission observed that the Department made strides to meet the recommendations. In addition, it provided supporting documentation in relation to policies that were either finalised or in draft related to GBV and special housing needs.

### 15.2 PROGRESS AND DEVELOPMENTS

- The DHS established a National Housing Programme per the Commission's recommendation. By means of this programme, the DHS sought to meet the needs of households faced with emergency housing situations due to circumstances beyond their control that threaten their life, health and safety.
- As is widely understood, the DHS is responsible for implementing programmes in accordance with the Housing Act, such as the National Housing Code and National Housing Policy. Furthermore, the proposed special needs housing programme would complement the National Housing Code. Housing assistance programmes that address the needs of households who, for reasons out of their control, find themselves in emergencies as a result of their prevailing situation posing an immediate threat to their life, health and safety and thus resulting in domestic violence or IPV incidents for both heterosexual and LGBTQIA+ persons.
- It is understood that assistance would be provided in the form of grants to municipalities to enable them to respond to emergencies as quickly as possible. The provision of land, municipal engineering services and shelter would be used to accomplish this. In appropriate cases, relocation and resettlement may be conducted voluntarily or cooperatively.



- In light of these considerations, the Commission notes the importance of approving a policy of this type. In comparison with best practices from other countries outside of South Africa that have taken similar positions and created what is internationally known as transitional housing, such an initiative or one similar to it would have vast benefits in assisting survivors of GBV and IPV in reintegrating into society and not return to life-threatening situations. There is no denying the connection between domestic violence, homelessness and housing insecurity since a lack of safe and affordable housing is often reported as one of the primary barriers survivors of domestic violence experience when they decide to leave an abusive partner. As a result, women and their children are at risk of homelessness due to domestic violence.
- Although safe housing can provide a pathway to freedom, many barriers prevent survivors from acquiring or maintaining safe and affordable housing. The unique safety and confidentiality need of victims limit the types and locations of housing they can access. As a result, survivors face housing barriers that can be exacerbated by housing systems that do not address their specific needs. The importance of collaboration in advocacy systems cannot be overstated. While emergency shelters provide immediate safety, transitional housing provides short-term and supportive services. In addition to being a safe, affordable option, emergency shelters assist survivors in rebuilding their lives and prepare them for permanent housing.
- The reduced availability of affordable housing due to increased housing shortages and increased demand, limited incentives and rising living costs, combined with structural barriers to service access, including sexism, homophobia, transphobia, ableism or poverty, increases women's risks of experiencing IPV-related homelessness.
- A comprehensive IPV response strategy requires access to safe, affordable and accessible housing options, including emergency shelters and permanent supportive housing. There is clear international evidence of the advantages of shelter and long-term supportive housing models or initiatives. Significant evidence indicates that shelters benefit women, particularly regarding mental health outcomes, the intent or decision to leave a partner, safety and housing stress. Thus, the Commission notes that the timeous approval of the policy by Cabinet is required in the fight against GBV and IPV.

### 15.3 CONCLUSION

Although the DHS progressed in its compliance with the Commission's recommendations, no emergency housing or transitional housing is available for victims of GBV and IPV.



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## 16. NATIONAL DEPARTMENT OF SOCIAL DEVELOPMENT (NDSD)

### 16.1 BACKGROUND

The NDSD was requested to appear before the Commission on 2 December 2019 to account to the Commission as it is viewed as the Department responsible for policymaking and monitoring, whilst the provincial DSD's are responsible for the funding of the existence of the service.<sup>21</sup>

The Commission made the following findings and recommendations after receiving additional information requested by the Commission at the time of the NDSD's appearance:

- The NDSD was to provide a draft sector funding policy.
- The NDSD was to furnish the Commission with a finalised and approved policy on or before 31 March 2020.
- The NDSD was to identify three existing shelters to pilot the inclusion of LGBTQIA+ persons. The wording was to be refined in order to be inclusive and non-discriminatory.
- Once the policy was finalised, the NDSD was to provide the Commission with the Intersectoral Shelter Policy for Victims of Crime and Violence.
- The NDSD was to provide information on the Reaphela Safe House in the Free State province and the particulars of the applicant organisation. Furthermore, the Department was to provide information relating to funding allocation, whether funded by the NDSD or special funding.
- The NDSD was to provide disaggregated data in terms of race and gender of 200 social workers.
- The NDSD was to implement various funding models for Victim Empowerment Programmes and the budget percentage in respect of the NAWONGO judgment.
- The NDSD was to furnish information relating to the standardisation of the minimum wage across the shelters.
- The NDSD was to try funding through private companies and other relevant donors.
- The NDSD was to provide the Commission with a draft training and development framework.

### 16.2 PROGRESS AND DEVELOPMENTS

In complying with the Commission's recommendations in relation to the sector funding policy, the NDSD submitted to the Commission the Intersectoral Shelter Policy for Victims of Crime and Violence and confirmed the adoption and implementation of the sector funding policy. The Commission recommended that the policy be finalised, approved and submitted to the Commission on or before 31 March 2020. In terms of the progress reported over the years by the NDSD. The policy aims to facilitate and enable the provision of a comprehensive spectrum of services to all those seeking shelter from crime and violence.


The Commission notes the slow progress made by the NDSD in finalising the policy.

The effect that services are not reaching the most vulnerable and that NPOs providing these services on behalf of the DSD are seemingly not receiving adequate funding.

