



ANNUAL PERFORMANCE REPORT

(For the year ended 31 March 2021)

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Annual Financial Statements attached as separate document to this copy, and with pages 1 - 54.

FOREWORD BY THE CHAIRPERSON

The year 2020/2021 started with a storm that caught many in South Africa and indeed other countries of the world, with utter surprise. For us, the Novel Coronavirus (COVID-19) arrived in South Africa, a few days before the start of the financial year, with devastating and frightening effects and caused panic all round. With the realization of the havoc that the pandemic was causing to human lives, infecting and killing thousands each day, the South African government, out of the realization that if the Coronavirus was left unchecked it would overwhelm hospitals and other health care facilities and result in untold devastation to human lives, the government declared a national state of disaster and announced a total shutdown that imposed far reaching restrictions. Such restrictions, fundamentally limited many of the peoples' constitutionally entrenched rights, including the right to freedom of movement¹, freedom of association² and many others.

The above-mentioned developments had huge implications for the mandate of the South African Human Rights Commission to promote respect for human rights, to protect human rights and to monitor and assess the observance of human rights in the country. On the one hand, the restrictions on movement and association meant that the staff of the Commission could not receive complainants and deal with their complaints in the usual manner and complainants could not be easily reached for consultations. On the other hand, since the COVID-19 was reported to be spreading fast, had no cure and was deadly, the Commission had to make difficult choices whether and how to continue doing its work among communities and risk losing the lives of some or most of its staff members and Commissioners or letting them stay and work from home. The Commission was compelled to choose the latter, especially at the onset of the pandemic-related lockdown. Of course at the time of the declaration of the state of disaster and for some months thereafter, the bulk of the staff, except those doing essential services, had to remain at home and work from there. This had a significant negative impact on both the pace and quality of the services that the Commission could render to the public both in promoting and protecting their rights. Internally, the Commission, like many other entities, including government, Parliament, the Judiciary, business and civil society, had to find effective ways of working remotely.

Working remotely was yet another challenge for all, including the South African Human Rights Commission (the Commission or SAHRC). The internet connection was poor and platforms for meeting remotely were still developing but expensive to acquire. For the Commission, it

¹ Section 21 of the Constitution.

² Section 18.

meant making efforts to acquire technology such as Webex and MS Teams and learn how to use it across the organization. It meant upgrading the strength of its internet and requisitioning additional tools of trade, including laptops and data, for more than 150 of its staff members to enable them to work remotely, from their homes.

The Coronavirus accentuated many existing problems and increased the workload of the Commission in many respects. The inadequacies of the capacity of the health care system to provide adequate access generally, as well as handle the effects of the pandemic were made more visible by the rapidly increasing need and demand for access to health care in the face of an inadequate and failing infrastructure, shortages of staff in terms of nurses and doctors and other skills, equipment, drugs and other essentials. Also problems of lack of access to water became a major factor especially on the question whether learners could return to school. In this regard, the Commission's resources were stretched beyond limits to try and ensure that no learners were left behind by the non-opening of their schools because of non-access to water and sanitation. The Commission is grateful to more than 150 civil society organizations that joined forces with it to monitor and report the schools' water situation, thereby enabling the Commission to take remedial action. It is also grateful to the Ministry of Basic Education for doing its best to assist in this regard. The Commission also worked with and relied on health sector labour unions who gave valuable information and other forms of support regarding access to health care services, especially in hospitals and clinics in the Eastern Cape.

The Commission was faced with a daunting task of supporting government initiatives to respond to COVID-19 whilst responding to human rights complaints. Using our protection mandate, the Commission prioritized complaints and provided immediate relief to those in respect of which urgency was demonstrable. In addition to addressing complaints, the Commission undertook litigation and interventions largely related to service delivery challenges. Engaging directly with those responsible for fulfilling human rights proved challenging, particularly in our new way of (virtual) working. Some examples of successful interventions included ensuring access to water in parts of Kwa Zulu Natal, Northern Cape and North West. Our success was possible also through strategic partnerships with institutions such the South African Local Government Association (SALGA), with which we have formalised our engagements through a memorandum of understanding.

As we had anticipated when the Commission hosted its conference on the Fourth Industrial Revolution and human rights; the impact of technology required new ways of thinking about

promoting human rights. Restrictions on movement necessitated the Commission adapting in fulfilling its promotion mandate by making use of virtual platforms.

These changes required adjustments to our financial status. Whilst acknowledging the need for National Treasury to impose budget cuts to redirect funds to emergency relief efforts; the Commission has been under severe financial constraints in previous financial years, a phenomenon that undermines the work of the Commission. Like that of the Paris Principles, our position is that without financial independence, the Commission will not be able to gain its constitutional and legislative independence. Part of the work of Commissioners during the year in review was engaging with the Presidency and we intend to continue these engagements; not only on questions of budget allocations but equally importantly, on remuneration structures.

For the period under review, our resolve to fulfilling our constitutional and legislative obligations was marred by the passing of former Deputy Chairperson, Commissioner Priscilla Jana. Considering her dedication to the work of the Commission, her loss left a big vacuum. We take solace from her words as expressed in her book, '**Fighting for Mandela**: The explosive autobiography of the woman who helped to destroy apartheid'; "my life was devoted to human rights and we must devote our energy to gain equality, non-discrimination and poverty eradication". As we look ahead, the Commission will continue to be inspired by these words. The passing of the former Deputy Chairperson was sadly followed, a few months later, by that of Mr. Julian Masimila, a staff member who had served the Commission in Western Cape and the Northern Cape provincial offices. As we dealt with our collective grief, the Commission was able to appreciate its collective ability of building institutional resilience. The measure of this can be seen in the performance of the Commission. Despite a decline, as a consequence of COVID-19, the Commission was able to adapt its annual performance plan to respond to emerging human rights violations in the country.

Advocate Bongani Majola
Chairperson

OVERVIEW BY THE CHIEF EXECUTIVE OFFICER

African writer, Chinua Achebe's aptly titled his book; 'things fall apart' described the general state of the world in 2020/2021. His description of the state of affairs in the book was similar to how the world and South Africa felt at the start of the global pandemic; "Nothing happened at its proper time, it seemed the world had gone mad."

The 2020/2021 financial year was filled with both threats and opportunities to our collective effort as Commissioners and Secretariat as we continued to be of (constitutional) service to the people of South Africa. The obvious threat of the Covid-19 pandemic's impact that would cause the regression of human rights and yet providing the Commission with opportunities for exploiting information technology and communication during a time of the fourth industrial revolution; sums up the work of the Commission over the period under review.

The year 2020 marked two decades of the enactment of a trio of legislation all emboldened by a call to promotion of human rights; the Promotion of equality and prevention of unfair discrimination act (section 9 of the Constitution); the Promotion of access to information (section 32 of the Constitution); and the Promotion of administrative justice (section 33 of the Constitution). This legislative trio was of critical importance in the time of the global pandemic of Covid-19. The South African government's response to Covid-19, though commendable, was fraught with the complexities of balancing civil liberties in the face of safeguarding peoples' lives. A quagmire unconceivable and yet inevitable given our current socio-economic state in the country and our co-dependency as a member of the global nation.

The introduction and ongoing Covid-19 Lockdown Regulations required swift government action which was centred on the trio of legislation. Government was compelled to provide emergency relief, explaining its response to the pandemic (administrative justice) and to provide updated information to the public. The reality that government faced was that the current inequality and poverty levels in South Africa was a direct result of years of government's dawdling realisation of human rights. In addition, years of corruption; as confirmed by the Commission's conference and indeed the Zondo Commission (the Commission of Inquiry into allegations of State Capture: Corruption and fraud in the Public Sector, including Organs of State) was the precursor that places South Africa with the highest Gini coefficient in the world. Covid-19 deepened the crisis.

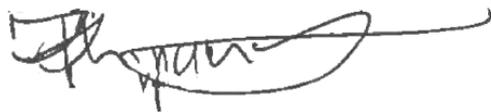
As one of the constitutional human rights enablers, the Commission was called upon to alter its annual performance plan (APP) so as to respond and react to the changing pandemic environment. Responding through our constitutional mandate of protection, promotion, monitoring, education and research; the Commission lessons from implementation of the APP during a humanitarian crisis have served to strengthen our institutional capacity to be durable in the face of change. Reacting to human rights violations, the Commission was able to ensure that vulnerable communities were not victimized because of their ability, nationality status or age.

In our response to human rights violations, the Commission's recorded over six hundred (600) complaints related to Covid-19 and over nine thousand (9000) 'ordinary' complaints. The top three human rights 'ordinary' complaints were predictably; equality, socio-economic rights (health care, food and water) and just administrative action. Interestingly, complaints related to equality and administrative justice continue to persist even in the year of the twentieth anniversary of legislation promoting equality and administrative justice.

Historically, the Commission has utilized in-person events in fulfilling its promotion mandate. Covid-19 ushered in hybrid events (in-person and virtual) for our commemoration of human rights days. This impacted in the decline of our performance given Lockdown levels and Regulations.

Our Research and monitoring work for the year under review included monitoring government's compliance with human rights frameworks (Socio-economic and civil and political rights; prevention of torture, rights of children and persons with disabilities). Specifically, our monitoring efforts, particularly in the right to education; ensured that Regulations relating to the opening of schools were scrutinized to ensure a balancing of rights (education and right to food) with that of safety. Through the National Preventative Mechanism (prevention of torture), the Commission was able to monitor places of safety including temporary shelters configured for vulnerable populations. The Commission will continue to advocate for the designation of other independent mechanisms.

The "winter of our discontent" as the Commission included the passing of Former Deputy Chairperson Jana and staff member Mr Julian Masimila from the Northern Cape office. In addition, at the time of concluding the annual report; our staff member Mrs Alufheli Nefale from Mpumalanga office passed away. Death is part of the cycle of life but in the context of Covid-19, the uncertainty of Commissioners and staff members contracting Covi-19, the resultant closure of provincial offices; placed a burden on the productivity of staff and inevitably on institutional performance. Our hope was found in the unity experienced in the Commission as we sought to focus on contributing to safeguarding our constitutional democracy.



Advocate Tseliso Thipanyane
Chief Executive Officer

PART A: GENERAL INFORMATION

1. STRATEGIC OVERVIEW

The South African Human Rights Commission's strategic intent is informed by various instruments and policy mechanisms. These include the Constitution as well as other founding and supporting legislation.

1.1 *Vision*

Transforming Society. Securing Rights. Restoring Dignity.

1.2 *Mission*

The SAHRC (referred to as the Commission), as an independent National Human Rights Institution (NHRI), is created to support constitutional democracy through promoting, protecting, and monitoring the attainment of everyone's human rights in South Africa without fear, favour or prejudice.

1.3 *Values*

The values of the Commission are:

- a) Integrity
- b) Honesty
- c) Respect
- d) Objectivity
- e) Batho Pele Principles
- f) Equality

2. LEGISLATIVE AND POLICY MANDATES

The Commission is an independent institution that supports constitutional democracy, and is established in terms of Chapter 9 of the Constitution. Its specific mandate is stipulated in Section 184 of the Constitution. The following sub-sections broadly describe the parameters of the institution.

2.1 *Constitutional mandate*

The mandate of the Commission, as contained in Section 184 of the Constitution of the Republic of South Africa, 1996, is as follows:

- a) The South African Human Rights Commission (SAHRC) must:
 - i. Promote respect for human rights and a culture of human rights;
 - ii. Promote the protection, development, and attainment of human rights; and
 - iii. Monitor and assess the observance of human rights in the Republic.

- b) The Commission has the necessary powers, as regulated by national legislation, to perform its functions, including the power:
 - i. To investigate and report on the observance of human rights;
 - ii. To take steps to secure appropriate redress where human rights have been violated;
 - iii. To carry out research; and
 - iv. To educate.
- c) Each year, the Commission must require relevant organs of state to provide the Commission with information on the measures that it has taken towards the realisation of the rights in the Bill of Rights concerning housing, health care, food, water, social security, education, and the environment.
- d) The Commission has additional powers and functions prescribed by other national legislation.

2.2 Other legislative and policy mandates

The Commission has additional powers and functions prescribed by specific legislative obligations in terms of the South African Human Rights Commission Act, the Promotion of Access to Information Act and the Promotion of Equality and Prevention of Unfair Discrimination Act.

In this respect, the Commission must:

- a) Promote awareness of the statutes;
- b) Monitor compliance with the statutes;
- c) Report to Parliament in relation to these statutes; and
- d) Develop recommendations with regard to persisting challenges related to these statutes and any necessary reform.

South African Human Rights Commission Act, 2013 (No. 40 of 2013) (SAHRCA)

While the Commission fulfils the obligations set out in the SAHRCA, the Commission has suggested a number of amendments to bring the SAHRCA in line with the Constitution and subsequent legislation. The Commission awaits the tabling in Parliament of amendments to the SAHRCA occasioned by the adoption of the Constitution in 1996.

Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) (PAIA)

The Commission promotes compliance with the PAIA and produces an annual report in this regard, in line with Sections 83 and 84 of the PAIA. Key prescripts of the PAIA are the development of transparency frameworks and increasing institutional responsiveness to information requests, with a view to promote access to information.

Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act 4 of 2000) (PEPUDA)

The Commission continues to promote compliance with the PEPUDA, and will start producing a thematic equality report on an annual basis. Section 25 (5) (a) of the PEPUDA prescribes the submission of equality plans to the

SAHRC to be dealt with in the prescribed manner, in consultation with the Commission on Gender Equality. Section 28 (2) requires the SAHRC to assess and report on the extent to which unfair discrimination on the grounds of race, gender, and disability persists in the Republic, the effects thereof, and recommendations on how best to address the problems. The Commission continues to assess and report on the state of equality, notwithstanding that Sections 25 and 28 are not yet in operation.

International and regional instruments

The Commission is actively involved in ensuring the ratification and domestication of international and regional human rights instruments through, among others, advocacy and policy influence.

At an international level, the Commission is recognised by the United Nations Office of the High Commissioner for Human Rights as an “A” status National Human Rights Institution (NHRI). The Commission has thus adhered to the Paris Principles, which are guiding principles that set out the nature and functioning of NHRIs. These principles emphasise the independent nature of NHRIs and guide the manner in which they should conduct their work.

Summarised, the principles state, among others, that national human rights institutions should:

- a) Monitor any situation of violation of human rights;
- b) Be able to advise the Government, Parliament, and any other competent body on specific violations;
- c) Educate and inform on issues of human rights; and
- d) Be able to use their quasi-judicial powers where these exist.

The mentioned legislation and policies form the basis on which the Commission plans its strategy and operations.

3. ORGANISATIONAL STRUCTURE

The execution of the Commission's constitutional and legislative mandate is supported by an organisational structure constituted at the head office in Johannesburg, and supported by provincial offices across all nine provinces.

Figure 1: Head office structure

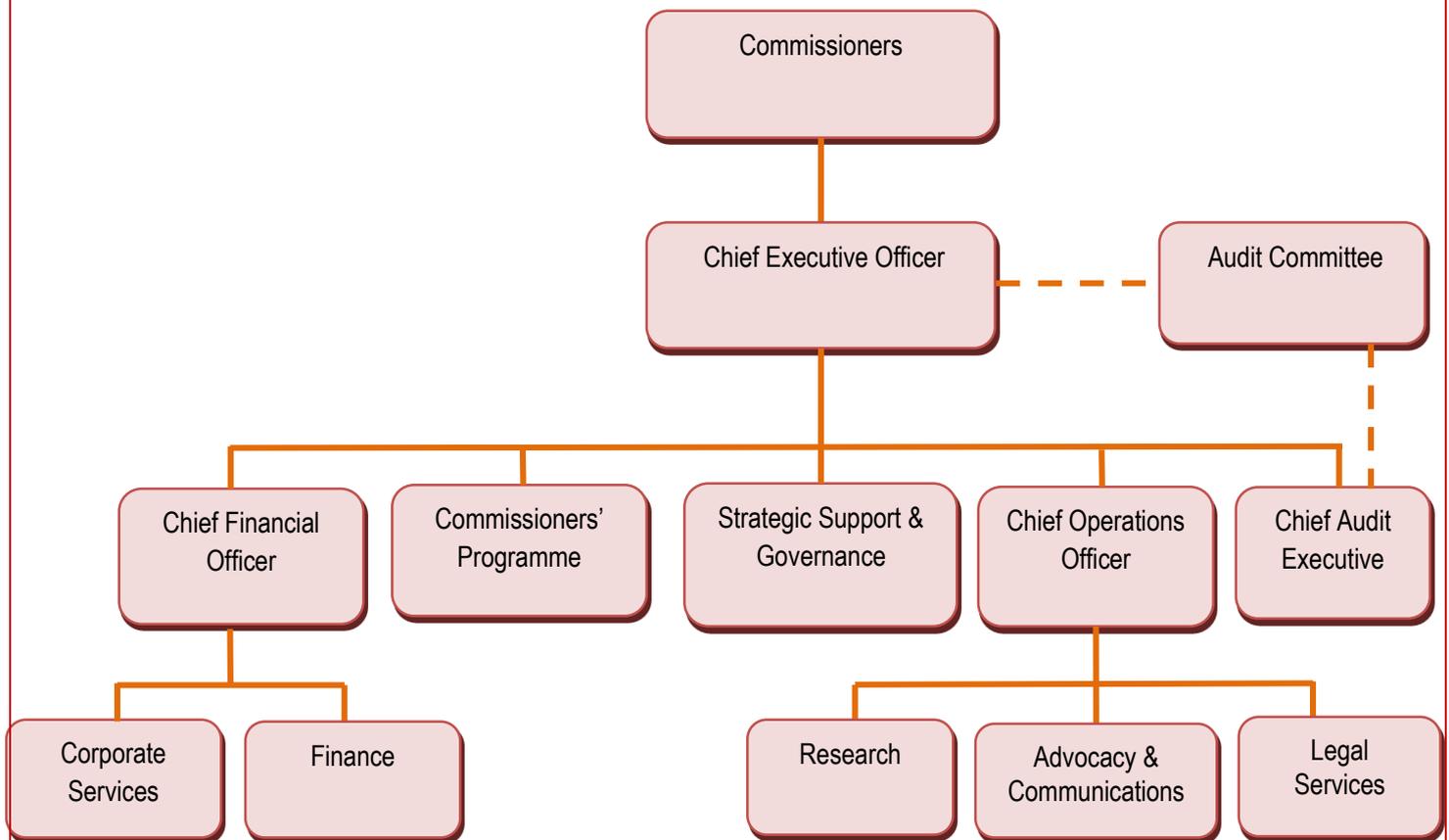
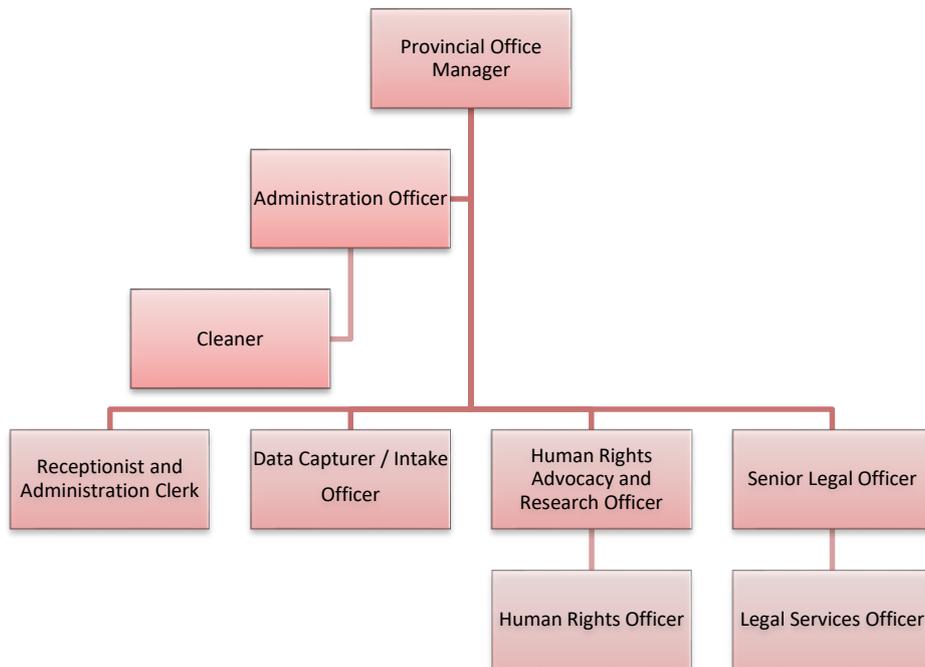


Figure 2: Provincial level generic structure:



PART B: PERFORMANCE INFORMATION

STATEMENT OF RESPONSIBILITY FOR PERFORMANCE INFORMATION

Statement of responsibility for performance information for the year ended 31 March 2021

The Chief Executive Officer is responsible for the preparation of the institution's performance information and for the judgements made in this information.

