

# ANNUAL REPORT

2011

We, the people of South Africa, Recognise the injustices of our past; Honour those who suffered for justice and freedom in our land; Respect those who have worked to build and develop our country; and Believe that South Africa belongs to all who live in it, united in our diversity. We therefore, through our freely elected representatives, adopt this Constitution as the supreme law of the Republic so as to Heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights; Lay the foundations for a democratic and open society in which government is based on the will of the people and every citizen is equally protected by law; Improve the quality of life of all citizens and free the potential of each person; and Build a united and democratic South Africa able to take its rightful place as a sovereign state in the family of nations. God protect our people. Nkosi Sikelel' i-Afrika. Boloka sathaba sa hese. God siin Afrika. God Bless South Africa. Mudzimu wase-Afrika. Hosi katekisa Afrika.



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# SOUTH AFRICAN HUMAN RIGHTS COMMISSION ANNUAL REPORT 2011

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*the people of South Africa  
recognise the injustices of our  
It honours those who*

# Vision

Champion of the realisation of human rights

# Mission

To support constitutional democracy and attainment of the progressive realisation of human rights by:

- Monitoring and assessing the observance of human rights.
- Education and training on human rights.
- Addressing human rights violations and seeking effective redress.


# Values

The Commission adheres to the following values of Ubuntu:

- Dignity;
- Equality;
- Respect; and
- Accountability.

## LETTER TO THE SPEAKER OF THE NATIONAL ASSEMBLY

The Honourable Max Sisulu  
Speaker of the National Assembly



It gives me great pleasure to submit the 15th Annual Report of the South African Human Rights Commission for the period 1 April 2010 to 31 March 2011. The report has been prepared based on the provisions of Section 181(5) of the Constitution Act 108 of 1996 and Section 40 (1)(e) of the Public Finance Management Act 1 of 1999.



Kayum Ahmed  
Chief Executive Officer (Accounting Officer)

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## STATEMENT BY THE CHAIRPERSON



This is the second Annual Report of the Commission, presented by the current group of Commissioners in terms of Section 181(5) of the Constitution (Act 108 of 1996). Our annual report is one mechanism of accountability to Parliament and to the people of our country. The sections of the report have been organised according to the mandate of the Commission as set out in the Constitution and in the Human Rights Commission Act 54 of 1994.

During their second year of term of office, Commissioners have grown into the job. It is important to note that with the appointment of Commissioner Sandi Baai late last year, the Commission is now lawfully constituted, which has enabled a more equitable distribution of responsibilities among Commissioners so as to address the wide mandate of the Commission. Generally, we have become a great deal more assertive and have been able to identify areas for strategic interventions. We continue to build our team of professionals so that we may achieve the respect of the people we serve, and deliver services effectively and efficiently.

The commencement of a new term gave the Commission the opportunity to reflect on the role and place of the Commission within a democracy, revisit and set new priorities, and examine issues such as independence and our relationship with other stakeholders including government, Parliament and civil society. While we regard our independence as important, we recognise the need to work and interact with others, and to this extent we want to ensure that our work is in synergy with the national reality and the issues that face us as a nation. Similarly, we will seek to construct meaningful relationships with government and Parliament.

Along these lines, the strategic planning of the Commission commenced in December 2010 and incorporated a revision of the structure of the institution. This process entailed a critical self-reflection of the institution and the individuals who work for it. The Commission has also questioned how it could best align its resources with its mandate. A new vision has been developed of “transforming society, securing rights and restoring dignity”. The Commission aims to secure



individual rights for the poor and marginalised, as well as to transform society. This transformation would entail restoring the collective dignity of the nation.

At an international level, the Commission continues to play an important role with regards to its participation in the work of the African Commission on Human and People's Rights and the International Coordinating Committee on National Human Rights Institutions. We have, during the 2010/11 period, been requested to host the 8th Biennial Conference of African National Human Rights Institutions in late 2011 and have already commenced the preparatory work accordingly. This is an indication of the credibility and trust that the Commission has developed at both national and international levels, and is in many respects a tribute to the growing maturity of our young democracy.