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<sup>21</sup> Lopes, C. (2013). Shelter Housing Women Who have Experienced Abuse: Policy, Funding and Practice. [https://za.boell.org/sites/default/files//downloads/Policybrief\\_reports\\_sheltershousingabusedwomen\\_updatedOct2013.pdf](https://za.boell.org/sites/default/files//downloads/Policybrief_reports_sheltershousingabusedwomen_updatedOct2013.pdf)

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The Commission recommended that the NDSD must identify three existing shelters to pilot as inclusive and non-discriminatory shelters to accommodate LGBTQIA+ persons. In line with this recommendation, the Department reported that in Chapter 5 of the Intersectoral Shelter Policy for Victims of Crime and Violence, the Department is addressing the issue of admission and referrals to shelters for victims from the LGBTQIA+ community of crime and violence.

The NDSD highlighted that three provinces were identified to pilot shelters for LGBTQIA+ persons. However, there is no evidence of implementation. Thus, this indicates that a gap still exists between identification and realisation.

The NDSD did not provide the Commission with the requested information (Reaphela Safe House particulars/details and who is responsible for Reaphela Safe House funding) based on the Reaphela Safe House. The failure of the NDSD to provide such information prevents the Commission from determining whether Reaphela Safe House is classified as a private or public shelter being funded by NDSD.

The Commission notes further that the NDSD did not provide the requested disaggregated data relating to the race and gender of 200 social workers. Thus, the Commission cannot determine whether the NDSD fully complies with the employment equity policies.

The NDSD provided unclear information to the Commission that does not clearly state what was required in terms of the Commission's recommendation concerning race and gender.

The NDSD was to implement various funding models for Victim Empowerment Programmes and the budget percentage in respect of the NAWONGO judgment. There is a plan, implementation and realisation of the plan. The Commission submits that the NAWONGO judgment was partially realised as a funding policy/strategy is in place.

The NDSD submitted to the Commission relating to the standardisation of the minimum wage across all the shelters. The wage subsidises social auxiliary workers employed by NPOs and varies between 29% and 82% of entry-level wages paid by the NDSD. The NDSD has not fully complied with this recommendation. The NDSD did furnish the Commission with the requested information regarding the standardisation of the minimum wage across all shelters.

The NDSD did not provide the Commission with the requested information regarding sourcing funding from private sectors and other relevant donors, which burdens the available funding that the NDSD receives from the National Treasury. Sourcing funding from private sectors and relevant donors by the NDSD will lessen or reduce the burden of funding from the National Treasury and will also promote and protect the realisation of the rights of the most vulnerable groups in need of shelter services.

The Commission acknowledges that the NDSD furnished the Commission with a draft Victim Empowerment Training and Development Framework Plan. The purpose of the draft Victim Empowerment Training and Development Framework Plan is to harmonise the intersectoral strategy plan to bridge the collaboration challenge and enhance the government's intersectoral training programme. The delay in the finalisation of the Victim Empowerment Training and Development Framework Plan connotes that intersectoral stakeholders continue to operate without a guideline that can be used to implement VEP training.

## 16.3 CONCLUSION

The NDSD complied with most of the recommendations and must still comply with the outstanding recommendations such as that the wording must be refined to be inclusive and non-discriminatory. The NDSD must provide the Commission with progress reports



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## 17. OVERALL CONCLUSION

The Commission commends stakeholders on the strides taken in complying with the Commission's recommendations. Complying with the Commission's recommendations demonstrates a commitment towards realising the Six Pillars of the National Strategic Plan on Gender-Based Violence and Femicide (NSP GBVF).

The Commission acknowledges that following its initial findings and recommendations, the Minister of Social Development announced in her budget speech that R50 million was allocated from the Criminal Assets Recovery Account to support shelters.<sup>22</sup> The establishment of new shelters in the country since the initial report confirms the key role players' willingness to stand up in the fight against GBVF.

However, the Commission is concerned by the delay in finalising the Intersectoral Shelter Policy for Victims of Crime and Violence. This delay is concerning since the NDSD has not provided evidence of a policy being utilised to ensure inclusivity and non-discrimination when admitting and accommodating LGBTQIA+ persons in shelters. The Commission cautions the NDSD about the implications of not having clear policies in place to accommodate issues faced by the LGBTQIA+ community in shelters, as this might suggest that the NDSD is not committed to affording equal access and equal protection to all citizens.

The NDSD should ensure that the Victim Empowerment Training and Development Framework Plan is prioritised to avoid potential secondary victimisation resulting from a lack of adequate training and guidelines for implementing victim empowerment.

The Commission is concerned that there is a lack of a uniform shelter specific funding policy for shelters in South Africa. The NDSD must be wary of a situation where shelters cannot meet the needs of its GBV victims and survivors due to a lack of resources caused by inadequate funding. Inadequate shelters indicate that the NDSD did not consider the needs of the GBV victims and survivors at the shelters.

The Commission highlights that this investigation sheds light on the challenges faced when implementing shelters in South Africa. This investigation found that the progress towards shelters made jointly by the relevant stakeholders indicates that transformative measures require a collaborative effort from State entities in consultation with the NPOs, VEPs and other key non-governmental stakeholders.

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<sup>22</sup> <https://www.dsd.gov.za/index.php/2-uncategorised/37-budget-vote-17-speech-by-the-minister-of-social-development-ms-lindiwe-zulu-mp-to-the-national-assembly-2?highlight=WyJz2UiXQ==>







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