The Chief Executive Officer is responsible for establishing and implementing a system of internal control designed to provide reasonable assurance as to the integrity and reliability of performance information.

In my opinion, the performance information fairly reflects the performance of the institution for the financial year ended 31 March 2021.



Tseliso Thipanyane
Chief Executive Officer
Date: 31 May 2021

1. OVERVIEW OF INSTITUTIONAL PERFORMANCE AND ORGANISATIONAL ENVIRONMENT

Implications of the Corona Virus of 2019

The Performance of the institution during the period under review was marred by the spread of the Corona Virus Disease of 2019 (Covid-19) in South Africa. The pandemic exacerbated existing Human Rights challenges that warranted greater attention from a National Human Rights Institution. The encounter with Covid-19 required a review of the institutional strategies and methods for the realisation of strategic plan outcomes and objectives.

The Commission had to balance the need for greater intervention with safety concerns and precautionary measures, which further restricted the already constrained resources capacity. Remote working arrangements had to be instituted, which meant that the organisation could not perform optimally. The arrangements brought new demands for working equipment such as protective gear, Laptops, and data allowances.

With the Covid-19 variant and second wave rising during the third quarter, some of our staff were infected. Several provincial offices had to be closed for deep-cleaning. Institutional performance was adversely affected, especially public outreach and strategic engagements; human rights monitoring activities and reporting.

Proposed budget reductions

Adjustments to the national budget to meet the growing fiscal needs implied a risk for the institutional financial status, with proposed reductions in baseline allocations. The budget of the Commission was reduced by R8.3 million during this financial year. Furthermore, the Commission's budget allocation has been reduced from R200 million in 2020-21 to R195 million in 2021-22.

Recognising the severe restraint that the reductions would have on the organisation's operations, effectiveness and impact, the Commission had presented its case to Parliament, the National Treasury and Department of Justice, who all expressed their support and acknowledgement of the importance of Human Rights protection and observance, especially during the pandemic. Persistent budget constraints pose a threat to the independence and stability of the institution, as well as a strain to labour relations. The Commission is deliberating on the budget situation, including organisational structure redesign, ascertaining the ideal NHRI budget, and engaging relevant stakeholders to mitigate against this threat.

1.2 Key policy developments and legislative changes

With the introduction of the Information Regulator (IR) in terms of the Protection of Personal Information Act, 2013 (Act 4 of 2013), also referred to as the POPI Act, the anticipation is for the legislative mandate imposed by the PAIA to be carried out by the IR. However, until full establishment of the IR and a comprehensive handover process, the Commission will continue to deliver on the PAIA mandate.

2 HUMAN RIGHTS PRIORITY AREAS AND OUTCOME-ORIENTED GOALS

2.1 Human Rights priority areas

In pursuit of its constitutional mandate, the Commission has adopted the following priority human rights focus areas for the planning period 2020 – 2025:

- 2.1.1 Pro-Human Rights Budgeting
- 2.1.2 Governance, anti-corruption and human rights
- 2.1.3 Health
- 2.1.4 Education
- 2.1.5 Human Settlements, Water and Sanitation
- 2.1.6 Land and Food Security
- 2.1.7 Environment and Food Security
- 2.1.8 Civil and Political Rights, with specific emphasis on the National Preventive Mechanism (NPM) under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)

2.2 Transversal or Cross-cutting issues for special attention

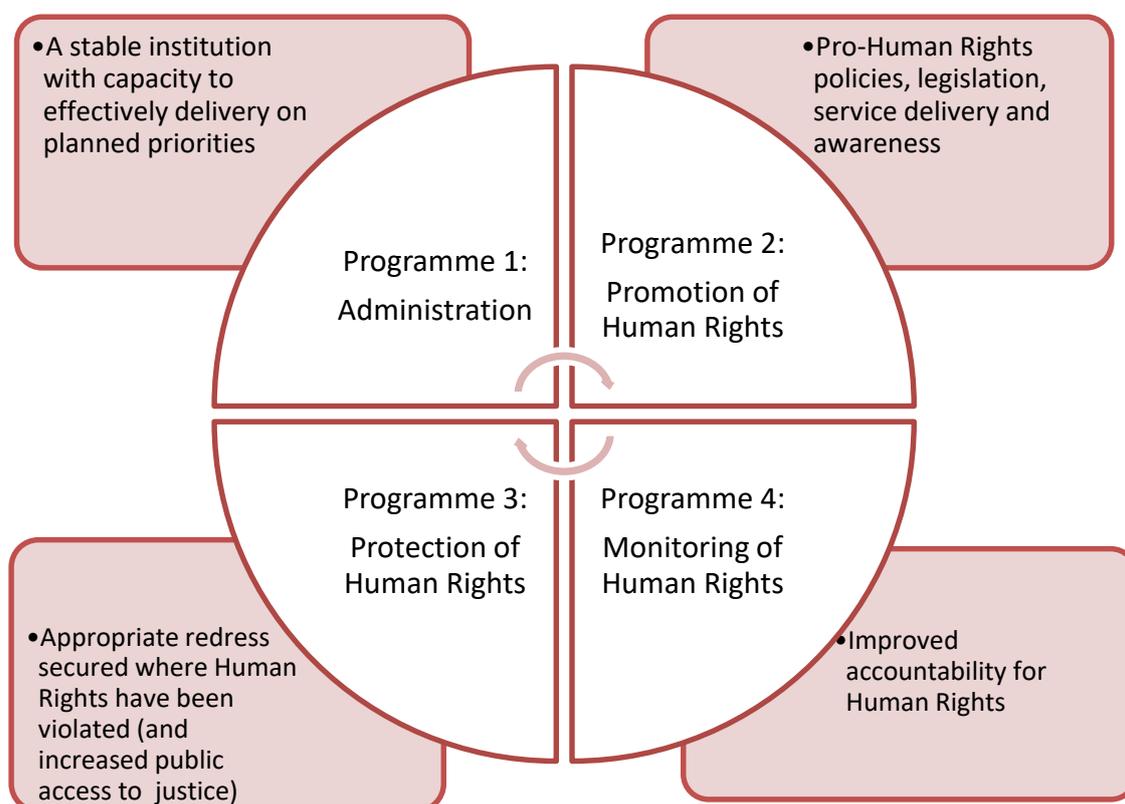
Within the above identified priority focus areas, the Commission would also give particular attention to transversal or cross-cutting issues of:

- 2.2.1 **Inequality:** Promoting practices that improve the state of equality and prevent and eliminate situations that perpetuate inequalities across all the identified priority focus areas.
- 2.2.2 **Children:** Promoting, protecting and monitoring the observance of the rights of children across all the identified priority focus areas.
- 2.2.3 **Gender:** Promoting, protecting and monitoring the observance of gender rights, including the rights of women, across all the identified priority focus areas.
- 2.2.4 **Disability:** Promoting, protecting and monitoring the observance of people with disabilities across all the identified priority focus areas.
- 2.2.5 **Older Persons:** Promoting, protecting and monitoring the observance of the rights of older persons across all the identified priority focus areas.
- 2.2.6 **Migrants:** Promoting, protecting and monitoring the observance of the rights of migrants across all the identified priority focus areas.
- 2.2.7 **Business and Human Rights:** Monitoring the role and practices of business to ensure that they promote and protect the observance of human rights across all the identified priority areas.

2.3 Outcome-oriented goals

The Commission's planning and internal evaluation exercises resulted in the identification of the following programme outcomes:

Figure 2: Programme outcomes



3 PERFORMANCE INFORMATION BASED ON PROGRAMME OUTCOMES

3.1 Summary of programmes

In order to deliver on the constitutional mandate, the Commission is structured into four Programmes:

- Programme 1: Administration;
- Programme 2: Promotion of human rights;
- Programme 3: Protection of human rights; and
- Programme 4: Monitoring of human rights.

These Programmes are further structured into sub-Programmes, commonly known in the Commission as business units, responsible for operations for the realisation of the programme outcomes. It must be noted that some of the business units' work cuts across the core Programmes, 2 to 4, and related strategic objectives. However, for programme budgeting purposes, these have been allocated to specific Programmes and include the

Commissioners' Unit, Office of the Chief Operations Officer and the Provincial Offices. It must also be noted that the Office of the Chief Executive Officer contributes throughout all the four Programmes of the Commission.

Programme 1: Administration

This Programme consists of the following business units:

Finance:

Finance provides effective and efficient management of the budget to allow for successful achievement of strategic objectives within limited resources. The unit also facilitates and monitors the management of identified organisational risks to minimise threats to operations.

Corporate services:

This unit encompasses the functions of human resource management, administration and supply chain management, and information communications technology. The unit aligns the Commission's human resource objectives to its planning processes, enabling recruitment and retention of staff with capacity to support the achievement of strategic objectives. It establishes and manages integrated supply chain management, asset management and coordination of all administrative functions of the Commission within defined regulatory frameworks. It is also responsible for ensuring effective and efficient information communications technology systems and services.

Internal audit:

The Internal Audit Unit assesses the adequacy and reliability of internal controls and governance processes. It identifies gaps and recommends corrective action to the controls and processes.

Strategic support and governance:

The unit is responsible for coordination of the processes including institutional strategic planning, performance monitoring, evaluation, and reporting.

Office of the Chief Executive Officer:

The Chief Executive Officer (CEO) is responsible for establishing and maintaining an effective and efficient corporate governance framework that ensures management accountability through improved mechanisms for controlling and directing management activities. It further provides guidance and oversight to the core operations Programmes.

Programme 2: Promotion of human rights

This Programme consists of the following business units, responsible for the promotional and protective aspects of the Commission's mandate:

Commissioners' programme (Office of the Commissioners):

Commissioners provide leadership and guidance on the professional work of the Commission through facilitating the South African human rights agenda at international, regional, national, provincial and local levels.

Human rights advocacy and communications:

The human rights' advocacy and communications unit (Advocom) promotes awareness of human rights and contributes to the development of a sustainable human rights culture in South Africa. It also serves to promote the Commission's activities and enhance understanding through comprehensive communications and media relations.

Provincial offices

Provincial offices are responsible for carrying out the Commission's mandate through core operations and actual implementation at provincial level.

Programme 3: Protection of human rights***Legal Services:***

Legal services is responsible for providing quality legal services in the protection of human rights in the Republic of South Africa through the efficient and effective investigation of complaints of human rights violations, the provision of quality legal advice and assistance, as well as seeking redress through the courts for victims of human rights violations.

Office of the Chief Operations Officer:

The Chief Operations Officer (COO) coordinates core operations business units (Legal Services, Research, Advocacy and Communications, and provincial offices); operational process improvements to ensure efficient delivery on the core business of the Commission.

Programme 4: Monitoring of human rights

This programme consists of the following business unit, responsible for the institution's constitutional monitoring and reporting mandate:

Research:

The unit plans, designs, conducts and manages research on the promotion and protection of human rights aimed at monitoring, assessing and documenting developments in human rights policy within the Republic.

Some of the programme and business units' operations contribute across the strategic objectives, hence the presentation of performance based on its alignment with strategic objectives.

3.2 Organisational performance by Programme

This section reports on performance achievements against the planned organisational performance targets set for the 2020-21 financial year. The overview breakdown of target achievement by Programme is presented in Table 2 below. The Commission achieved 64% (that is, 23 of 36) of its annual targets for the period under review. This is a deterioration from 88% in the previous financial year, and can be attributed mainly to the challenges posed by the Covid-19 pandemic.

Table 2: Summary of overall target achievement

Programme	Total no. of Targets	No. of Targets Fully Achieved	No. of Targets Under-Achieved	Percentage Achievement
Programme 1: Administration	12	07	05	58%
Programme 2: Promotion	09	06	03	67%
Programme 3: Protection	04	03	01	75%
Programme 4: Monitoring	11	07	04	64%
Total	36	23	13	64%

3.2.1 Programme 1: Administration – A stable institution with capacity to effectively deliver on planned priorities

The programme contributes to the desired organisational outcome of a stable institution that has capacity to effectively deliver on its planned priorities. This entails enhancing good governance and leadership; financial viability; human resources capacity; impact monitoring and evaluation; and information and communications technology to support the delivery on the mandate and selected strategies.

Reflections on strategy planning and execution

In an attempt to promote the effectiveness and efficiency of strategy execution and delivery on the mandate, the Commission convened internal strategic reflection sessions on each of the identified human rights priority areas and envisaged outcomes. The sessions were useful in providing clarity of purpose and insight as to the course of action. Input from the sessions was used to inform the Draft Revised 5 year Strategic Plan and Draft Annual Performance Plan for the financial year 2021 to 2022.

Information and Communications Technology

The Commission embarked on a successful Mail migration exercise, without any significant disturbances during the financial year. The remote working arrangements necessitated by the Covid-19 pandemic provided an opportunity to explore and adjust to online ICT services and facilities. Ongoing user-support, including acquisition, configuration and distribution of additional Laptops, as well as consistent logistics and scheduling of virtual meeting engagements was provided to ensure effective remote work. In addition to ongoing internal sessions, the engagements included the successful hosting of several Webinars.

The Commission is in the process of reviewing its ICT infrastructure and requirements to keep abreast of advances in view of the 4th Industrial Revolution, and take advantage of the opportunity provided by the current state of affairs. While the Commission had, during the third quarter, embarked on a process of recruiting, for the first time, a Chief Information Officer at the senior management level to assist with the process of advancing the institutional ICT environment, it could not secure a suitable candidate. The recruitment process is envisaged to proceed and conclude by the end of July 2021.

Audit, Governance, Risk and Compliance

The relevant governance structures were able to convene virtually to approve key documents in fulfilment of the PFMA obligations. All the related compliance requirements as provided for by the adjustments based on the National Treasury Instruction Notices were accordingly fulfilled. These include the submission of the Annual Report and Quarterly Reports, respectively, to the Auditor-General; National Treasury; and Parliament.

The Commission received an unqualified audit for the 7th consecutive financial year. However, the Commission was for the previous financial year, 2019-20, qualified on one of the performance information objectives relating to the promotion programme due to inadequate records management and review processes. While attempts were made at reviewing the performance reporting systems, there were delays caused by the changes to plans as a result of the uncertainty posed by the Covid-19. Furthermore, the process of orientation and comprehension of the revised systems of reporting is slower than ideal, as the various reporting units are preoccupied with core functions. Additional temporary capacity was sourced to assist with the verification processes.

Budget Expenditure Management

The Commission has currently recorded 90% expenditure against the total annual budget of approximately R205 million. In addition, by the end of the financial year, there were open purchase orders or commitments already made, to the value of R12.9 million. These would increase expenditure to 95% of the budget if accordingly disbursed.

Table 3: Achievements on a stable institution with capacity to effectively deliver on planned priorities

	Performance Indicator	Actual Achievement 2019/20	Annual Planned Target 2020/21	Actual Achievement 2020/21	Deviation from Planned Target for 2020/21	Variance from 2019/20 to 2020/21	Comment on Variances / Corrective Measures
1.1	Percentage compliance with key legislative requirements	100% compliance	80% – 100% compliance	100%	Target achieved	None	None
1.2	Percentage expenditure against total budget ³	New indicator	95% - 105% expenditure	90%	Target not met but may be achieved with additional spending on open purchase orders.	New indicator	While currently not fully achieved, there were open purchase orders or commitments already made, of approximately R12.9m, which, on actual spend would increase expenditure to 95%.
1.3	Percentage implementation of Risk Management Plan	100%	80% - 100% Implementation	72%	Less by 8%	Declined from 100% to 72%	In addition to delays due to attention on the Covid-19

³ In addition to expenditure management, quarterly monitoring activities will also focus on the reduction of fruitless and wasteful expenditure

Performance Indicator	Actual Achievement 2019/20	Annual Planned Target 2020/21	Actual Achievement 2020/21	Deviation from Planned Target for 2020/21	Variance from 2019/20 to 2020/21	Comment on Variances / Corrective Measures	
						demands, there were low levels of responsiveness to Risk treatment planning.	
1.4	Submission of SAHRC Conditions of Service and Remuneration	New indicator	Develop SAHRC Conditions of Service and Remuneration	Conditions of Service not developed.	Target not met.	New indicator	Delays were due to unavailability of Committee members. Guideline and Recommendations will be tabled with Commissioners for implementation in the new financial year.
1.5	Percentage implementation of Human Capital Management (HCM) Plan	83%	80% - 100% implementation of HCM Plan ⁴	94%	Target achieved.	Increased by 11%	None
1.6	Percentage implementation of Organisational Culture Renewal Plan	93%	80% - 100% implementation of Culture Renewal Plan	90%	Target achieved.	Declined from 93% to 90%	None
1.7	Percentage implementation of Information and Communications Technology (ICT) Plan	93%	80% - 100% implementation of ICT Plan ⁵	80%	Target achieved.	Declined from 93% to 80%	None
1.8	Percentage implementation of Knowledge Management (KM) Plan	100%	80% - 100% implementation of KM Plan ⁶	85%	Target achieved.	Declined from 100% to 85%	None
1.9	Percentage implementation of Internal Audit Plan	100%	80% - 100% implementation	91%	Target achieved.	None	None
1.10	Percentage resolution of Audit Findings	59%	80% - 100% resolution	49%	Target not met.	Declined by 10%	Capacity constraints. Temporary capacity sourced.
1.11	Percentage compliance with Institutional Governance Framework	Report completed	80% - 100% compliance with identified aspects of Comprehensive Institutional Governance Framework ⁷	Governance Report completed. Board Charter not developed.	Target not met.	Report completed in 2019	See further detail later in section on dealing with areas of under-performance. Acquisition of a comprehensive digitised governance framework has been included in the procurement plan for 2021-22

⁴ Year 1 will also include review of the 3 year HCM strategy

⁵ Year 1 will also include review of the 3 year ICT strategy.