The members of staff of the Commission have also acquitted themselves admirably in very trying circumstances, notably as a result of the realignment process which commenced during the period under review. While we appreciate the frustrations that many of our colleagues have experienced, we also acknowledge the crucial role this process shall play in making the Commission a more efficient and effective institution.

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Mbedle L Mushwana

Chairperson



## OVERVIEW OF THE ACCOUNTING OFFICER



Tracking the Commission's performance over the past financial years, the institution has consistently managed to improve performance by increasing its ability to fulfil key strategic objectives. In 2009/10, the Commission was able to achieve only 52% of its strategic objectives. By the end of 2010/11, we had improved our overall performance to 67% and achieved a clean audit with no matters of emphasis.

Despite these improvements in performance, the Commission has a long way to go to achieve 100% of its strategic objectives. Part of the challenge relates to limited resources, but can also be attributed to a complex set of circumstances including a lack of skills and training amongst members of the Secretariat, as well as a culture that does not always place the most marginalised and vulnerable members of society at the forefront of our work.

Having joined the Commission five months into the 2010/11 financial year, I embarked on a comprehensive assessment and analysis of the institution's performance drivers and barriers. With the strategic guidance of Commissioners, we developed a new vision and mission for the institution and created a new Strategic Plan. The implementation of our new plan commenced towards the end of the 2010/11 financial year and will take at least three years to become fully operational. The plan includes a comprehensive restructuring exercise that will realign our organisational structure with the new Strategic Plan.

While these institutional changes have not been easy, they have created new opportunities to rethink the role of the Commission and to position the institution as a focal point for human rights in South Africa. One of the significant debates that have arisen as a result of the rethinking process, is how to shift the human rights discourse in South Africa from one of compliance to a more substantive engagement on the critical issues. The Commission's 7th Economic and Social Rights Report released during the financial year under review, states emphatically that there is a conceptual misunderstanding by the government of its constitutional obligation to progressively realise economic and social rights.



One of the most significant challenges for the Commission is getting government to move away from its compliance-driven approach to rights, to a substantive understanding of its human rights obligations. This point can be emphasised by referring to a report released jointly with the United Nations Children’s Fund (UNICEF) during the financial year under review relating to equity in child rights. The report notes that while South Africa has achieved near universal access to primary school education, the quality of education received by children is deteriorating. So while government has on the one hand complied with its obligation to ensure access to education, the quality of education remains poor.

Compliance with human rights obligations can, therefore, never be the only measure of ascertaining the fulfilment of a human right. We have to move beyond compliance to create a sustainable culture of human rights that allows us to “heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights,” as stated in our Constitution.

As part of our mandate, we will continue to work with government but will also continue to ask difficult questions and agitate for change. When toilets are built without enclosures, or access to education becomes nothing more than compliance driven, when a disabled learner cannot access the school library or university students violate the dignity of workers, the Commission will stand alongside the poorest and marginalised and continue to ensure that their rights are protected.

A handwritten signature in black ink, consisting of a large, stylized 'K' followed by a flourish that loops back to the start of the 'K'.

A Kayum Ahmed  
Chief Executive Officer

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## PART 1

### GENERAL INFORMATION



The Bill of Rights (Chapter 2 of our Constitution) is the cornerstone of democracy in South Africa.

It enshrines the rights of all people living in South Africa and affirms the democratic values of human dignity, equality and freedom.

The South African Human Rights Commission (the Commission) is one of the constitutional institutions (Chapter 9) charged with the responsibility to respect, protect, promote, monitor and fulfil the rights contained in the Bill of Rights.

In striving to be the focal point for human rights practice in South Africa, the Commission discharges the above mandate, through powers conferred by the Constitution and the South African Human Rights Act 54 of 1994.

## 1.1 VISION AND MISSION STATEMENT

*Vision*

**Champion for the realisation of human rights.**

*Mission*

**To support constitutional democracy and the attainment of progressive realisation of human rights by:**

- Monitoring and assessing the observance of human rights.
- Education and training on human rights.
- Addressing human rights violations and seeking effective redress.

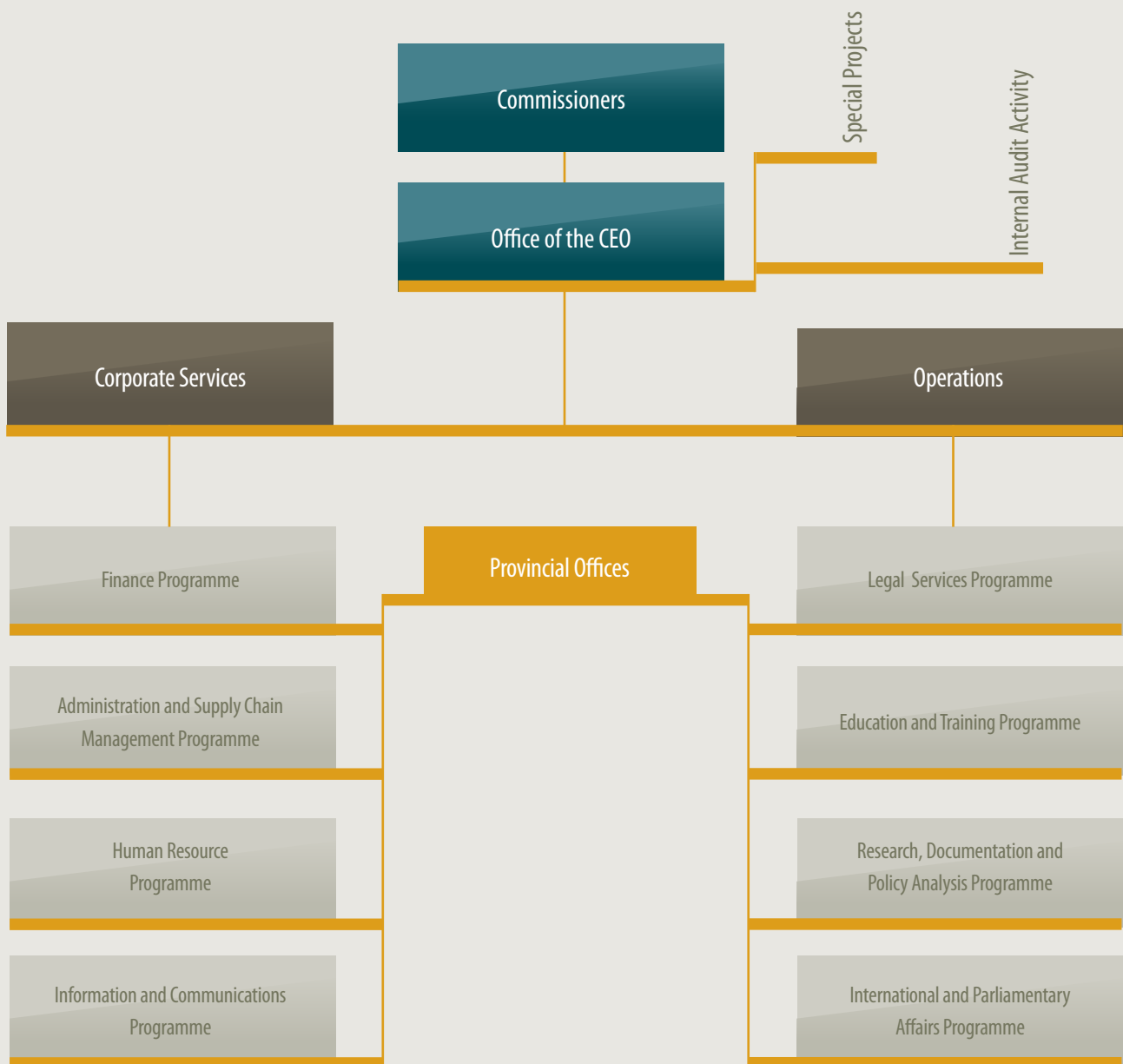
*Values*

**The Commission adheres to the following values of Ubuntu:**

- Dignity;
- Equality;
- Respect; and
- Accountability.