⁶ Year 1 will also include review of the 3 year KM strategy.

⁷ The envisaged aspects of the Framework for Year 1 include a Board Charter. Operational processes will include a review of the governance arrangements with a view to developing a comprehensive framework during Year 2.

Performance Indicator	Actual Achievement 2019/20	Annual Planned Target 2020/21	Actual Achievement 2020/21	Deviation from Planned Target for 2020/21	Variance from 2019/20 to 2020/21	Comment on Variances / Corrective Measures
1.12	Completion of Impact Monitoring and Evaluation Report	Report completed	Complete an Evaluation Study Report ⁸	Completed Internal report evaluating memorandum of understanding	Target achieved.	None
						and will be accordingly procured. None

3.2.2 Programme 2: Promotion of Human Rights – Pro-Human Rights policy and legislative changes and service delivery improvements

The strategies employed in the programme by the Commission to realise the outcome of pro-human rights policies, legislative changes and service delivery improvements include enhancing human rights advocacy, visibility and awareness through the following:

- a. Conducting high impact engagements to influence policy, legislation and application thereof;
- b. Establishing strategic partnerships for capacity and collaboration;
- c. Empowering communities and the public to proactively engage with human rights issues; and
- d. Utilising media platforms to raise awareness and increase visibility.

Promoting Good Governance, Anti-Corruption and Human Rights

Anti-Corruption and Human Rights Conference

The Commission, in collaboration with the Public Protector, hosted a Conference during March 2021, themed, “*Human Rights Approach to Preventing, and Combating Corruption.*” While the Conference was digital and open to the media and members of the public, the key participants included the Deputy Minister of Justice and Constitutional Development, Mr. John Jeffreys, the Acting Public Protector, Advocate Kholeka Gcaleka, representatives from Chapter 9 and 10 institutions, government, business community, and civil society.

The main aim of the conference was to inform an integrated approach across all the SAHRC programmes in ascertaining measures that could be taken to address the scourge of corruption, and its implications in violating human rights. One of the key outcomes was the resolution for the Commission to establish a section 11 Advisory Committee that will interact with various stakeholders, and the proposed anti-corruption body that was announced during the State of the Nation Address by the President. A Conference Report outlining the outcomes is envisaged

⁸ The Commission will conduct studies, which may take either form of impact evaluation, or surveys to determine public perceptions and establish human rights awareness baselines.

to be released before the Zondo Commission Report to keep the momentum going, and align the Commission's commitment in addressing the violation of human rights by corrupt acts.

Webinars on Corruption and Human Rights

The Commission hosted two webinars focussing on issues related to corruption and human rights. The first webinar was co-hosted with the Mail and Guardian (M&G), focusing on how corruption affects human rights, and more specifically, the most vulnerable persons. The event was well received, with 287 registrants and 146 attendees. The second webinar focused on how systemic corruption has become the norm in South Africa and its discriminatory outcomes that violate human rights. The combined objective of these webinars was to address the impact of corruption on human rights and discussions on concrete steps to tackle the scourge of institutionalised corruption. Reflectively, the initiative of working in collaboration with external media stakeholders has been beneficial for the Commission as it ensured wider reach of audiences. It must be stated, however, that these collaborative efforts do demand increased resources, especially budgets, to facilitate.

Transparency, Integrity and Accountability Project: Implementation of the National Anti-Corruption Strategy

The Commission held a meeting with an international team appointed by the GIZ to develop a proposal in support of implementation of the National Anti-Corruption Strategy under their project, themed, "Transparency, Integrity, and Accountability". The main purpose of the meeting was to discuss the impact of corruption on human rights in South Africa on the one hand, and the ineffectiveness of the criminal justice system as the only approach to dealing with corruption, on the other. As part of the proposal development, members of the team conducted an analysis of human rights issues to enhance understanding of implications and the relationship between corruption and human rights. This also included the Commission sharing its mandate and strategic focus area on good governance, anti-corruption, and human rights so as to inform a comprehensive project development process. The project is scheduled to run from October 2021 to September 2024 and the Commission will continue to make contributions to the project processes for the realisation of the project goals.

Promoting the Right to Education

Engagement with the South African Council for Educators on the integration of the sexual offences registers

The Commission met with the South African Council for Educators to discuss the integration of sexual offences registers and developments with respect to the Sexual Offences Amendment Bill. The meeting yielded an important relationship, with greater access to the education sector, and the prospects of future collaborations on matters affecting learners and educators.

Promoting constitutional education through the delivery of the slim line Constitution to Grade 10 Learners

The Commission held a meeting with the Constitutional and Human Rights Education Working Group (CRE-WG) to discuss a number of pertinent issues, including the delivery of slim line constitutions to schools across the country; and the development of a Covid-19 response plan. The outcome of the meeting resulted in the Commission addressing a letter to the Department of Basic Education to coordinate, together with the CRE-WG, the delivery of the slim line Constitution to Grade 10 Learners.

Promoting Human Settlements and the Rights to Water and Sanitation

Service standards for Local Government

The Commission participated, with the South African Local Government Association (SALGA), in a research process anchored on the Service Charter on Local Government, and meant to set out standards on basic service delivery at local government level. About 31 standards were identified and interviews with certain stakeholders had been conducted. The Commission, drawing on its observations from monitoring, complaints handling and interactions with local government, provided inputs into the research questionnaire. The process provided an opportunity for the Commission to influence the quality and adequacy of services delivered to communities and would enhance its monitoring mandate once the standards are adopted and implemented. Furthermore, it strengthens relations in light of a Memorandum of Agreement between the Commission and SALGA.

Model emergency legislation on housing in the context of COVID-19

The Commission participated in the International ad-hoc Steering Committee on Housing. The Committee is a global initiative composed of the Open Society Justice Initiative, Open Society Foundation for Europe, Shift, NUI Galway Centre for Housing Rights, Law, and Policy, the Community Action Network and other stakeholders. The Committee developed and disseminated international model emergency legislation that could be used globally to ensure sufficient protection of the right to housing for all types of residents for the duration of the economic crisis resulting from the Covid-19. The model legislation is designed for use by governments to:

- a) Ensure that domestic legislation protects housing as a fundamental human right in a manner consistent with international human rights obligations;
- b) Ensure immediate access to adequate, secure, and affordable housing for those in need;
- c) Prevent evictions, in a manner that is consistent with international human rights law norms and standards;
- d) Ensure better housing, health and well-being for those living in inadequate housing and those experiencing homelessness.
- e) Protect those in rental situations, mortgage holders and those residing in informal settlements; and
- f) Emphasize notion of non-discrimination in the provision of housing.

Webinar on Urban Internally Displaced Persons in an era of Covid-19 in Africa

The webinar was hosted by the Centre for Human Rights, Faculty of Law, University of Pretoria, in collaboration with the Global Engagement Network on Internal Displacement in Africa (GENIDA). The webinar sought to discuss the situation of urban internally displaced persons (IDPs) in an era of Covid-19 and how protection can be secured and enhanced. It was highlighted that IDPs live in terrible and deplorable conditions, lacking access to basic services and face food insecurity and security challenges. It was further highlighted that the humanitarian support and interventions devised to assist people during the pandemic had largely not reached the intended beneficiaries.

Delivery of housing units in the City of Tshwane

The Commission expressed concern over non-fulfillment of a commitment by the Housing Development Agency and City of Tshwane to complete 2000 units. The Commission wanted to ascertain the reasons why the commitment was not met and what would be done to remedy the situation. It was resolved that the Department of Human Settlements would provide an action plan and report to the Commission on when the project would be completed.

Promoting universal, equitable access to safe and affordable drinking water

Commemorating World Water Day

On 22 March 2021, the Commission celebrated World Water Day (WWD) under the theme, “*Valuing Water*”. The United Nations General Assembly through the adoption of Resolution A/RES/47/193 on 22 December 1992, declared that 22 March will be annual WWD. The aim of WWD is to raise awareness about the importance of water, which is the lifeblood of human existence. The Commission noted that the Covid-19 highlighted the intrinsic link between the right to water, health outcomes, and the fault lines in many countries where communities do not have access to sufficient water for drinking or hygiene purposes.

Despite the strides taken by South Africa to promote access to sufficient water, the Commission expressed that deep inequalities with respect to access, availability, and the quality of water persist in the country. The inequality is gendered in nature, with women, and girl-children being the “bearers of water”, tasked with fetching water under precarious conditions, thereby risking their safety, and health in light of the Covid-19.

The Commission has also highlighted that disaggregated data reveals disproportionate access, with historically disadvantaged communities bearing the brunt of lack of access to water. The lack of access to water also affects education outcomes, and poses a serious danger to the health, and safety of learners at schools.

The Commission is also concerned by the fact that some mining companies continue to conduct operations that frequently draw water directly from natural sources meant to simultaneously provide for communities, and/or operate without the requisite water-use licence. This concern has been echoed by the CESCRC in its concluding observations

on South Africa, where it noted with concern the impact of mines on water resources, the lack of access to services for communities surrounding mines, and the lack of water and sanitation provision in schools.

The Commission is further concerned with the state of water infrastructure, which is ageing, and has resulted in the full or partial collapse of water, and waste-water treatment plants across the country, with few exceptions. The Commission, in its Inquiry Report into the sewage problem of the Vaal River in Gauteng, which represents a microcosm of South African water systems, noted that most municipalities were failing to effectively maintain water and sanitation infrastructure. Since the call by the Commission In 2014, for the urgent upgrade of water, and waste-water treatment plants that are dysfunctional or in disrepair, the State has failed to address these concerns, resulting in compounding infrastructure failures, and impacts on human health and rights.

The Commission has written a media statement to urge the Government to adopt progressive, and human rights based measures to meet its constitutional obligations by addressing the disproportionate access to water, the poor management of water, and waste-water treatment plants, and the abuse of water resources by mining companies. A multi-pronged approach to improve water availability, water quality, and universal equitable access to safe, and affordable drinking water as required by the Sustainable Development Goals is advocated for by the Commission.

Engagement with the Water Research Commission

The Commission met with the Water Research Commission (WRC) to discuss membership of the Human Rights to Water (HR2W), which is an international Non-Governmental Organisation, and an Association under Swiss Law that support the progressive realisation of the human rights to water and sanitation. The mission of the HR2W is to use and share expert knowledge on how the human rights to water and sanitation should be integrated into law, policy and practice to realise safe, and sustainable access to water and sanitation for all. This meeting was following the release of the Commission's Vaal Report on water pollution.

The meeting considered partnership with the WRC, which is the only South African member to the HR2W, and other key national stakeholders to establish a national strategy and coordination mechanism for South Africa's participation in the HR2W and national activities. It was agreed that the Commission would participate in a Working Group with the WRC.

Promoting the Right to Health and of persons living with disability

Engagement with the South African Depression and Anxiety Group: The rights of persons living with psycho-social and intellectual disabilities

The Commission met with the South African Depression and Anxiety Group (SADAG) to promote the rights of persons living with psycho-social and intellectual disabilities. It is understood that many people have faced serious challenges

to their mental health, and especially so in the time of the Covid-19. The pandemic has led to self and social isolation, disconnection from family and friends, quarantine and lockdowns on movement resulting in more people than ever experiencing feelings of helplessness, isolation, grief, anxiety and depression. The demand for related health support services has increased exponentially as a result. However, this demand has not been met with an increase in the provision of services. To address these challenges and increase the capacity and availability of support, governments, local communities and the SAHRC need to increase the resources directed towards addressing psychological suffering, now and after the pandemic has passed.

The Commission needs to play a prominent role in the promotion of access to mental healthcare in order to prevent the recurrence of the Life Esidimeni tragedy. In order to do this, the Commission needs to form strategic alliances with organizations specializing in mental healthcare. SADG is one such organization and can be able to not only assist the Commission in developing a prominent voice in the sphere of mental healthcare, but can also assist in building long term institutional capacity.

The Commission and the SADAG drafted a Memorandum of Understanding that will assist the Commission in promoting, and protecting the rights of persons living with psycho-social, and intellectual disabilities.

Promoting Civil and Political Rights

The Right to Protest

The Commission in Gauteng Province initiated interventions that focused on the rising levels of civil unrest as a result of police force and brutality. Various solidarity marches, and meetings were held by the Gauteng community during the period under review, in support of the students cause, and to stand against the killings of innocent people, and the severity of the police service when handling protests. This came after WITS University Student Representative Council placed a call to the University opposing the financial exclusions of about 8142 thousand students to study at the at the University. Seeing that the university was not conceding to their demands, the WITS SRC took to protest, and block registrations of new, and returning students, as well as making the running, and daily operations of the university impracticable. The police came in brutality, and shot, and killed a bystander on close range by the name of Mthokozisi Ntumba, an act which garnered wide public condemnation from different sectors of the public, thus the Commission's intervention.

The right to protest intervention was virtually with the Ekurhuleni Metropolitan Police Department (EMPD), whose officials claimed that the intervention was misdirected, and should be with elected officials, and political office bearers who often placed ill-informed pressure, and expectations on metro police departments to police protest actions while being unaware of protest-related legislation, and legal precedents. The Gauteng Provincial Office of the Commission undertook to continue interventions with the relevant stakeholders in all municipalities across the province during the 2021-22 financial year. The Right to Protest intervention created an opportunity for members

of the policing bodies to articulate the challenges they had in relation to illegal occupations and evictions, and the policing of petty crimes. The engagements had the additional benefit in that they can now inform future interventions with policing bodies in Gauteng.

Key findings and observations from the interventions were as follows:

- a) Law enforcement needs to review how it handles protests, and find means to avoid the use of violence during protests.
- b) There is a great demand, and need for collaboration between SAHRC, civil society, and students. The issues of police brutality, the right to protest, and right to education all need to be looked at through a human rights perspective, specific to the needs of the vulnerable.
- c) There is a need to mainstream civil, and political rights (make communities aware of their rights towards active citizenry).

The impact of civil action such as a marches or protests lies on it physically disrupting the status quo, and this is difficult at a time of a virus such as Covid-19. This means that civil rights to some extent may need to be limited or restricted in order to maintain the health, and safety of others.

Influencing the Draft Official Identity Management Policy

Through consultative processes by the Department of Home Affairs (DHA) on the draft Official Identity Management Policy, the Commission exerted policy influence on the protection against possible Human Rights violations flowing from the proposed policy changes so as to ensure that access to social services and the Right to Vote were not hampered. The Commission emphasized on ways in which the system should promote better access while minimising the risk of fraud that could prohibit the provision of services.

Subsequently, the Commission delivered a message at a 'Virtual National Stakeholder Workshop on the Draft Official Identity Management Policy'. The purpose of the event was to introduce an inclusive, secure, and 4IR aligned National Identity System intended to replace the 1982 National Population Register. The policy stipulates that inclusion means treating citizens and non-citizens fairly, as founded on the Constitutional principles that South Africa belongs to all who live in it, and united in diversity.

Promoting Equality

Engagement with political parties to eliminate hate speech and violence

The Commission engaged with political parties represented in Parliament on hate speech and violence in the country following the rising tensions in Senekal and Brackenfell amongst others. The engagement sought to improve understanding of hate speech provisions in the Constitution and the Promotion of Equality and Prevention of Unfair

Discrimination Act, and the limitations, as well as to enhance the relationship between the SAHRC and Parliament on promoting human rights through oversight.

Promoting social cohesion through influencing the psychology behind hatred and racism

The Commission engaged with Professor Juan Nel from UNISA to discuss the psychology behind hatred and racism. The discussion focused on ways in which the Commission can proactively address the psychological influences behind violence and racism in order to promote social cohesion. It was suggested by Prof Nel that the Commission should consider using group therapy as a way of addressing underlying biases and hurt caused by racism. This methodology would however require specialised training. In the interim, it was agreed that Prof Nel and other Psychologists would support the work of the Commission, particularly at the summit on rising racial tensions.

Engagements with various stakeholders on racism at schools

Engagements were held with various stakeholders to discuss possible interventions by the Commission to address the challenge of racism at schools, and including codes of conduct for schools. The interactions strengthened stakeholder relations with respect to addressing this challenge. Notably, a joint multi-stakeholder platform is envisaged to develop Tools for discussion and confronting racism at schools.

Engagement on complaints of racism at Rodean and Anglican Girls Private schools

The Focus Area office on Equality and Gauteng Province met with the Principal and leadership team of the Rodean School, based in Johannesburg, to assist in dealing with complaints of racism at the school. The School was concerned that complaints reporting procedures were inadequate, thereby seeking advice on policies and training that could be conducted to create awareness at the school. It was agreed that the school would work with the Commission's Gauteng Provincial Office to assess existing processes and conduct training.

Development and distribution of the Equality Toolkit

The Equality Toolkit was developed and distributed across provinces and various stakeholders, as well as published on the Commission's website. It is intended to serve as a generic resource containing a range of equality related information for referencing by stakeholders. It provides for readily usable material for particular interventions, while allowing for consistent outreach and communications messaging to promote awareness of Equality in the country. Along with the Toolkit is a Monitoring Plan that aims to assist the Commission in monitoring implementation of the Toolkit and measure the extent to which it is meeting its objectives.

Promoting Access to Justice

Engagement with the South African Institute of Medico-Legal Experts (SAIME)

The Commission engaged with the SAIME to discuss challenges relating to the way in which the Road Accident Fund (RAF) dealt with claimants and therefore undermining access to justice. The SAIME concerns were that existing material uncertainty may cast doubt on the RAF's ability to continue as a going concern based on the mismatch between the RAF's income and expenditure. RAF is currently over-burdened with high volume of represented claims, and litigation, consequently overwhelming the courts.

In the financial year 2018/19, more than 20 000 cases were allocated on the court roll. However, only 86 were brought before a Judge and the rest were settled out of court. This is indicative of a system that is flawed. This trend is due to the model that prescribes that RAF should pay the legal costs of the plaintiff and the defendant. Furthermore, medical costs continue to escalate since medico-legal assessments tend to opt for a narrative testing to evaluate serious injuries in case where American Medical Association (AMA) assessments fails to prove 30% impairment threshold, which resulted to more claims for general damages.

The RAF spent over R13 billion on legal costs, of which R3 billion was on internal legal panel during the 2018/19 financial year. These are monies that were meant for the victims of road accidents that end up in the "pockets" of the legal and medical firms. It was resolved that the Commission should facilitate an engagement with the SAIME and RAF.

Promoting the Rights of Migrants

The Commission participated in an interview with the Department of Home Affairs aimed at soliciting the Commission's understanding and input to the White Paper on International Migration, 2017. The Commission's input ensures that the two White Papers that the Department was developing on international migration and refugee protection, as well as citizenship and civil registration were established on the principle of fundamental human rights. It is hoped that the process would assist in ensuring the development of human rights based policies in this regard.

Further, the Commission also participated in a webinar on Anti-Foreign Sentiment organised by the Department of Justice and Constitutional Development. The objective of the webinar was to provide a platform to engage in discourse and suggest proposed measures on how to more effectively:

- a) address the issues of employment across all sectors of the economy;
- b) combat anti-social cohesion practices, focusing on anti-xenophobia sentiments, among citizens and all who live in South Africa;
- c) provide the South African government with tangible solutions to effectively eliminate xenophobic tensions in South Africa, in line with the NAP;
- d) identify change agents in South Africa and encourage foreign nationals to uphold constitutional values as part of a greater campaign for social cohesion in South Africa;
- e) build support and commitment to develop an effective immigration integration strategy; and

- f) develop a policy brief which will inform government programmes in the implementation of the NAP relating to xenophobia.

Promoting Business and Human Rights

NHRI Session during the 9th Annual Forum on Business and Human Rights

The purpose of the session was to understand what the National Human Rights Institutions (NHRIs) were doing to promote Business and Human Rights in their respective jurisdictions. There were presentations and discussions by several NHRIs, which emphasised the importance of collaboration amongst each other. The session highlighted that mining activities should put free and prior informed consent at the centre of their operations and adopt human rights based approaches, anchored on transparency and accountability. In order to tackle the problem of limited resources, the NHRIs were encouraged to adopt a myriad of approaches and strategies, such as naming and shaming human rights violators, as well as working collaboratively with like-minded institutions to complement efforts and resources.

Celebrating 25 Years of the Commission

National events commemorating the existence of the Commission

The Commission celebrated its 25th anniversary of establishment with a theme that is reflective of the 25 years and future placing of the work of the Commission. The Commission partnered with stakeholders including the Office of the United Nations High Commissioner for Human Rights; Department of Justice and Constitutional Development; Project Justice Trust and Constitution Hill. Various topical webinars were hosted in previous quarters as a build up to the anniversary celebration that was held on 02 October 2020. The virtual commemorative event saw past and present Commissioners and staff reflect on the achievements and challenges of the Commission since its inauguration in 1995.

The partners further joined hands to commemorate the International Human Rights Day on 10 December 2020. The event commemorated the 72 years since the adoption of the Universal Declaration of Human Rights (UDHR) in 1948, the 24 years since the signing of the South African Constitution into law in 1996, and the 25th anniversary of the SAHRC. A Memorandum of Agreement was entered into with the Project Justice Trust to work collaboratively to publish and launch a monograph commemorating the life of the late Chief Justice Ismail Mohamed.

Provincial Roadshows commemorating the existence of the Commission

At provincial level, several events were held over the period end November to mid December 2020. A collaborative initiative was held by Gauteng, North West and Limpopo Provincial Offices, and largely focused on:

- a) The right to clean and safe water and the environment: monitoring activities relating to the water crisis in Hammanskraal and Stinkwater, including engagements with the Hammanskraal Residents Forum;
- b) Focus group dialogues with communities on enhancing the understanding of socio-economic rights; and
- c) Monitoring of places of detention under the National Preventive Mechanism, and healthcare facilities.

Other inter-provincial roadshows were held by the provinces of KwaZulu-Natal, Free State and Mpumalanga on the one hand and Northern Cape, Western Cape and Eastern Cape on the other, in pursuit of the following key objectives:

- a) Increasing visibility and improve accessibility of the SAHRC; in supporting democracy;
- b) Strengthening public participation on issues of human rights and democracy;
- c) Promoting social cohesion amongst civil society and community members to enhance the human rights approach in dealing with social ills;
- d) Eliminating the dependency syndrome in addressing community challenges;
- e) Creating an opportunity for communities to be assisted with complaints related to human rights violations and capacitating them as human rights champions or ambassadors; and
- f) Providing help desk services and assisting with lodging of complaints and provision of legal advice to assist with access to justice and promoting the PAIA and PEPUDA.

Commemorating Human Rights Month

The Commission commemorated Human Rights Day, with the majority of the various offices aligning the commemoration with the World Water Day. Some of the key activities carried out include the following:

- a) A dialogue with multiple sector civil society stakeholders, communities and government to discuss human rights issues relating to access and quality of water, drought, and maintenance of water infrastructure; police stations infrastructure; schools transport; indecent treatment challenges; right to food challenges; identity - birth certificates and Identity Documents; and lack of government services such as mobile services in remote/rural areas. The overall finding through advocacy activities is that government departments were not responsive to the needs of the various communities and society.
- b) A five-part podcast series reflectively on the work of the Commission in Gauteng. All five episodes are accessible through a South Africa podcast hosting platform (iono.fm); Apple Podcasts; and on Spotify. There is an opportunity to distribute the podcasts to community radio stations as a means of raising awareness on the work of the Commission.
- c) Information sharing session under the theme "*The year of Charlotte Maxeke: promoting human rights in the Age of COVID-19*" with school learners in Potchefstroom; and Older Persons in Klerksdorp as well as a human rights dialogue/workshop with civil servants and community health care workers to discuss various systemic interventions to protect, promote, and monitor human rights.

- d) Informed by the nature of complaints it received from the Central Karoo in Western Cape, the Commission hosted information sessions in the Beaufort West District, and a Women focused celebration in Murraysburg.

Empowering communities and promoting human rights through Community Human Rights Champions (Q3)

Community Human Rights Champions (CHRC) were established across the country, and providing access and reach covering in excess of 200 communities. Workshops and training sessions were conducted with the CHRC to enhance their understanding and empower them on interacting with human rights issues. At the national level and to give effect to the objectives of the provincial community human rights champions, the Commission entered into a Memorandum of Understanding with the Community Advice Office South Africa (CAOSA), providing for access and reach to approximately 300 communities across the country.

At the provincial level, the North West office is involved in a project jointly with the CAOSA and other human rights monitors, aimed at promoting access to justice for victims and survivors of Gender Based Violence (GBV). Monitoring findings would be used to advocate for the reform of legislation and policy framework governing GBV and in support of victims and survivors.

The Western Cape Provincial office, largely in response to service delivery protests across the country, identified and trained human rights community activists to support the work of the Commission. Training participants included Early Childhood Development centres; Community Health Care Workers; Clergy; and Community Policing Forum. Concerns were raised relating to disparities in remuneration with decent basic salary of Community Development Workers, and the Expanded Public Works Program Workers monthly stipend.

Other provincial promotional interventions to influence legislative changes, policy reform and service delivery

With the spreading threat of the pandemic, the major key interventions undertaken across the provinces were around health, education, and water and sanitation. Challenges of Land invasions and evictions were mostly experienced in the Western Cape, Gauteng and Mpumalanga. In Limpopo the main human rights concerns included food distribution and police arrests.

Many other stakeholder engagements for the Commission at the provincial level included:

-
- a) Creating awareness on the Commission's mandate and focus areas;
 - b) Promoting the rights of persons with disability;
 - c) Promoting an understanding of children's rights and responsibilities among school learners;
-

- d) Promoting the right to education among the youth, and addressing challenges with the treatment of youth at care centres;
 - e) and youth care centers;
 - f) Promoting the rights of women and addressing Gender Based Violence; and
 - g) Promoting access to justice.
-

The Commission intervened with positive outcomes in many of the specific matters in which it was involved, with either actual improvements or commitments by the relevant authorities to improve the human rights situation.

Commission engagements at the international and regional level

International Learning and Sharing Exchanges: Responding to the Covid-19 Pandemic

The Commission participated in various international and regional stakeholder engagements, including: The National Human Rights Institution's Forum at the 67th Ordinary Session of the African Commission on Human and People's Rights (ACHPR); The Global Alliance of National Human Rights Institutions (GANHRI) 2020 Annual Meeting; The GANHRI 2020 Knowledge Exchange on NHRIs and Covid-19; and The Danish National Human Rights Institution. The engagements served as knowledge exchange platforms where the Commission was able to learn and share, knowledge, skills and different approaches with other NHRIs. This was particularly useful with regards to how NHRIs are responding to the Covid-19. A lot of lessons were drawn from these engagements to assist the Commission to effectively respond to the virus. The engagements were also a useful platform to showcase the Commission's work, expand its footprint in the continent and also influence the African and other responses to the Covid-19 virus.

The collaborative role of Chapter 9 Institutions in promoting Human Rights

The Commission participated in the meeting of the Forum for Institutions Supporting Democracy (FISD), and was a panellist in a seminar organised by the Public Protector on "*The convergent role of Chapter 9 Institutions in the protection of human rights*". This was a good opportunity for the Commission to showcase its work, and express its concerns regarding the challenges faced by Chapter 9 institutions. It was also an opportunity to foster greater unity between the institutions, looking at how they can collectively, practically, and effectively, in synergy, serve per their respective mandates.

Promoting Human Rights through Information and Communications Technology: The 4th Industrial Revolution Book Publication and Grant Application

Following the conference held on 4IR to explore its implications on human rights and the responses by National Human Rights Institutions, the Commission liaised with the Human Sciences Research Council (HSRC) on further areas of collaboration. This resulted in a signing of a Memorandum of Understanding (MoU) with HSRC committing to a Publication of the Conference Report (held in March 2020) in a book format to be launched in March 2021. This is the first of its kind and a great contribution by the Commission to the academic field and a tool to other institutions in responding and adhering to 4IR.

Further collaborative engagement with the HSRC has been on the application for a grant to support the establishment of a research and policy centre on Artificial Intelligence (AI), within an existing research and policy institution like the HSRC. The call for proposals came from the International Research Development Centre of Canada and follows on from the Montreal Declaration for the Responsible Development of Artificial Intelligence, which is one of the only global guidelines on AI that is embedded in human rights. The HSRC has developed a proposal to establish a leading centre within the HSRC on AI research and policy in the context of the 4IR that is deeply grounded in human rights, democracy, participation, with a strong focus on gender and race. If they are to be successful, the grant would enable them to provide research support at no cost to the Commission in support of the Commission's work on human rights, Artificial Intelligence and the 4IR.

Table 4: Achievements on Pro-Human Rights policy and legislative changes and service delivery improvements

(4A: Reflects indicator that was planned as per the original Annual Performance Plan before it was re-tabled and revised)

Performance Indicator	Actual Achievement 2019/20	Annual Planned Target 2020/21	Actual Achievement 2020/21 until 24 Aug 2020	Deviation from Planned Target to actual achievement 2020/21	Reasons for deviation	Reasons for revisions to the outputs / output indicators / Annual Targets
Hosting of the National Schools Moot Court competition	National Schools Moot Court Competition hosted by September 2019, and International Leg by Jan 2020.	Host the National Schools Moot Court Competition.	National Schools Moot Court Competition not hosted.	While the National Schools Moot Court Competition and International Leg were hosted in 2019-20, these were not hosted in 2020-21.	The planned target was reviewed and removed from the annual plan due to the Covid-19 challenges.	Implementing the annual target would not be feasible, as it coincided with the schooling time-table, and required physical gatherings, both of which were negatively affected by the Covid-19 and related Regulations.

(4B: Includes indicators that were planned as per the original Annual Performance Plan and still remained after it was re-tabled and revised)

Performance Indicator	Actual Achievement 2019/20	Annual Planned Target 2020/21	Actual Achievement 2020/21	Deviation from Planned Target for 2020/21	Variance from 2019/20 to 2020/21	Comment on Variances / Corrective Measures	
2.1	Number of interventions made towards policy and legislative reform, and service delivery improvements	New Indicator	63 Interventions	409 Interventions made	Target exceeded by 346	New Indicator	Target exceeded by 346 in response to Human Rights concerns exacerbated by the Covid-19 challenges.
2.2	Number of agreements of cooperation implemented	New Indicator	Implement 5 Agreements of cooperation	1 agreement of cooperation implemented	Less by 4 Agreements	New Indicator	High dependence on external stakeholder commitments. 3 MoU were already in existence, and continuous engagements held to promote the realisation of commitments.
2.3	Number of communities where Human Rights Champion have been established	New Indicator	45 Communities	Human Rights Champions established in 286 communities.	Target exceeded by 241.	New Indicator	Wider reach of some of the Human Rights Champions, and availability, interest and anticipated benefits of the arrangements.
2.4	Number of media outputs completed	1724 Activities	1122 media outputs	1357 media outputs completed	Target exceeded by 235	367 less to 2019 achievements	Increased varied nature of human rights issues requiring media attention.
2.5	Completion of Quarterly Media Monitoring Reports	4 Quarterly Reports Completed	Complete 4 Quarterly Media Monitoring Reports	3 Quarterly Media Monitoring Reports Completed	1 Quarter Report incomplete	Quarter 3 Report not completed	Incomplete Report due to contractual challenges with the media monitoring service provision. Procurement processes were underway for a different service provider, who would retrieve the previous information.
2.6	Accessibility of the website	New Indicator	Make website accessible to people with disabilities	Engaged stakeholders and developed Terms of Reference.	Target not met.	New Indicator	Delays due to focus on Covid-19 demands, and suitable service provider not found on time. Secured budget to proceed in 2021-22.
2.7	Monitoring implementation of Equality Programme Toolkit	New Indicator	Develop Equality Programme Toolkit and	Equality Programme Toolkit and monitoring	Target achieved.	New Indicator	None

	Performance Indicator	Actual Achievement 2019/20	Annual Planned Target 2020/21	Actual Achievement 2020/21	Deviation from Planned Target for 2020/21	Variance from 2019/20 to 2020/21	Comment on Variances / Corrective Measures
			Monitoring Plan	plan developed.			
2.8	Completion of Advocom Report	1 Completed	Complete Advocom Report by June 2020	Report Completed by June 2020	Target achieved.	None	None
2.9	Hosting of SAHRC 25 Years Celebration Events	New Indicator	Host 10 Celebration Events (1 National and 10 Provincial)	Hosted 68 celebration events (2 National; and 66 provincial).	Target exceeded by 58 events.	New Indicator	Changed project implementation plan due to Covid-19 challenges, and new approach yielded greater results.

3.2.3 Programme 3: Protection of Human Rights – Secured appropriate redress where human rights have been violated and increased public access to justice

The Protection of Human Rights Programme supports the Commission to increasingly use redress mechanisms to minimise human rights violations and promote access to justice. The strategies under this programme include instituting strategic impact litigation; proactively conducting investigative inquiries and hearings; and utilising alternative dispute resolution and mediation.

Protecting civil and political rights

The case of Human Rights Defenders

The protection of Human Rights Defenders has been a local and global concern. The Commission has previously made recommendations that the Department of Justice and Constitutional Development, together with the Office of the Public Protector and other Chapter 9 bodies, should investigate the establishment of a specialised unit tasked with protecting the rights of whistle blowers. These institutions should also engage in an active campaign to promote the work of whistle blowers to ensure that they feel protected. Following these recommendations, a case was brought to the Commission, involving a report by the Public Protector that recommended that Mr Thabiso Zulu be afforded protection as a Whistle-blower. Various letters were sent to the SAPS to try and resolve the issue to no avail. The process resulted in a need for litigation on an urgent basis. The purpose was to ensure the protection of Human Rights Defenders and whistle-blowers. Flowing from this work, the Commission would seek an opinion to address the insufficiency of the legal framework around section 205 of the Constitution.

Dealing with police brutality and protests during the pandemic

The Commission received various complaints from the residents of Northern Cape on police brutality and conditions of detention during the lockdown period. As a result, the Commission through its Northern Cape office held a meeting with law enforcement agencies in the Northern Cape and made recommendations to the SAPS based on the OPCAT with a special focus on the need to infuse a human rights approach towards policing and detention, as well as referral mechanisms. The Commission also highlighted the findings and recommendations of the recent APCOFF Report. The Judicial Inspectorate of Correctional Services committed to collaborate on joint visits to Correctional Centres to assist in resolving complaints from detainees.

In the Western Cape, the Commission managed to strengthen stakeholder relations with civil society in seeking urgent redress for human rights violations committed during the Covid-19 pandemic. The Commission also had successful interventions in protest actions regarding service delivery. These included, amongst others, urgent relief on water cuts and social assistance.

Protecting the right to health

Shortage of medicine in the North West

The Commission undertook a proactive investigation into the North West Department of Health's alleged debt to medical suppliers. It was found that the Department owed at least 50 companies millions of Rands for the supply of medicine. As a result, the Department could no longer get adequate supply as the companies withdrew their supply services. The Department acknowledged that there were problems with payments, and undertook to embark on a payment catch up campaign. Effectively executed, the campaign would lead to increased availability of medication for delivery to clinics and hospitals where they were needed.

Access to health care of persons living with non-communicable diseases

The Commission was considering a complaint that was submitted before it by the South African Non-Communicable Disease Alliance against the National Department of Health, alleging that the National and Provincial Departments of Health do not provide equitable access to health care to persons living with non-communicable diseases. This was said to include lack of prevention, treatment, rehabilitation and palliative care. It also reportedly occurs across all provinces, to people of all ages, and affects the poor and vulnerable people disproportionately. The focus of the investigation by the Commission in this regard is to assess the equitable access to health care of persons living with non-communicable diseases.

Protecting the Right to Education

Engagement with the National Student Financial Aid Scheme (NSFAS)

Various complaints had been received by the Commission in relation to the administration, inaccessibility, inconsistency, fragmented, unclear and perceived discriminatory procedures for the allocation of study fees by the NSFAS. The Commission intervened in this regard by engaging the NSFAS on the matter with an understanding or premise that an ineffective and inefficient NSFAS would undermine the Rights in the Bill of Rights, and principally the Right to further education, and the right to administrative action that is lawful, reasonable, and procedurally fair. The outcome of the engagement was the NSFAS committing to availing their office in relation to complaints received by the Commission, and dealing with backlogs in applications, as well as expanding methods of communication to ensure better accessibility, including remote access.

Protecting the Rights to Service Delivery: Human Settlements, Water and Sanitation

Access to shelter, sufficient, and decent water, and sanitation is a basic human right which should be universally enjoyed by all in South Africa since democracy in 1994. Despite constitutional and statutory provisions which guarantee the right to water and sanitation, these rights are neither universally nor equitably enjoyed. Different

provinces in the country still have disproportionate access to basic services. Learners in public schools, and rural and peri-urban communities still face unacceptable challenges to accessing water and sanitation services. Based on complaints submitted to the Commission and on-going media reporting on access to basic services, the Commission undertook various protection initiatives, some of which are outlined below.