*Justice*

## 1.2 ORGANISATIONAL STRUCTURE



### 1.3 LEGISLATIVE MANDATE

The Commission derives its powers from the Constitution of the Republic and the South African Human Rights Act 54 of 1994 as follows:

1. The SA Human Rights Commission 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.
2. The Commission has the powers, as regulated by national legislation, necessary to perform its functions, including the power to do the following:
  - To investigate and report on the observance of human rights through its Parliamentary and International Affairs Programme, Research, Policy Analysis and Documentation Programme and its Information and Communications Programme;
  - Take steps to secure appropriate redress, where human rights have been violated, through its Legal Services Programme;
  - Carry out research through the Research, Policy Analysis and Documentation Programme; and
  - Provide human rights education through the Education and Training Programme.
3. Each year, the Commission requires relevant organs of state to provide it with information on the measures that they (state organs) have taken towards the realisation of the rights in the Bill of Rights, concerning housing, health care, food, water, social security, education and the environment.
4. The Commission has additional powers and functions prescribed by specific legislative obligations in terms of the Promotion of Access to Information Act 2 of 2000 (PAIA) and the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (PEPUDA). The Commission has to do the following:
  - a) Promote awareness of the statutes;
  - b) Report to Parliament in relation to these statutes; and
  - c) Develop recommendations on persisting challenges related to these statutes and any necessary reform.

## PART 2

### PERFORMANCE OVERVIEW

#### 2.1 SUMMARY OF PROGRAMMES

In achieving its key strategic objectives, the Commission conducts its activities through the following Programmes:

##### Office of Commissioners

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

##### Office of the Chief Executive Officer

The Chief Executive Officer is responsible for the establishment and maintenance of an effective and efficient corporate governance framework that ensures management accountability through improved mechanisms for controlling and directing management activities.

##### Internal Audit Activity

The Programme develops structured processes for measuring, monitoring and controlling operational risks that allow for systematic selection of cost-effective approaches to minimising threats to the Commission's operations.

### Operational Programmes

#### Legal Services

Legal Services is responsible for the provision of 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 to, as well as seeking redress through the courts for, victims of human rights violations.

#### Education and Training

The Education and Training Programme promotes awareness of human rights and contributes to the development of a sustainable human rights culture in South Africa.

#### Research, Documentation and Policy Analysis

The Programme 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.

#### Parliamentary and International Affairs

The Parliamentary and International Affairs Programme engages with Parliamentary processes and promotes international and regional human rights instruments.

### Corporate Programmes

#### Information and Communications

The Programme maintains an accessible and transparent human rights environment through the development of quality human rights publications/material, management of information, records as well as public relations.

*Note:* During the period under review, the Programme was disbanded as part of a restructuring exercise. The five sub-Programmes that made up the Information and Communications Programme (ICP) were placed within other programmes.

#### Administration and Supply Chain

The Programme establishes and manages integrated supply chain management, asset management and co-ordination of all administrative functions of the Commission within defined regulatory frameworks.

#### Financial Management

The Financial Management Programme provides effective and efficient management of the Commission's budget to allow for successful achievement of strategic objectives within limited resources.

#### Human Resources

Human Resources aligns the Commission's human resource objectives to planning processes, enabling employment and retention of staff with the capacity to support the achievement of strategic objectives.

## 2.2 KEY STRATEGIC OBJECTIVES

In order to be an efficient focal point for human rights practice in South Africa, and achieve its broad mandate, the Commission sought to pursue the following primary objectives:

### 2.2.1 Promotion of respect for and a culture of human rights

- i) To promote and contribute to the development of a sustainable human rights culture through education and training, community outreach and public awareness campaigns.
- ii) To establish and maintain an accessible and transparent human rights environment, through the development of quality human rights publications and the management of public and media relations of the Commission.
- iii) To provide leadership and guidance in the achievement of the Commission's mandate through the facilitation of the South African human rights agenda at regional, provincial, national, and international levels.

### 2.2.2 Promotion of the protection, development and attainment of human rights

- i) To provide legal services aimed at the protection of human rights in the Republic of South Africa through the investigation of human rights violations and the mediation, arbitration and litigation of systemic human rights violations.
- ii) To strengthen the effectiveness and efficiency of the Commission's corporate governance frame-



work that ensures accountability in the achievement of its mandate.