Initiatives to address service delivery in the North West

The Commission approached key stakeholders including the MEC for Cooperative Governance, Human Settlements, and Traditional Affairs (COGHSTA), and the South African Local Government Association (SALGA) in an effort to enhance cooperation in improving service delivery through good governance, accountability, and consequence management in local government in the North West Province. The engagement was prompted by the Commission receiving hundreds of complaints of human rights violations against various municipalities in the North West. A majority of the complaints related to lack of access to adequate clean drinking water, poor sewerage system, lack of access to basic sanitation, poor domestic waste removal, and electricity outages.

The Commission deems the inability of municipalities to deliver basic municipal services to the most vulnerable of communities, particularly during the Covid-19 pandemic, as a huge concern that lends itself to the transgression of a number of human rights.

The MEC, Honourable Mmoloki Cwaile, assured the Commission that attention would be given to the complaints of poor service delivery that were elevated to his office. The MEC also undertook to collaborate with the Commission on interventions, including litigation, aimed at ensuring that municipalities serve communities. A follow-up session was convened with SALGA to explore ways in which they can cooperate with the Commission on interventions aimed at improving service delivery by local government in the North West Province.

Initiatives to address service delivery in KwaZulu-Natal

The KwaZulu-Natal office of the Commission undertook several initiatives for the protection of Human Rights, in particular basic services provision. These yielded outcomes including:

- a) The MEC for COGTA would resolve on complaints related to access to water, and the status of the KZN Water Master Plan. The KZN COGTA further assigned a focal person for engagement with the Commission in relation to water and sanitation complaints, as well as undertook to submit a comprehensive report on dealing with the complaints.
- b) Successful engagement and commitments by the Dr. Nkosazana Dlamini-Zuma Municipality to address and resolve service delivery challenges.

- c) The District Department of Education agreed to send an investigation team to schools where the increasing challenges of water and sanitation have been previously reported. The Department also agreed to provide the Commission with a progress report on their findings and action steps to be taken to address the challenges.

Protecting the Right to access to water in the Northern Cape

There were rising complaints relating to water supply and shortages in some of the Northern Cape municipalities, including Sol Plaatje and three others. Preliminary investigations conducted revealed that the Municipalities were affected by financial constraints to meet the growing demands for water; poor management; and skills shortages or vacancies in key positions. The Commission will engage the relevant MEC's office intensively.

Protection against Evictions

Gauteng

The City of Johannesburg in Gauteng agreed to halt demolitions in Lawley after the Commission's intervention and response to the demolition of shacks and brick houses in the area. The Commission, after an inspection visit, engaged with the Executive Mayor of Johannesburg and the Johannesburg Metropolitan Police Department (JMPD) to halt the demolitions. According to the City of Johannesburg, the occupied properties, owned by the Department of Human Settlements, were earmarked for housing development and a proposed township. The Commission views the land occupation as symptomatic of an acute need for housing near economic opportunities and the slow progress of land reform. The Commission, however, stands against land grabs since these interfere with the plans of municipalities to provide housing in an equitable, fair and orderly manner. The Commission had called on communities to desist from erecting structures without the permission of the relevant City and provincial authorities.

Western Cape

In the Western Cape the Commission had instituted an application against the City of Cape Town relating to unlawful evictions in various informal settlements across the province. Notably, the Commission had expressed its shock at the footage of Mr. Bulelani Qolani, being dragged naked and forcibly evicted from his shack, in an informal settlement in Cape Town, by Anti-Land Invasion Unit (ALIU). The Commission thus took court action as it viewed this incident as a gross violation of Mr. Qolani's rights to dignity, freedom and security of the person, and was a disregard for persons who are without adequate housing due to poverty, particularly during the State of National Disaster. The court action was aimed at asserting the rights of Mr. Qolani as well as rights of other persons in a similar position.

The Court delivered its judgement in August 2020 and remarked that the incident against Mr. Qolani was "...reminiscent of apartheid era brutal forced removals,". The City of Cape Town, along with any other parties contracted, "are interdicted and restrained from evicting persons from, and demolishing, any informal dwelling, hut, shack, tent or similar structure or any other form of temporary or permanent dwelling or shelter, whether occupied or unoccupied, throughout the City Metropole, while the state of disaster promulgated by the Third Respondent [Minister of Co-Operative Governance and Traditional Affairs] in terms of section 23 (1)(b) of the Disaster Management Act 57 of 2002, as amended, remains in place, except in terms of an order of court duly obtained."

The Commission views this as a victory in protecting the rights of poor and vulnerable persons, especially those who have been negatively impacted by the lockdown in response to the National State of Emergency, due to the global COVID-19 pandemic. Regulations aimed at protecting all of us from contracting this potentially fatal virus, led to slowed economic activity, thereby leaving many unemployed and so deepening prevalent poverty and economic inequality.

The Commission has and continues to call on communities to refrain from unlawfully occupying land and erecting structures on such land. In the spirit of this judgement, the SAHRC also calls on all levels of government to act lawfully, in line with the spirit of the Constitution and to show empathy for the difficulties faced by the vulnerable.

Mpumalanga

The Commission in Mpumalanga protected the residents of Uthingo Park from mass evictions by the Emalahleni Housing Company, an agency of Emalahleni Local Municipality.

Protecting Environmental Rights

Inquiry into the Sewerage Problem of the Vaal River (The Gauteng Vaal River Report)

In response to online and print media alert reports about the raw sewage that had been leaking into and polluting the Vaal and the Rietspruit from the Municipality's Rietspruit Waste Water Care and Management Works situated in Vanderbijlpark, the Leewkuil Waste Water Care and Management Works situated in Vereeniging and other areas within the Emfuleni Local Municipality, the Commission established an Inquiry and appointed a Panel constituted by stakeholders from local, provincial and national government, organs of state, non-profit organisations, ratepayers associations, academia and private-sector organisations. The purpose of the Inquiry was to ascertain: the extent and consequences of the human rights violations; the causes of the violations; the persons and/or state and/or private entities responsible; whether sewage spillage into the Vaal constituted a disaster as defined in the Disaster Management Act of 2002; the various accountability, disciplinary and/ or prosecution mechanisms which can be implemented against persons and/or entities responsible; and to understand what appropriate recourse or remedy, within the Commission powers, could be given effect to, to promote, respect and

protect human rights of persons in the Emfuleni area, and provide just and equitable relief for any determined violations.

Oral and written submissions were presented to, and received by, the Commission's Inquiry Panel, from local, national and provincial government, organs of state, non-profit organisations, ratepayers' associations, and academia and private-sector engineers. Some of the findings emanating from the Inquiry include the following:

- a) Considering that approximately 19 million people depend on the Vaal for water, the Vaal is polluted beyond acceptable standards and the cause is due to kilolitres of untreated sewage entering the Vaal.
- b) The designated water treatment plants have been inoperative, dilapidated and unable to manage the treatment of the sewage and wastewater produced, thus negatively impacting on the natural ecosystems directly dependent on the water and surrounding wetlands which form a vital part of the ecosystem.
- c) The impact of the discharge, occurring over more than five years at the time of writing, violated a number of constitutional rights which includes the rights to: human dignity, freedom and security of the person, an environment that is not harmful to health or well-being, not to be deprived of property, health care, food, water and social security, just administrative action and the rights of children to be protected from maltreatment and degradation.
- d) Failure by relevant state organs to discharge their responsibilities and duties such as the Municipality failing to discharge its responsibility as stated in the Water Services Act (WSA) which creates a clear responsibility on the Municipality to provide water supply services and sanitation services to its customers living in formal and informal settlements. The Municipality did not dispute this responsibility or that it had not fulfilled the responsibility, and instead conceded that these failures were attributable to its failing waste water infrastructure which it failed to maintain as required in the National Water Act (NWA) and the National Environmental Management Act (NEMA).
- e) Despite having the ability to do so, it did not appear to the Commission that the Department of Water and Sanitation (DWS), and the Department of Environment, Forestry and Fisheries had been able to hold the Municipality accountable for causing sewage pollution as required in terms of section 19 of the NWA and section 28(2) of NEMA. The pollution in fact continued for a number of years without being successfully contained.
- f) Poor contract management in some instances, whereby contracts concluded by the Municipality with service providers were not honoured despite the provisions of section 116 of the Municipal Finance

Management Act (MFMA), which requires that a contract entered into with a service provider includes terms for termination in the case of non-performance or under performance.

- g) Failure by the municipality to honour its contract obligations to Rand Water for Bulk Water provision. While the Gauteng Provincial Treasury (GPT) detailed that in relation to the growing outstanding Rand Water Bulk Account, the Municipality has been on many previous occasions assisted by the GPT working with Gauteng Department: Co-operative Governance and Traditional Affairs (Gauteng COGTA) providing inputs on the payment proposals and in an effort towards entering into repayment arrangements to address the arrear accounts. Despite efforts made by GPT and COGTA, the Municipality, did not service and honour the repayment arrangements established causing the arrangement to lapse and become nullified. However, GPT advised the Commission that with the continued section 139 constitutional intervention, introduced in 2018, negotiations to establish a payment plan with Rand Water remain ongoing. The DWS indicated that it had already taken steps to prevent the pollution on behalf of the Municipality, but that it is now struggling to recover its costs from the Municipality, in terms of the NWA.
- h) Skills deficiency was cited as another reason for the municipality's inability to effectively manage the challenges associated with wastewater management
- i) Theft and vandalism were cited as factors contributing to the ineffectiveness of wastewater management, particularly because of the damage it causes to infrastructure. Theft has caused monetary losses to the Municipality, but no estimated cost impact was provided for any financial year relating to the problem, nor were clear containment and preventative plans submitted to plug this additional leak in scarce resources caused by theft from the SAPS or from the Municipality.

The Commission's recommendations arising from the Vaal River Inquiry include that:

- a) The National, Provincial and Local Government should take active steps to know and understand all of its constitutional and legislative obligations and to comply and implement them as is the duty of any a public servant or municipal administrator; and the Municipality should uphold the Rule of Law and Constitutional Supremacy in South Africa.
- b) In the short term, the DWS or Gauteng COGTA, together with experienced wastewater management specialists, and respective Treasury Departments, should draw up a cost-effective interim plan to urgently stop or limit the flow of sewage in the streets and homes of people living in the Emfuleni area and also into the Vaal.

- c) The National and Provincial governments, for the medium and long term, should conduct a detailed needs assessment for the clean-up and rehabilitation of the Vaal. Such an assessment should be supported by experts including financial experts, to cost and make available a project plan and budget for the implementation of such plan on a short, medium and long term basis.
 - o This includes DWS and/or Gauteng COGTA engaging with experienced wastewater specialists for job specifications to be drawn up in order to employ or contract the necessary skilled people to repair and replace the defective sewerage systems in the Emfuleni Municipality.
- d) The DWS should develop and implement policies and standards to deal with water crises in South Africa, and the contamination of the Vaal River in particular.
- e) Vandalism and theft should be regularly reported to the SAPS.
 - o the DWS should consider placing private security guards at the sewerage infrastructure to prevent further vandalism and theft;
- f) The DWS should reintroduce the Blue and Green Drop transparent quality measuring system.
- g) The DWS should collaborate with the DEFF and use the inspectors provided for in NEMA to investigate offences relating to water and sanitation, as they are likely to relate to environmental damage.
- h) In order to prevent a repeat of the issues, the Vaal River and the associated water infrastructure should be declared as critical infrastructure as per the Critical Infrastructure Act 8 of 2019. Declaring the Vaal and the respective sewerage systems as critical infrastructure would ensure that it will be protected, and restored.
- i) Municipal councils develop mechanisms to interact with communities and identify service needs and priorities.
 - o Without capacity to strategize, integrate and interface with non-municipal groups, many local governments are unlikely to be sustainable in the future.
 - o The implementation of new strategies and policies requires strong municipal leadership, with the necessary support and belief of the municipal council. Continuous communication between all role players and regular oversight and training should be provided and encouraged.

- j) There should be regular inspections of the Vaal River and regular meetings to report on all of the above, taking place between Respondents and the Commission.
- k) In terms of section 139(7) of the Constitution and section 63 of the WSA and sections 19 and 63 of the NWA, Cabinet should seriously consider taking a decision for National Government to intervene in the running of the Emfuleni Local Municipality.
- l) It is proposed that all departments of the Municipality, save for ones the Provincial and National Government can show is operating adequately, be taken over by National Government.
- m) Such an intervention can also make use of the services of organs of state such as Rand Water and SALGA, given that the Minister for DWS can issue directives to Rand Water, and further facilitate the implementation of DWS' current and impending interventions.

Following the Commission's intervention and recommendations, the Minister of Human Settlements, Water and Sanitation announced plans to take over the water infrastructure of the Emfuleni Local Municipality on the Vaal River, as nearly half of Gauteng's population was affected by the pollution.

As part of ongoing initiatives, the national Department had reportedly provided Emfuleni with eight sewer-unblocking trucks at a cost of R14m, and it plans to spend R8m on civil, electrical and mechanical services and R50m on unblocking sewer bulk lines. Another R53m was set aside to restore weekly waste collections in the municipality. Gauteng's department of Agriculture and Rural Development was procuring trucks on Emfuleni's behalf. A further R40m had been set aside for cleansing, the replacement of old and faulty smart meters, installation of meters in unmetered areas, repair of damaged meter boxes and the removal of illegal connections.

Protecting Human Rights in Business

Unfair discrimination within the banking sector

The Commission had received a complaint relating to unfair discrimination in home loans within the banking sector. The discrimination relates to the overcharge in interest on bonds on the basis of race. The case in its own merits requires much interrogation beyond the factual context provided. The Commission is looking into the overall possibility of such discrimination within the banking sector. The purpose is to ensure that unfair discrimination does not persist within the banking sector while promoting the responsibility of business towards human rights.

Protecting the Rights of Persons with Disability

The Commission has received numerous complaints relating to the persons with disability losing their jobs unfairly during the Covid-19 crises, as a result of their disability. It has engaged the respective complainants and assisted them with lodging complaints. The Commission has also received several complaints around access to information in terms of new regulations that were passed, and particularly with regards to the lack of communication with people who have hearing impairments in hospitals, which adversely affects their right to access healthcare.

Protecting the Right to Equality: Racial classification

The Commission has noted the importance of gaining a deeper understanding of the justification for the continued use of race based classification, and the possible human rights implications of the continued official use of apartheid racial classifications by the South African government. In light of this, an own initiative complaint has since been registered for investigation into this matter. The commission will also convene a summit on rising racial tensions in South Africa, which may also contribute to this process. The Commission has drafted an update to Parliament on the matter, in response to a request by the Portfolio Committee on Justice and Correctional Services.

Protecting the Right to Equality: *The case of Caster Semenya and discrimination in sports*

The Commission sought leave to intervene as a third party in the matter of Caster Semenya, following loss on her appeal at the Switzerland's Federal Supreme Court against the regulations issued by World Athletics, which require her to lower her natural testosterone levels through hormone treatment in order to be eligible to compete as a woman in international sporting events. The Commission's intervention is intended to elucidate the adverse impacts of World Athletics' Differences of Sex Development (DSD) regulations on women from the Global South. In particular, the Commission wishes to make submissions to the European Court of Human Rights (ECtHR), which demonstrate the discriminatory effect of the regulations on the intersecting grounds of race and gender, and further show how the impugned regulations breach Article 14 (prohibition of discrimination) in conjunction with Article 8 (right to respect for private and family life) and/or Article 3 (prohibition of torture) of the European Convention on Human Rights (ECHR).

Further developments on the matter indicated that the UN Special Rapporteur on Health would present a report to the UN Human Rights Council in June 2021. The Report would highlight the intersectionality of medical care, race and sport. Thus, this presented an opportunity for civil society organisations and NHRIs to contribute and use the report to lobby for change. It was also indicated that the South African Parliament had adopted a notice without motion supporting the case of Caster Semenya.

This would be the first time that the Commission is involved in human rights litigation in an international forum, and also the first known occasion that the ECtHR would grant leave to intervene to an African human rights institution.

Other multi-dimensional initiatives that were underway towards securing redress for human rights violations

- a) Addressing service delivery challenges in the Eastern Cape.
- b) Concerns over flooding, relocations and conditions of squalor in Gauteng.
- c) Water and Sanitation challenges and racism in private schools in Kwa-Zulu Natal.
- d) Provision and access to basic services for farm communities - labourers, tenants and dwellers – in KwaZulu-Natal.
- e) Protection and promotion of environmental Rights, arising from the Water and Sewer Spillage Report from the previous year.
- f) Protection of Citizenship and Identity Rights in Mpumalanga.
- g) Addressing issues of Asbestos in schools in the Northern Cape.
- h) Dealing with concerns of non-payment at ex-Model C schools and the resultant challenges relating to the acquisition of Learner Teacher Support Material and other resources in the Northern Cape.
- i) Addressing the non-payment of Eskom by municipalities, leading to power cuts and inadequate water supply in the Northern Cape.
- j) The challenges encountered with Learner Transport.
- k) Police brutality in the Western Cape and Limpopo.

Covid-19 related complaints lodged with the Commission

Statistical information regarding the number of COVID-19 related complaints received per province is reflected below. A total of 142 complaints were received by the provincial offices and 40% of them had been finalised.

Table 5: Number of complaints directly related to Covid-19

Province	Covid-19 Complaints	Covid-19 Enquiries	Totals
Eastern Cape	19	26	45
Free State	64	18	82
Gauteng	57	165	222
KwaZulu-Natal	15	24	39
Limpopo	23	16	39
Mpumalanga	6	20	26
Northern Cape	8	69	77
North West	12	69	81
Western Cape	17	45	62
Grand Total	221	452	673

Table 6: Achievement on securing appropriate redress where human rights have been violated and increasing access to justice

	Performance Indicator	Actual Achievement 2019/20	Annual Planned Target 2020/21	Actual Achievement 2020/21	Deviation from Planned Target for 2020/21	Variance from 2019/20 to 2020/21	Comment on Variances / Corrective Measures
3.1	Number of complaints and enquiries finalised	8891	5000	7129	Target exceeded	Less by 1762	Increased effectiveness and efficiency due to improved work methods and alignment with carrying capacity.
3.2	Number of initiatives undertaken to redress major and systemic human rights violations	New indicator	63 initiatives undertaken	88 initiatives undertaken	Target exceeded	New indicator	Increased need to address concerns as exacerbated by the Covid-19 challenges.
3.3	Institute strategic impact litigation	4	Institute 20 High Court Matters	13 matters instituted.	Target not met.	Increased from 4 to 13.	Delayed identification and approval processes on some of the matters proposed. Several other matters identified and many awaiting approval for litigation.
3.4	Completion of 2019-20 Complaints Trends Analysis Report	Complete Report	Complete 2019- 20 Complaints Trends Analysis Report by December 2020	Report completed	Target achieved	None	None

Table 7: Finalisation of cases

Province	Enquiries	Finalised complaints	Complaints Received	Complaints and Enquiries Received	Complaints and Enquiries finalised	Percentage
EC	164	274	396	560	438	78%
FS	155	375	599	754	530	67%
GP	1010	200	372	1382	1210	88%
KZN	516	558	829	1345	1074	80%
LP	264	390	707	971	654	67%
MP	461	194	283	744	655	88%
NC	239	130	248	487	369	76%
NW	369	257	444	813	626	77%
WC	1153	420	1560	2713	1573	58%
TOTALS	4331	2798	5438	9769	7129	73%

Table 8: Year-on-Year finalisation of cases

Financial year	Total caseload	Finalised cases	Percentage achievement
2016-17	9 730	8 498	87%
2017-18	9 450	7 843	83%
2018-19	10 448	8 491	81%
2019-20	11 803	8 891	75%
2020-21	9 769	7 129	73%

Table 9 presents the nature of the Top 5 complaints lodged with the Commission. These have largely been the same over the last 5 years, except that labour relations have overtaken education and human dignity related complaints.

Table 9: Top five human rights complaints lodged

No.	Nature of Rights Violated	Q1 Year-to-date No. of cases	Q2 Year-to-date No. of cases	Q3 Year-to-date No. of cases	Q4 Year-to-date No. of cases
1.	Equality	560	640	710	771
2.	Health Care, Food, Water and Social Security	501	558	637	704
3.	Just Administrative Action	277	370	444	501
4.	Labour Relations	170	286	361	435
5.	Human Dignity	306	357	399	425

3.2.4 Programme 4: Monitoring of Human Rights – Improved accountability for Human Rights

The main focus of this Programme is to ensure comprehensive human rights monitoring and impact evaluation to promote state accountability for human rights violations, and enhance improvements in the state of human rights observance in the country. Some of the strategies involved include the strengthening and application of a comprehensive monitoring system to assess the state of human rights. This entails the following:

- a) Monitoring and reporting, with key findings and recommendations (and directives), on the state of Economic and Social Rights, Equality, Civil and Political Rights; and Promotion of Access to Information Act.
- b) Monitoring the implementation of human rights based recommendations (and directives) to ensure realisation of the desired impact; and
- c) Efforts to strengthen monitoring systems as envisaged in prioritised selected International and Regional Human Rights Instruments, such as the Convention on the Rights of the Child; Convention on the Rights of Persons with Disability; International Covenant on Economic, Social and Cultural Rights; and the National Preventive Mechanism under the Optional Protocol to the Convention against Torture.

Monitoring implementation of Reports Recommendations relating to Healthcare

The Commission followed up on an agreement with the Minister of Health for the National Department of Health to update the Commission on how the Department was responding to the various Commission's Reports findings and recommendations. The Department acknowledged four reports, namely:

- a) Report on Mental Health;
- b) Report on Access to Emergency Medical Services in the Eastern Cape;
- c) Inquiry Report on Access to Healthcare; and
- d) The 2015 Report on the staffing of Homes or centres for elderly persons regarding the provision of healthcare support officers at those homes and the different responsibilities of the Health Department and the Department of Social Development.

The Department provided an update on how they have and continue to attend to the Reports' findings. The Commission further raised the need for reports on compliance with Covid-19 Regulations by Environmental Health Practitioners.

Other issues discussed related to:

- a) National Prevention Control under detention, with reference to the Independent Police Investigative Directorate; Prisons; Ombuds; Military Health services;
- b) The Relationship of the Health Ombud and the National Department of Health, including monitoring of Police stations;
- c) Monitoring Treaty Agreements;
- d) The Human Settlements Department and the Special Needs Housing Policy; and

- e) The implementation of the Esidimeni recommendations.

A proposal was made for a Roundtable discussion that would include other chapter 9 bodies, with a focus on pro-human rights budgeting as well as pro-rural budget over and above the National Health Insurance. A forum to support regular engagements between the DOH and the Commission was agreed to, for the purposes of sharing information, escalating concerns, and matters relating to international reporting or interventions.

Monitoring observance of the Right to a basic Education

The Commission, in considering challenges that hinder the right to a basic education, embarked on comprehensive human rights monitoring, with a view to enhance improvements in the state of human rights observance in the country. Monitoring efforts on schools re-opening, observance of Covid-19 Protocol, and water and sanitation has brought to light the full extent of the water and sanitation challenges confronting schools.

Some of the key monitoring activities in this regard included:

- a) *Engagement with the Department of Basic Education* on the readiness of schools to open; vaccination of educators and replacement of staff with comorbidities; food distribution to needy learners who could not open; provisioning of devices / data for purposes of bridging the digital divide; the Schools Moot Court Competition 2021; and distribution of the Slim-line Constitutions. Other matters of interest were around the need for the Department to consult the Commission when decisions that may impact on human rights were made.
- b) The Commission had also contacted the Director-General of the Department of Basic Education, lamenting none responsiveness of some of the MECs to the Commission's call for information on water and sanitation facilities at schools. The inadequate responses hindered the Commission's monitoring work on the realisation of the right to basic education, especially in light of the Covid-19 Protocols. Several MECs had responded, indicating efforts that the provinces would take to ensure the provision of adequate water to schools, as well as the safety of Learners.
- c) *Engagements with the Minister and MECs for Education*: In addition, the Commission addressed letters to the Minister of Basic Education and MECs, regarding a questionnaire developed by the Commission for monitoring the readiness of schools for opening in 2021. This questionnaire addressed a number of issues, *inter alia*: Covid-19 protocols; the delivery of textbooks; the National Schools Nutrition programme; and efforts to recoup lost teacher and learning time.
- d) *Empowering Human Rights Officers to Monitor Compliance in Schools*: The Commission conducted a workshop to capacitate Human Rights Officers on guidelines on school monitoring exercises envisaged for

February and March 2021, to over 270 schools in the nine (9) provinces. The Officers were empowered to assess the state of readiness, and other related matters, including the delivery of textbooks; Covid-19 Protocols; the National Schools Nutrition Programme; and access to water and sanitation services.

- e) *Memorandum of Understanding with the School Attendance Monitoring Foundation:* The School Attendance Monitoring Foundation (SAM Foundation) is a non-profit organisation running a programme to address challenges in South African schools. These include issues of absenteeism, bullying, drug and substance abuse, possession of weapons, and firearms, safety and security, and psycho-social support. The engagement was centred on the work that could be done with the Commission to support the initiatives of the SAM Foundation in advancing a conducive learning environment within schools. This aligned with the work covered by the Think Tank on Child Rights, and the Education focal area. An agreement was reached that the collaborative efforts should be reduced to a Memorandum of Agreement between the SAM Foundation and the Commission.
- f) *Monitoring schools in the Northern Cape:* The engagements with the Education Department also served to raise and address challenges in the Northern Cape. In the Pixley Ka Seme District (Pixley) in the province, there were serious non-compliance discrepancies to the Covid-19 Safety Regulations, evident, among other things, in inadequate supply of proper quality masks for learners in certain schools, as well as selective distribution to Grade R and Grade 1 learners in primary schools, and Grade 8 learners in high schools. Further challenges that were identified included three schools with asbestos roofing, and thus negative health implications; water and sanitation infrastructure problems due to vandalism and lack of maintenance; and that most schools were not disability friendly. The Commission, through its Northern Cape office, would engage with the Head of Department for Education to enforce compliance.

Monitoring implementation of the water and sanitation recommendations

The Deputy Minister of the Department of Water and Sanitation (DWS) accepted the recommendations made by the Commission in its 2014 Water and Sanitation Report, as well as the 2018 Research Brief. The DWS also noted the submission of the Commission to the IMC and welcomed the recommendations contained in the submission. The DWS welcomed the results of the Individual Deprivation Survey and committed to use the findings to bolster its work.

The monitoring engagement resolved that:

- a) The DWS and Commission should designate officials who will be the focal points between the two institutions, as well as provincial coordinators tasked with information sharing on water and sanitation challenges, and identification of remedial actions.

- b) The DWS and Commission would meet once a month for the duration of the Covid-19 pandemic to address issues arising.
- c) The DWS and Commission would meet once every quarter to assess the progressive realisation of the right to water and sanitation, and other matters within the sector.

Monitoring implementation of SAHRC Recommendations from the Report on Safety and Security in Farming Communities

The Speaker of the KwaZulu-Natal Provincial Legislature invited the Commission to make submissions on its work on access to state facilities, as well as safety and security of marginalised rural communities. The other stakeholders present included the South African Police Services, the MEC of the relevant portfolio, AFRA, and political parties. The Commission presented its Report, emphasising the need for a review and amendment to the KZN Rural Strategy on Safety and Security in order to respond to the SAHRC's findings and recommendations. The Speaker and the House resolved that a report would be provided and key monitoring tools published, and that parties would be invited for further engagement on their adoption.

Children's Rights Monitoring: Think Tank on Children's Rights

The SAHRC Think-Tank on Children's Rights, consisting of members from civil society, business and government, convened to finalise the Terms of Reference that set out the scope of its work. In commemoration of International Children's Day, the Think Tank issued a joint statement reflecting on the strides made and a need to note the existing challenges; the inadequacy of laws, policies and instruments to impact positively on the lives of all children. Examples in this regard being the intergenerational poverty, which is now being exacerbated by the pandemic, intergenerational violence, the number of children without birth certificates and stateless children who are left without protection. The statement was also a call for a systemic, inclusive, transparent and dynamic process that interacts as a structured facilitated dialogue and information flow between the different elements that compose the child rights sector and the environment in which it operates. An invitation was extended to any organisation working on promoting children's rights, business, and academic institutions to join the Think Tank.

Discussions were also held on the state of the economy and how the current austerity measures affected children's rights; including food security for children. This conversation informed the commissioning of a study into the impact of the austerity measures on the rights of the child.

Children's Rights Monitoring: Global study on children deprived of liberty in child and youth centres

The Commission would participate, in collaboration with the Centre for Child Law (CCL), in a follow up project to the global study on children deprived of their liberty in child and youth secure care centres that house children referred by the criminal justice system. The project's main objective is to create a model for a mechanism for

independent oversight to reinforce the rights of children in secure care in South Africa. It includes the following sub-objectives:

- a) Undertaking a base-line study of the current secure care centres;
- b) Developing a model for an independent oversight mechanism to reinforce the right of children in secure care; and
- c) Developing a plan for the management and care of children in secure care in situations of disaster or emergency.

The CCL workshopped the framework of the project with the Commission. The project provides the Commission with an opportunity to influence the promotion and proper monitoring of children's rights, and integrate the preventive mandate of the National Preventive Mechanism under the OPCAT.

Capacity Enhancement Programme to monitor observance of the Rights of Persons with Disability

There is great concern of a human rights implementation gap in South Africa, pertaining the adequacy and efficiency of monitoring systems for the realisation of the Rights of persons with disability. Article 33 (2) of the Convention on the Rights of Persons with Disabilities (CRPD) emphasises the determination for the establishment of an Independent Monitoring Mechanism (IMM). The Convention proposed the Commission as the most suitable institution to establish this IMM, as an "A" status independent National Human Rights Institution (NHRI) with the powers to monitor, promote, and protect human rights in the country.

The IMM, in addition to monitoring, would seek to provide guidance, increase awareness, and promote the rights, and freedoms of persons with disability in the country. This would also help influence policy and address the stigma associated with disability.

The United Nations (UN) Committee on Persons with Disabilities secured a European Union Fund to expedite the designation of the IMM. The Commission subsequently received a grant from the EU Dialogue Facility for the establishment of the IMM in South Africa, and has since collaborated with the government and the disability sector to gather international best practices for the effective functioning of an IMM, and inclusion of persons with disability in the monitoring of the implementation of the CRPD.

The Commission has fostered partnerships on the implementation of the IMM with the United Nations Office of the High Commissioner for Human Rights (UNOHCHR); UN Partnership on the Rights of Persons with Disabilities (UNPRPD)–Phase 2 Project; Convention on the Rights of Persons with Disabilities in South Africa; United Nations Children's Fund (UNICEF); United Nations Development Programme (UNDP); and the Department of Women, Youth, and Persons with Disabilities.

The collaboration is envisaged to contribute to the delivery of the Capacity Enhancement Programme to improve the Government's response towards barriers faced by persons with disabilities in South Africa. The basis for collaboration is grounded on the three outcomes of Phase 2 of the UNPRPD Project, namely:

- a) Economic vulnerability of persons with disabilities reduced through disability responsive budgeting;
- b) Improved well-being of children with disabilities through regular, and systematic tracking; and
- c) Increased capacity of persons with disability.

The National Preventive Mechanism under the OPCAT

The National Preventive Mechanism (NPM) 2019/20 Annual Report was launched on 20 July 2020 at a webinar hosted by the Commission. The Annual Report focuses on two broad issues. Firstly, it maps the progress on the implementation of the OPCAT in South Africa since ratification and the institutional building processes underway. Recommendations are made on how institutions such as the Judicial Inspectorate for Correctional Service (JICS) could be transformed to be in line with the OPCAT requirements.

Secondly, the report documents observations, findings and recommendations made during the baseline assessment and how persons in deprivation of liberty could be protected. The hosting of the webinar also marked the 1st anniversary of the NPM establishment.

Another webinar on the NPM was held on 14 August 2020 to deliberate on the vulnerabilities of women in places of deprivation of liberty and how their protection could be strengthened.

NPM monitoring observations and recommendations

1. **Self-sufficiency of correctional centres:** The NPM notes that the self-sufficiency of correctional centres is currently championed by the Minister of Justice and Correctional Services, Hon. Ronald Lamola, in line with the Ouagadougou Declaration and Plan of Action. The NPM wishes to reiterate that adequate control mechanisms should be developed and put in place to guard against exploitation and should remain voluntary.
2. **Overcrowding in correctional centres:** While the early release measures may have provided some interim utility, the NPM draws the government's attention to the need to explore long-term strategies to reduce overcrowding in correctional centres including through the use of alternatives to incarceration for low-risk pre-trial detainees and those arrested for petty offences in line with Sustainable Development Goal 16; the Principles on the Decriminalisation of Petty Offences in Africa; the Ouagadougou Declaration and Plan of Action on Accelerating Prisons and Penal Reforms in Africa; and the United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules).

3. **Safety and security:** As noted in the previous year, most correctional centres and police detention facilities did not have functioning closed-circuit television (CCTV) infrastructure to support existing safety and security measures. Unfortunately, this may remain for some time. The NPM repeats its call for both the Department of Correctional Services and SAPS to consider budget reprioritisation to improve the security infrastructure in their respective detention centres. This should include the feasibility of the use of body cameras for both correctional services and police officials.
4. **Material conditions:** The NPM continues to be concerned about the conditions of some places of deprivation of liberty. This was the case in police cells. Often, cells were not clean, and the infrastructure was dilapidated. The SAPS is called upon to improve the material conditions in police cells, enter into urgent dialogue with the Department of Public Works and Infrastructure (DPWI) to speed up the outstanding repairs to dilapidated infrastructure. One of the emerging concerns relates to the prolonged detention of suspects and awaiting trial detainees in police cells. Where this has been the case, cells were overcrowded, not allowing the occupants adequate space to practice social distancing in line with the Covid-19 protocols.
5. **State patients in traditional places of detention:** Most correctional centres accommodate involuntary mental health care users (MHCUs) and state patients (under forensic psychiatry) without the appropriate rehabilitation, care, capacity and infrastructure, pending the availability of bed space in psychiatric institutions. State patients were found in some police cells in the Eastern Cape and North West provinces. Of concern is that police stations did not have the appropriate facilities and capacity to treat, care and rehabilitate MHCUs, more so, state patients.
6. **Children deprived of their liberty:** The Covid-19 restrictions had a significant impact on children sentenced to compulsory residence in secure care centres. In some instances, visits were restricted during the various lockdown levels. While there were mechanisms provided for consideration for the early release of qualifying low-risk offenders in correctional centres, children in secure care were not included.
7. **Immigration:** There were challenges with the repatriation of persons arrested and detained for immigration law violations. Anecdotal cases indicate that some people detained for immigration purposes may have been in correctional centres and police cells for prolonged periods owing to border restrictions, especially during the hard lockdown.

8. The continued presence of refugees and asylum seekers at the Lindela Repatriation Centre is a concern. Lindela is an administrative detention facility and the refugees and asylum seekers are not supposed to be accommodated there. Pending the identification of a long-term solution such as possible resettlement, there are potential human rights concerns such as implications on the rights of children, health and education. This requires a multi-sectoral intervention outside and within the Commission.

Use of technology to support the mandate of the NPM: Lay Visitors Scheme App and NPM Web page

Several amendments to the Lay Visitors Scheme App have been made to integrate NPM monitoring needs. A follow-up training was also undertaken and attended by Human Rights Officers and Provincial Managers. The App, which was initially developed with the technical assistance of the African Policing Civilian Oversight Forum (APCOF), is also being developed to accommodate other places of deprivation of liberty such as psychiatric institutions and secure care centres, in addition to the police stations. This is to ensure integration and efficiency in the data collection system.

Subsequent to the 1st anniversary of NPM establishment, an NPM web page has been designed and linked to the SAHRC website. The NPM web page is designed to serve as an information portal and assist in popularising the NPM mandate.

Strengthening the mandate of NPM: Collaboration and legislative reforms

In efforts to strengthen the mandate of the NPM, the Commission developed two discussion papers that address issues that have a bearing on NPM. The first discussion paper explores how the NPM can benefit from the role of civil society, including human rights organisations and experts such as academics and researchers, psychiatrists, environmental health specialists, forensic pathologists, social workers, policing and corrections specialists. These experts could assist with advice to the NPM and regular monitoring of places of deprivation of liberty throughout the country. The paper considers how section 11 of the SAHRC Act could be utilised to integrate civil society expertise where necessary.

The second discussion paper proposes legislative changes required to strengthen the mandate of the NPM, including through promulgation of principal legislation for the NPM.

Key stakeholder engagements on the NPM

The NPM has continued visiting places of deprivation of liberty in line with its OPCAT mandate. Various engagements and monitoring visits were undertaken during the period under review. It was apparent that most institutions did not seem to know what the mandate of the Human Rights Commission is, and therefore placing an

undeniable responsibility upon the Commission to educate these institutions, and the broader public. Some of the key engagements during this period included:

- a) Meeting with the Africa Regional Group of the United Nations Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), established under the OPCAT as the initial official contact with the South African NPM: The SPT sought clarity on the structure, integration and budgetary allocations of the SA NPM.
- b) A meeting of the NPM Steering Committee was convened to discuss progress on institutional development and to identify common thematic areas. Some resolutions were made, including that the SAHRC should prioritise quarterly NPM meetings with fixed dates and joint activities by NPM bodies as well as quarterly reporting by the individual NPM bodies.
- c) Separate meetings with various stakeholders such as the APCOF, APT, and the EU Dialogue Facility in response to the 5th call for funding proposals; as well as EU Call for proposals on Enhancing Accountability in South Africa.
- d) Engagements and visits to correctional services centres and police stations: The Commission, on separate occasions, met with the Correctional Services Regional Commissioner and Deputy for the Eastern Cape; and the SAPS Provincial Commissioner on observations of the NPM in correctional centres, as well as police stations, respectively. A commitment was made by the regional management to ensure compliance with NPM recommendations as per submission by the Commission. In addition, the Commission visited correctional services centers in the Western Cape, Oudtshoorn, and the North West.
- e) Engagement with the new Executive Director for the Independent Police Investigative Directorate (IPID): discussing the role of IPID in the NPM, noting that there has not been clarity on what the IPID will be doing. As a key outcome, it was agreed that a Memorandum of Agreement should be developed to govern cooperation, and collaboration in compliance with the OPCAT mandate.
- f) The SAHRC appeared before the Portfolio Committee on Police to present the NPM observations during visits to police stations.
- g) Engagement with the Military Ombud: This was an introductory meeting since the appointment of the new Ombud and update on the work of the NPM. It was agreed that the current MoU with the Commission should be reviewed to integrate the role of the Ombud in the NPM as well as a commitment to consider legislative amendments in line with the OPCAT.
- h) Engagement with Amnesty International to discuss the protection of older persons in correctional centres and for the NPM to consider contributing to Amnesty International's report on this issue.
- i) Engagement with the NPM Steering Committee to discuss progress on institutional development and to identify common thematic areas. Several resolutions were made, including that the SAHRC should write to the National Prosecuting Authority (NPA) to identify a mechanism for information sharing relating to cases of torture being prosecuted by the NPA.

- j) A meeting held between the NPM team and Mr Miles Bhudu representing the South Africa Prisoners' Rights Organisation on issues of mutual interest such as Covid-19 compliance in correctional centres, corruption, ill-treatment and complaints from offenders and how the NPM could deal with them. It was resolved that a meeting would be organised between Mr Bhudu and the National Commissioner for Correctional Services.
- k) A meeting with the Centre for Child Law regarding the possibility for early release of child offenders sentenced to compulsory residence in secure care centres in line with efforts by the government regarding the consideration of parole for selected low-risk qualifying sentenced offenders who have or will reach their minimum detention periods within five years was similarly welcomed to combat the spread of COVID-19 in correctional centres by reducing overcrowding.
- l) Engagements with several civil society organisations such as Detention Justice Forum (DJF) on collaboration and cooperation with the NPM.
- m) Engagement with the DCS management at the national level through the heads of centres working sessions, regional and centre management level on observations of the NPM in correctional centres.
- n) Engagement with Gender DynamiX and Triangle on issues affecting the Lesbian, Gay, Bisexual, Transgender, Queer & Intersex (LGBTQI) community in places of deprivation of liberty. As an outcome of the meeting, capacity development on issues affecting LGBTQI persons would be initiated at two levels. Firstly, with SAHRC staff and secondly, with correctional centres in compliance with the *Jade September* judgment.
- o) A meeting with the Gauteng provincial government Member of the Executive Council (MEC) for Social Development. NPM observations to be shared with the office of the MEC. The collaboration will strengthen the implementation of the NPM's recommendations and the protection of children in conflict with the law, who are deprived of their liberty at secure care centres.
- p) Through the collaboration with the Centre for Child Law at the University of Pretoria, the SAHRC has initiated a follow up to the UN Global Study on Children Deprived of their liberty by carrying out targeted visits to secure care centres where children in conflict with the law are deprived of their liberty. The follow-up study is designed to scope and make recommendations for a model for independent oversight to strengthen the rights of children in SCCs in South Africa.
- q) Following the recent Constitutional Court's judgment in the Sonke matter, an Inter-Departmental Committee (IAC), appointed in terms of Regulation 34 of the Public Service Regulations 2016, recommended that JICS be established as a National Government Component to afford it adequate independence to properly execute its oversight mandate. This recommendation requires that Schedule 3 of the Public Service Act, 1994 be amended to establish JICS as a National Government Component pursuant to section 7(5)(c) of the Public Service Act. Constituting JICS as a Government Component will be instrumental in strengthening the constitutional rights of incarcerated persons.

JICS will not only function independently but also be perceived as independent from DCS, to secure enhanced trust and confidence in JICS on the part of incarcerated persons and the public. For compliance with the Constitutional Court judgment (above), JICS must be financially and functionally independent from DCS, and perceived as independent, by 3 December 2022.

- r) Considering all these developments, JICS has been working and consulting on a JICS Draft Bill to address the lack of independence, regulate administrative and operational functions, and provide for the appointment and powers of the IJ, CEO, Regional managers, inspectors, and investigators. In addition, the Bill seeks to bolster DCS's reporting and cooperation obligations in relation to JICS.
- s) Through the financial support of the European Delegation to South Africa, the NPM is, jointly with the Association for Prevention of Torture (APT), implementing a project designed to develop mechanisms for strengthening the protection of women in the criminal justice system, partly by measuring the implementation of the Bangkok Rules in South Africa and the SADC region.
- t) Due to grey areas in current legislation for the Health Ombud, a plan is underway to separate the Office of the Health Ombud from the OHSC to strengthen its independence. A cooperation agreement between the SAHRC and Office of the Health Ombud is being explored to progressively develop and implement a strategy on strengthening the OPCAT and NPM work within the Office of the Health Ombud. JICS is also in the process of engaging with the National Prosecuting Authority on various criminal cases arising from complaints by or assaults on inmates, as well as inquests.

Table 10: Achievement on improved accountability for Human Rights

#	Performance Indicator	Actual Achievement 2019/20	Annual Planned Target 2020/21	Actual Achievement 2020/21	Deviation from Planned Target for 2020/21	Variance from 2019/20 to 2020/21	Comment on Variances / Corrective Measures
4.1	Development of a Comprehensive Human Rights Monitoring and Evaluation System	New indicator	Develop Children's Rights Mapping Framework	Mapping exercise in progress.	Target not met.	New indicator	Delays due to Covid-19 demands. Mapping exercise in progress for completion by Quarter 1 of 2021-22
4.2	Completion of State of Human Rights in South Africa Reports	1 State of Human Rights Report Completed	Complete 3 SOHR Research Outputs (Brief or Paper or Bulletin)	2 Research Briefs completed	Less by 1 Research output	Less by 1 Research output	Third Research Brief not completed due to resignation and vacancy in Civil and Political Rights Portfolio.
4.3	Completion of Provincial State of Human Rights Reports	9 Reports completed	Complete 9 Reports (1 per province)	9 Reports Completed	Target achieved.	None.	None.

#	Performance Indicator	Actual Achievement 2019/20	Annual Planned Target 2020/21	Actual Achievement 2020/21	Deviation from Planned Target for 2020/21	Variance from 2019/20 to 2020/21	Comment on Variances / Corrective Measures
4.4	Completion of International and Regional Human Rights (IRHR) Report	New indicator	Complete 1 IRHR Research Output	1 IRHR Research Brief completed.	Target achieved.	New indicator	None.
4.5	Completion of Monitoring Report on Implementation of Social Media Charter	New Indicator	Develop and promote the Charter	Work in progress for development of the Charter.	Target not met.	New Indicator	Delays due to attention on Covid-19. Work in progress for completion in 2021-22.
4.6	Submission of NPM-OPCAT Monitoring Report	Monitoring system established.	Submit NPM-OPCAT Monitoring Report	Report submitted.	Target achieved.	None	None
4.7	Completion of IMM-CRPD Monitoring Report	Monitoring System developed.	Complete IMM-CRPD Monitoring Report	On-going provincial monitoring conducted. Focus Area Report for Q3 not submitted.	Target not met.	Different indicators between the 2 financial years.	Monitoring restricted due to Covid-19 challenges, and capacity constraints within the focus area. Plans to integrate the monitoring system.
4.8	Completion of CRC Monitoring Report	New Indicator	Complete CRC Monitoring Report	Monitoring activities implemented and report completed.	Target achieved.	New Indicator	None.
4.9	Percentage submission of identified NHRI Reports	100%	Submit 100% of identified NHRI Submissions by deadline	100 % submission made by deadline.	Target achieved.	None.	None.
4.10	Percentage submission on identified legislation by deadline	100%	Submit 100% of identified legislative submissions by deadline	100% submissions made by deadline.	Target achieved.	None.	None.
4.11	Submission of PAIA Annual Report to Parliament	Completed 1 Report by 30 Sept 2019	Submit PAIA Annual Report to Parliament by 30 Sept 2020	PAIA Report completed and submitted to Parliament.	Target achieved.	Report Extended by Parliament to 30 Nov 2020	None.

3.2.5 Strategies to deal with areas of under-performance

The following planned performance targets were not achieved during the 2020-21 financial year:

Table 11: Areas of under-performance

PPI	Performance Indicator	Annual Target	Annual Achievement	Reasons for Variances and Corrective Actions
1.2	Percentage expenditure against total budget	95% - 105% expenditure	90%	While currently not fully achieved, there were open purchase orders or commitments already made, of approximately R12.9m, which, on actual spend would increase expenditure to 95%.
1.3	Percentage implementation of Risk Management Plan	80% - 100% Implementation	72%	In addition to delays due to attention on the Covid-19 demands, there were low levels of responsiveness to Risk treatment planning. The Strategic Risks Register and Treatment Plans for the next financial year were reviewed and completed, which is expected to improve performance in this regard.
1.4	Submission of SAHRC Conditions of Service and Remuneration	Develop SAHRC Conditions of Service and Remuneration	Recommendations reports completed but conditions of service not developed.	Delays were due to unavailability of Committee members. Guideline and Recommendations will be tabled with Commissioners for implementation in the new financial year.
1.10	Percentage resolution of Audit Findings	80% - 100% resolution	49% resolved	Capacity constraints. Temporary capacity sourced.
1.11	Percentage compliance with Institutional Governance Framework	80% - 100% compliance with identified aspects of Comprehensive Institutional Governance Framework	Governance Report completed. Board Charter not developed.	Realisation to acquire a more comprehensive and digitised institutional governance framework, as opposed to the limited scope of a Board Charter alone. Attempts to acquire the comprehensive digitised framework failed due to unanticipated costs implications, which require inclusion of the item in the procurement plan at the start of the financial year, and embarking on a tender process. Acquisition of a comprehensive digitised governance framework has been included in the procurement plan for 2021-22 and will be accordingly procured.
2.2	Number of agreements of cooperation implemented	Implement 5 Agreements of cooperation	1 Agreement of Cooperation implemented	High dependence on external stakeholder commitments. 3 MoU were already in existence, and continuous engagements held to promote the realisation of commitments.
2.5	Completion of Quarterly Media Monitoring Reports	Complete 4 Quarterly Media Monitoring Reports	3 Quarterly Media Monitoring Reports Completed	Incomplete Report due to contractual challenges with the media monitoring service provision. Procurement processes were underway for a different

PPI	Performance Indicator	Annual Target	Annual Achievement	Reasons for Variances and Corrective Actions
				service provider, who would retrieve the previous information.
2.6	Accessibility of the website to Persons with Disability	Make website accessible to people with disabilities	Engaged stakeholders and developed Terms of Reference.	Delays due to focus on Covid-19 demands, and suitable service provider not found on time. Secured budget to proceed in 2021-22.
3.3	Institute strategic impact litigation	Institute 20 High Court Matters	13 matters instituted.	Delayed identification and approval processes on some of the matters proposed. Several other matters identified and many awaiting approval for litigation.
4.1	Development of a Comprehensive Human Rights Monitoring and Evaluation System	Develop Children's Rights Mapping Framework	Mapping exercise in progress.	Delays due to Covid-19 demands. Mapping exercise in progress for completion by Quarter 1 of 2021-22
4.2	Completion of State of Human Rights in South Africa Reports	Complete 3 SOHR Research Outputs (Brief or Paper or Bulletin)	2 Research Briefs completed	Third Research Brief not completed due to resignation and vacancy in Civil and Political Rights Portfolio.
4.5	Completion of Monitoring Report on Implementation of Social Media Charter	Develop and promote the Charter	Work in progress for development of the Charter.	Delays due to attention on Covid-19. Work in progress for completion in 2021-22.
4.7	Completion of IMM-CRPD Monitoring Report	Complete IMM-CRPD Monitoring Report	On-going provincial monitoring conducted. Focus Area Report for Q3 not submitted.	Monitoring restricted due to Covid-19 challenges, and capacity constraints within the focus area. Plans to integrate the monitoring system.

PART C: GOVERNANCE

INSTITUTIONAL GOVERNANCE

Commissioners

The Commissioners provide leadership and guidance concerning the professional work of the Commission by facilitating the South African human rights agenda at the international, regional, national, and provincial levels. The Commissioners are committed to business integrity, transparency, and professionalism in all activities. As part of this commitment, the Commissioners support the highest standards of corporate governance and the ongoing development of best practice.

The members of the Commission for the year under review include:

Table 11: Members of the Commission 2020-21

	Name	Appointment status
1.	Adv. B. C. Majola	Chairperson Full time – appointed January 3, 2017
2.	Ms. D. P. Jana	Deputy Chairperson Full time – appointed January 3, 2017, Until October 2020
3.	Adv. A. H. Gaum	Full time – appointed January 3, 2017
4.	Adv. M. S. Ameermia	Full time – appointed February 3, 2014, Until February 2021
5.	Ms. M. A. Makwetla	Full time – appointed January 3, 2017
6.	Adv. J. B. Malatji	Full time – appointed January 3, 2017
7.	Mr. A. C. Nissen	Part time – appointed January 3, 2017
8.	Mr. J. Sibanyoni	Part time – appointed January 3, 2017

Risk Management

Legislating the implementation of risk management in public sector institutions is part of a macro strategy of the government to ensure the achievement of public sector institutional goals and objectives. For the Commission, this mandate can be found in Section 77 of the Public Finance Management Act (Act 1 of 1999 as amended by Act 29 of 1999, Treasury Regulations TR3.1.10, and Treasury Regulations TR3.1.13). Risk management, therefore, forms an integral part of the Commission's plan to deliver effectively and efficiently on its mandate.

During the period under review the Commission revised and produced a more comprehensive risk management policy and strategy. Linked with this process was risk profiling and development of a risk appetite statement.

The Risk Management Committee, consisting of senior management and chaired by the Chief Financial Officer, advises on arising risks and mitigation mechanisms, and monitors ongoing implementation of treatment plans.

The Audit Committee independently reviews the strategic risks register of the Commission and advises the Commission where necessary.

The risk register and plan capture institutional strategic risks and mitigating actions, and are reviewed for progress on a quarterly basis.

Compliance with Laws and Regulations

The function of legislative and regulatory compliance has been delegated to the heads of units to ensure compliance with the relevant legislation and statutes pertaining to their programmes. Compliance in relation to core operations is the responsibility of the Chief Operations Officer, while corporate and financial-related compliance issues are the responsibility of the Chief Financial Officer. The Chief Executive Officer has the ultimate responsibility to monitor and ensure institutional and financial compliance as the accounting officer. The Chairperson as Executive Authority is responsible for overall strategic and governance oversight.

Institutional Governance Framework

The Commission established various governance structures to enhance delivery on the constitutional mandate through provision of strategic direction and oversight; ensuring operational effectiveness and efficiencies; as well as legislative compliance. These governance structures include committees of Commissioners; Section 11 Advisory Committees; Audit Committee; Risk Management Committee; Senior Management Meetings; and various other committees set up in response to legislative requirements and operational effectiveness.

Audit Committee

The Audit Committee Report reflecting on the composition and responsibilities of the Audit Committee is included with the Annual Financial Statements.

PART D: HUMAN RESOURCE MANAGEMENT

HUMAN RESOURCE MANAGEMENT

Expenditure

The following tables summarise final audited expenditure by programme (Table 16) and by salary bands (Table 17). In particular, these tables provide an indication of the amount spent on personnel costs in terms of each programme or salary band within the Department.

Table 16: Personnel costs by programme for 2020 to 2021

Programme	Total expenditure (R'000)	Personnel expenditure (R'000)	Training expenditure (R'000)	Professional and special services (R'000)	Personnel cost as a percentage of total expenditure	Average personnel cost per employee (R'000)
Chief Executive Officer	13 436	11 313	54	6	84%	1 257
Commissioners	19 034	18 263	103	9	96%	961
Corporate and financial support services	54 804	20 805	367	298	38%	630
Programme support	91 860	77 147	444	242	84%	771
Total	179 134	127 528	968	557	71%	792

Table 17: Personnel costs by salary bands for 2020 to 2021

Salary bands	Personnel expenditure (R'000)	% of total personnel cost	Average personnel cost per employee (R'000)
Lower skilled (levels 1-2)	8 626	7%	784
Skilled (levels 3-5)	3 505	3%	876
Highly skilled production (levels 6-8)	38 738	30%	657
Highly skilled supervision (levels 9-12)	64 267	50%	945
Senior management (levels 13-16)	12 392	10%	652
Total	127 528	100%	792

The following tables provide a summary per programme (Table 18) and salary bands (Table 19), of expenditure incurred as a result of salaries, overtime, home owners' allowance, and medical assistance. In each case, the table provides an indication of the percentage of personnel budget used for these items.

Table 18: Salaries, overtime, home owners' allowance, and medical assistance by programme for 2020 to 2021

Programme	Salaries		Overtime		Home owners' allowance		Medical assistance	
	Amount (R'000)	Salaries as a % of personnel cost	Amount (R'000)	Overtime as a % of personnel cost	Amount (R'000)	HOA as a % of personnel cost	Amount (R'000)	Medical assistance as a % of personnel cost
Chief Executive Officer	11 313	9%	11 360	-	71	1%	391	3%
Commissioners	18 263	14%	19 149	-	379	2%	342	2%
Corporate and financial support services	20 805	16%	94 398	-	632	3%	1 216	6%
Programme support	77 147	60%	53 868	-	1 437	2%	2 586	3%
Total	127 528	100%	178 775	0%	2 518	2%	4 535	3%

Table 19: Salaries, overtime, home owners' allowance, and medical assistance by salary bands for 2020 to 2021

Salary bands	Salaries		Overtime		Home Owners' Allowance (HOA)		Medical assistance	
	Amount (R'000)	Salaries as a % of personnel cost	Amount (R'000)	Overtime as a % of personnel cost	Amount (R'000)	HOA as a % of personnel cost	Amount (R'000)	Medical assistance as a % of personnel cost
Lower skilled (levels 1-2)	8 625	7%	-	-	188	2%	175	2%
Skilled (levels 3-5)	3 505	3%	-	-	87	2%	131	4%
Highly skilled production (levels 6-8)	38 738	30%	131	0.3%	1 006	3%	2 028	5%
Highly skilled supervision (levels 9-12)	64 267	50%	47	0.1%	886	1%	1 761	3%
Senior management (levels 13-16)	12 392	10%	-	-	352	3%	439	3%
Total	127 528	100%	178	0.4%	2 518	2%	4 535	3%

Employment and vacancies

The following tables summarise the number of posts on establishment of the Commission, the number of employees, the vacancy rate, and whether there are any staff additional to those on establishment. This information is presented in terms of three key variables: Programme (Table 20), Salary band (Table 21), and Critical occupations (Table 22). Departments have identified critical occupations that need to be monitored. Table 22 provides establishment and vacancy information for the key critical occupations of the Department.

Table 20: Employment and vacancies by programme at 31 March 2021

Programme	Number of posts	Number of posts filled	Vacancy rate	Number of posts filled additional to the establishment
Chief Executive Officer	12	9	25%	-
Commissioners	23	19	17%	-
Corporate and financial support services	41	33	20%	-
Programme support	122	100	22	-
Total	198	161	19%	-

Table 21: Employment and vacancies by salary bands at 31 March 2021

Salary band	Number of posts	Number of posts filled	Vacancy rate	Number of posts filled additional to the establishment
Lower skilled (levels 1-2)	11	11	0%	-
Skilled (levels 3-5)	6	4	33%	-
Highly skilled production (levels 6-8)	74	59	20%	-
Highly skilled supervision (levels 9-12)	78	68	14%	-
Senior management (Levels 13-16)	29	19	34%	-
Total	198	161	38%	-

Table 22: Employment and vacancies by critical occupation as at 31 March 2021

Critical occupations	Number of posts	Number of posts filled	Vacancy rate	Number of posts filled additional to the establishment
Legal	55	47	7%	-
Advocacy and Communications	24	19	21%	-
Research	13	7	38%	-
Total	92	73	19%	-

Job evaluation

The Public Service Regulations 1999, introduced job evaluation as a way of ensuring that work of equal value is remunerated equally. Within a nationally determined framework, executing authorities may evaluate or re-evaluate any job in an organisation. In terms of the regulations, all vacancies on salary levels nine and higher must be evaluated before they are filled.

The following table (Table 23) summarises the number of jobs evaluated during the year under review. The table also provides statistics on the posts that were upgraded or downgraded.

Table 23: Job evaluation for 1 April 2020 to 31 March 31 2021 (including vacant positions)

Salary band	Number of posts	Number of jobs evaluated	% of posts evaluated by salary bands	Posts upgraded		Posts downgraded	
				Number	% of posts evaluated	Number	% of posts evaluated
Lower skilled (levels 1-2)	-	-	-	-	-	-	-
Skilled (levels 3-5)	-	-	-	-	-	-	-
Highly skilled production (levels 6-8)	-	-	-	-	-	-	-
Highly skilled supervision (levels 9-12)	-	-	-	-	-	-	-
Senior management service, band A	-	-	-	-	-	-	-
Senior management service, band B	-	-	-	-	-	-	-
Senior management service, band C	-	-	-	-	-	-	-
Senior management service, band D	-	-	-	-	-	-	-
Total	-	-	-	-	-	-	-

Employment changes

This section provides information on changes in employment over the financial year. Turnover rates provide an indication of trends in the employment profile of the Department. The following tables provide a summary of turnover rates by salary band (Table 24) and by critical occupations (Table 25).

Table 24: Annual turnover rates by salary band for 1 April 2020 to 31 March 2021

Salary band	Number of employees per band at 1 April 2020	Appointments and transfers into the Department	Terminations and transfers out of the Department	Turnover rate
Lower skilled (levels 1-2)	11	-	-	-
Skilled (levels 3-5)	6	-	2	33%
Highly skilled production (levels 6-8)	62	1	2	3%
Highly skilled supervision (levels 9-12)	68	4	5	7%
Senior management service, band A (level 13)	18	-	2	11%
Senior management service, band B (level 14)	2	-	1	50%
Senior management service, band C (level 15)	1	-	-	-
Total	168	5	12	7%

Table 25: Annual turnover rates by critical occupation for 1 April 2020 to 31 March 2021

Occupation	Number of employees per occupation at 1 April 2020	Appointments and transfers into the Department	Terminations and transfers out of the Department	Turnover rate
Legal services	51	2	3	6%
Advocacy and Communications	19	1	1	5%
Research	8	1	2	25%
Total	78	4	6	8%

Table 26: Reasons why staff are leaving the Department

Termination type		
Death	2	
Resignation	6	
Retrenchment	-	
Expiry of contract	1	
Dismissal – operational changes	-	
Dismissal – misconduct	-	
Dismissal – inefficiency	-	
Discharged due to ill-health	-	
Retirement	3	
Transfers to other public service departments	-	
Other (voluntary separation package)	-	
Total	12	
Total number of employees who left as a % of the total employment	6%	

Table 27: Promotions by critical occupation

Occupation	Employees at 1 April 2020	Promotions to another salary level	Salary level promotions as a % of employees by occupation	Progressions to another notch within a salary level	Notch progressions as a % of employees by occupation
Legal services	55	-	-	-	-
Advocacy and Communications	24	-	-	-	-
Research	13	-	-	-	-
Total	92	-	-	-	-

Table 28: Promotions by salary band

Salary band	Employees at 1 April 2019	Promotions to another salary level	Salary band promotions as a % of employees by salary level	Progressions to another notch within a salary level	Notch progressions as a % of employees by salary band
Lower skilled (levels 1-2)	11	-	-	-	-
Skilled (levels 3-5)	6	-	-	-	-
Highly skilled production (levels 6-8)	62	-	-	-	-
Highly skilled supervision (levels 9-12)	68	-	-	-	-
Senior management (levels 13-16)	21	1	-	-	21%
Total	168	1	-	-	2%

Employment equity

The tables in this section are based on the formats prescribed by the Employment Equity Act, 1998 (Act No. 55 of 1998).

Table 29: Total number of employees in each of the following occupational bands at 31 March 2020 (including part-time Commissioners)

Occupational bands	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Top management	4	1	1	1	1	0	2	0	10
Senior management	9	0	0	0	2	0	0	0	11
Professionally qualified and experienced specialists and mid-management	24	3	0	2	26	5	2	4	66
Skilled technical and academically qualified workers, junior management, supervisors, foremen, and superintendents	9	0	1	0	29	2	1	2	44
Semi-skilled and discretionary decision making	2	0	0	1	17	1	0	0	21
Unskilled and defined decision making	3	0	0	0	12	1	0	0	16
Total	51	4	2	4	87	9	5	6	168

Table 30: Recruitment (including employees with disabilities and research associates) for 1 April 2020 to 31 March 2021.

Occupational bands	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Top management	0	0	0	0	0	0	0	0	0
Senior management	0	0	0	0	0	0	0	0	0
Professionally qualified and experienced specialists and mid-management	2	0	0	0	2	0	0	0	4
Skilled technical and academically qualified workers, junior management, supervisors, foremen, and superintendents	0	0	0	0	0	1	0	0	1
Semi-skilled and discretionary decision making	0	0	0	0	0	0	0	0	0
Unskilled and defined decision making	0	0	0	0	0	0	0	0	0
Total	2	0	0	0	2	1	0	0	5

Table 31: Terminations (including employees with disabilities and Research Associates) for

1 April 2020 to 31 March 2021

Occupational bands	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Top management	0	0	1	0	0	0	1	0	2
Senior management	1	0	0	0	0	1	0	0	2
Professionally qualified and experienced specialists and mid-management	1	1	0		0	0	0	2	4
Skilled technical and academically qualified workers, junior management, supervisors, foremen, and superintendents	1	0	0	0	1	0	0	0	2
Semi-skilled and discretionary decision making	2	0	0	0		0	0	0	2
Unskilled and defined decision making	0	0	0	0	0	0	0	0	0
Total	5	1	1	0	1	1	1	2	12
Employees with disabilities	0	0	0	0	0	0	0	0	0

Table 32: Disciplinary action for 1 April 2019 to 31 March 2020

	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Disciplinary action	0								

Table 33: Skills development for 1 April 2020 to 31 March 2021

Occupational categories	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Legislators, senior officials, and managers	3	0	0	0	0	0	0	0	3
Professionals	5	0	0	0	5	4	1	2	17
Technicians and associate professionals	8	0	0	0	21	1	0	0	30
Clerks	2	0	0	0	7	0	0	0	9
Elementary occupations	0	0	0	0	0	0	0	0	0
Total	18	0	0	0	33	5	1	2	59
Employees with disabilities	0	0	0	0	0	0	0	0	0

Performance rewards

To encourage good performance, the Department has granted the following performance rewards during the year under review. The information is presented in terms of race, gender, and disability (Table 34), salary bands (Table 35) and critical occupations (Table 36).

Table 34: Performance rewards by race, gender, and disability for 1 April 2020 to 31 March 2021

	Beneficiary profile			Cost	
	Number of beneficiaries	Total number of employees in group	% of total within group	Cost (R'000)	Average cost per employee
Total African	103	138	93%	1 439	13
Male	34	51	94%	619	18
Female	69	87	92%	820	11
Total Asian	4	7	86%	76	19
Male	1	2	50%	12	12
Female	3	5	100%	63	21
Total Coloured	11	13	115%	203	18
Male	0	0	0%	0	0
Female	11	9	133%	203	18
Total White	6	10	100%	127	21
Male	3	4	75%	45	15
Female	3	6	117%	82	27
Employees with a disability	2	2	0%	56	28
Total	126	168	95%	1 901	99

Table 35: Performance rewards by salary bands for personnel below senior management service for 1 April 2020 to 31 March 2021

Salary bands	Beneficiary profile			Cost		
	Number of beneficiaries	Number of employees	% of total within salary bands	Total cost (R'000)	Average cost per employee	Total cost as a % of the total personnel expenditure
Lower skilled (levels 1-2)	11	11	73%	35	3	0
Skilled (levels 3-5)	2	6	100%	8	4	0,0%
Highly skilled production (levels 6-8)	49	62	97%	527	10	0,4%
Highly skilled supervision (levels 9-12)	53	68	101%	1 051	19	08%
Total	115	147	97%	1 621	36	1,3%

Table 36: Performance-related rewards (cash bonus) by salary band for senior management service

Salary band	Beneficiary profile			Total cost (R'000)	Average cost per employee	Total cost as a % of the total personnel expenditure
	Number of beneficiaries	Number of employees	% of total within band			
Band A	9	21	42%	224	24	0%
Band B	0	3	0%	0	0	0%
Band C	0	1	0%	0	0	0%
Band D	0	1	0%	0	0	0%
Total	15	26	58%	666	44	1%

Foreign workers

The tables below summarise the employment of foreign nationals in the Department in terms of salary bands and by major occupation. The tables also summarise changes in the total number of foreign workers in each salary band and by each major occupation.

Table 37: Foreign workers for 1 April 2020 to 31 March 2021 by salary band

Salary band	1 April 2020		31 March 2021		Change	
	Number	% of total	Number	% of total	Number	% change
Lower skilled (levels 1-2)	-	-	-	-	-	-
Skilled (levels 3-5)	-	-	-	-	-	-
Highly skilled production (levels 6-8)	-	-	-	-	-	-
Highly skilled supervision (levels 9-12)	5	83%	5	83%	-	-
Senior management (levels 13-16)	1	17%	1	17%	-	-
Total	6	100%	7	100%	-	-

Table 38: Foreign workers for 1 April 2020 to 31 March 2021 by major occupation

Major occupation	1 April 2020		31 March 2021		Change	
	Number	% of total	Number	% of total	Number	% change
Legal	1	17%	1	17%	0	0%
Education	0	0%	0	0%	0	0%
Research	5	83%	5	83%	0	0%
Total	6	100%	6	100%	-	0%

Leave utilisation for 1 January 2019 to 31 March 2020

The Public Service Commission identified the need for careful monitoring of sick leave within the public service. The following tables provide an indication of the use of sick leave and disability leave. In both cases, the estimated cost of the leave is also provided.

Table 39: Sick leave for 1 January 2020 to 31 March 2021

Salary band	Total days	% days with medical certification	Number of employees using sick leave	% of total employees using sick leave	Average days per employee
Lower skilled (levels 1-2)	30	-	10	91%	3,1
Skilled (levels 3-5)	31	-	4	67%	7,5
Highly skilled production (levels 6-8)	301	-	52	84%	5,8
Highly skilled supervision (levels 9-12)	300	-	64	94%	4,7
Senior management (levels 13-16)	120	-	19	90%	6,3
Total	782	-	149	89%	5,2

Table 40 summarises the use of annual leave. The wage agreement concluded with trade unions in the Public Service Co-ordinating Bargaining Council (PSCBC) in 2000, requires management to take annual leave to prevent high levels of accrued leave being paid at the time of termination of service.

Table 40: Annual leave for 1 January 2020 to 31 March 2021

Salary bands	Total days taken	Average per employee
Lower skilled (levels 1-2)	99	9
Skilled (levels 3-5)	70	12
Highly skilled production (levels 6-8)	701	11
Highly skilled supervision (levels 9-12)	995	15
Senior management (levels 13-16)	200	10
Total	2 065	12

The following table summarises payments made to employees as a result of leave that was not taken.

Table 41: Leave pay-outs for 1 April 2020 to 31 March 2021

Reason	Total amount (R'000)	Number of employees	Average payment per employee (R'000)
Leave pay-out for 2020 to 2021 for the non-use of leave in previous cycle	-	-	-
Capped leave pay-outs on termination of service for 2020 to 2021	-	-	-
Current leave pay-out on termination of service for 2020 to 2021	417	12	34,7
Total	417	12	34,7

HIV/ AIDS and Health Promotion Programmes

Table 42: Steps taken to reduce the risk of occupational exposure

Units/categories of employees identified to be at high risk of contracting HIV/AIDS and related diseases (if any)	Key steps taken to reduce the risk
None. Discovery Healthy Company (EAP Programme) has a full-fledged HIV/AIDS unit that the Commission's staff members may access 24 hours a day, 7 days a week. Contact details are readily available to staff.	World Aids Day Awareness was not held due to COVID-19.

Table 43: Details of health promotion and HIV/AIDS programmes (tick the applicable boxes and provide the required information)

Question	Yes	No	Details, if yes
1. Has the Department designated a member of the Senior Management Service (SMS) to implement the provisions contained in Part VI, section? E of Chapter 1 of the Public Service Regulations, 2001? If so, provide the name and position.		X	Not applicable to the SAHRC
2. Does the Department have a dedicated unit or has it designated specific staff members to promote the health and well-being of employees? If so, indicate the number of employees involved in this task and the annual budget available for this purpose.	X		5 members (R90 000)

3. Has the Department introduced an employee assistance or health promotion programme for employees? If so, indicate the key elements and/or services of this programme.	X		ICAS counselling, wellness, health advice, and financial advice
4. Has the Department established (a) committee(s) as contemplated in Part VI, Section E.5 (e) of Chapter 1 of the Public Service Regulations, 2001? If so, please provide the names of the members of the committee and the stakeholder(s) they represent.		X	Not applicable to the SAHRC
5. Has the Department reviewed its employment policies and practices to ensure that these do not unfairly discriminate against employees on the basis of their HIV status? If so, list the employment policies and/or practices so reviewed.	X		The Employee Handbook.
6. Has the Department introduced measures to protect HIV-positive employees or those perceived to be HIV-positive from discrimination? If so, list the key elements of these measures.	X		Wellness day, health education and voluntary screening
7. Does the Department encourage its employees to undergo voluntary counselling and testing? If so, list the results achieved.	X		Employees were given time to undertake voluntary counselling and testing (VCT) and interact with the health officials during an annual Wellness day.

8. Has the Department developed measures and/or indicators to monitor and evaluate the impact of its health promotion programme? If so, list these measures and/or indicators.		X	Health promotion is done through ICAS services. Quarterly reports are provided and analysed.
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Table 44 summarises the outcome of disciplinary hearings conducted within the Department for the year under review.

Table 44: Misconduct and disciplinary hearings finalised for 1 April 2020 to 31 March 2021

Outcomes of disciplinary hearings	Number	% of total
Correctional counselling	0	0%
Verbal warning	0	0%
Written warning	0	0%
Final written warning	0	0%
Suspended without pay	0	0%
Fine	0	0%
Demotion	0	0%
Dismissal	0	0%
Not guilty	0	0%
Case withdrawn	0	0%
Total	0	0%

Table 45: Types of misconduct addressed at disciplinary hearings

Type of misconduct	Number	% of total
Insolence and disobedience	0	0%
Poor performance termination	0	0%
Gross dishonesty	0	0%
Total	0	0%

Table 46: Grievances lodged for 1 April 2020 to 31 March 2021

	Number	% of total
Number of grievances resolved	2	67%
Number of grievances not resolved	1	33%
Total number of grievances lodged	3	100%

Skills development

This section highlights the efforts of the Department with regard to skills development.

Table 47: Training needs identified for 1 April 2020 to 31 March 2021

Occupational categories	Gender	Number of employees at 1 April 2020	Training needs identified at start of reporting period			
			Learnerships	Skills programmes and other short courses	Other forms of training	Total
Legislators, senior officials, and managers (levels 13-16)	Female	-	-	-	-	-
	Male	3	-	3	-	3
Professionals (levels 11-12)	Female	12	-	12	-	12
	Male	5	-	5	-	5
Technicians and associate professionals (levels 8-10)	Female	21	-	21	-	21
	Male	7	-	2	-	7
Clerks (levels 4-7)	Female	8	-	8	-	8
	Male	2	-	2	-	2
Service and sales workers	Female	-	-	-	-	-
	Male	-	-	-	-	-
Skilled agriculture and fishery workers	Female	-	-	-	-	-
	Male	-	-	-	-	-
Craft and related trades workers	Female	-	-	-	-	-
	Male	-	-	-	-	-
Plant and machine operators and assemblers	Female	-	-	-	-	-
	Male	-	-	-	-	-
Elementary occupations (levels 1-3)	Female	-	-	-	-	-
	Male	-	-	-	-	-

<i>Sub Total</i>	Female	41	-	41		41
	Male	17	-	17		1
Total		58	-	58		58

Table 48: Training provided for 1 April 2020 to 31 March 2021

Occupational categories	Gender	Number of employees at 1 April 2020	Training provided within the reporting period			
			Learnerships	Skills programmes and other short courses	Other forms of training	Total
Legislators, senior officials, and managers	Female	-	-	-	-	-
	Male	1	-	1	-	1
Professionals	Female	8	-	8	-	8
	Male	5	-	5	-	5
Technicians and associate professionals	Female	11	-	11	-	11
	Male	5	-	5	-	5
Clerks	Female	6	-	6	-	6
	Male	-	-	-	-	-
Service and sales workers	Female	-	-	-	-	-
	Male	-	-	-	-	-
Skilled agriculture and fishery workers	Female	-	-	-	-	-
	Male	-	-	-	-	-
Craft and related trades workers	Female	-	-	-	-	-
	Male	-	-	-	-	-
Plant and machine operators and assemblers	Female	-	-	-	-	-
	Male	-	-	-	-	-
Elementary occupations	Female	-	-	-	-	-
	Male	-	-	-	-	-
<i>Sub Total</i>	Female	25	-	25	-	25
	Male	11	-	11	-	11
Total		36	-	36	-	36

Utilisation of consultants

Table 49: Report on consultant appointments using appropriated funds

Project title	Total number of consultants that worked on the project	Duration: work days	Contract value in Rand
Senior Managers' Work plans Development	2	60	R381 225
Remuneration Structures Review Project	3	90	R235 865