### 2.2.3 The monitoring and assessment of the observance of human rights

- i) To plan, design, conduct and manage research on the interpretation, promotion and protection of human rights aimed at monitoring, assessing and documenting developments in human rights public policy within the Republic.
- ii) To advance human rights through legislation monitoring and assessment of national compliance to regional and international human rights treaties.

### 2.2.4 Reporting on legislative obligations on the PAIA and PEPUDA statutes

- i) To promote a culture of accessibility, openness and transparency by promoting access to information and establishing an integrated information management system for the monitoring of the PAIA statute.
- ii) To monitor the implementation of the PEPUDA statute as an integral part of the Commission's promotion of human rights.

## 2.3 STRATEGIC OBJECTIVE ACHIEVEMENTS

In addition to the objectives above, the Commission further set priorities to reflect the focal areas of the work of the Commission's Programmes over the period under review. The following goals emanating from the various priorities were achieved:

### 2.3.1 Developing a functional complaints-handling system

The Legal Services Programme (LSP) held a three-day workshop during December 2010 which was attended by Commissioners, members of management and LSP staff from national office as well as provinces. The purpose of this gathering was to critically analyse, substantively review and brainstorm proposals for a more effective and efficient complaints-handling system. A number of proposals and recommendations, aimed at improving the efficiency and effectiveness of complaints-handling, were made during the workshop. However, the finalisation of the complaints-handling

system review process which is to culminate in the development of a complaints-handling manual, will only be finalised during the next financial period. The categorisation of various types of complaints, and the development of appropriate service delivery indicators, will form part and parcel of this process aimed at improving complaints-handling turnaround times.

To this end, the Commission has embarked on a process of requesting proposals from identified service providers and will appoint an external consultant to complete this project. This process is envisaged to continue simultaneously with the long-term rethinking of the LSP and the organisation restructuring that is underway, and which will be finalised and implemented during the new financial year.

### 2.3.2 Revising policies and procedures and aligning to organisational business processes

A policy review process was initiated in December 2010 to ensure that the Commission's policies are updated and aligned to the organisational business processes. Several policies have been reviewed thus far, including:

- The Working Relationship between Commissioners and the Secretariat in the SAHRC: A Corporate Governance Perspective;
- Procedure for Policy Formulation, Development and Review;
- HIV and AIDS Policy; and
- Performance Management Policy.

The policy review process is scheduled to be completed by September 2011, following which policies would be reviewed on an annual basis.

### 2.3.3 Improving monitoring of economic and social rights

Focus on poverty alleviation and reduction of inequality  
The 7th Economic and Social Rights Report was submitted to Parliament in December 2010. The focus of the report was the assessment of the Millennium Development Goals (MDGs) in the context of the progressive realisation of economic and social rights. As the first goal in the MDGs is the reduction of poverty, the Commission has made recommendations to the government in respect of its progress towards meeting this goal,

especially in relation to the right to social security. The Research and Policy Analysis Programme (the Research Programme) has also worked closely with the Studies in Poverty and Inequality Institute, the Global Campaign Against Poverty and the Social Welfare Forum to assess whether the budgets of various government departments can be considered to be pro-poor.

Develop monitoring indicators for economic and social rights  
As part of the methodology of the Research Programme, monitoring indicators were developed for the right to education, and this will be expanded through the development of an economic and social rights matrix with the Studies in Poverty and Inequality Institute. However, developing an impact assessment tool for the Commission's work on economic and social rights was not achieved.

## 2.4 OVERVIEW OF THE SERVICE DELIVERY ENVIRONMENT FOR 2010/11

The Commission operates in a highly complex and challenging environment straddling the political, cultural and social dimensions of human rights in the country. As a result, the work of the Commission is always under scrutiny by members of the public and its stakeholders. It is therefore critical that in its vision to be the champion for the realisation of human rights, it executes this purpose without fear, favour or prejudice.

### 2.4.1 Promotion of respect for and a culture of human rights

The promotion of respect for and a culture of human rights was advanced through education and training, community outreach initiatives as well dialogues to encourage public participation and include:

- Social cohesion interventions in Skierlik, North West Province, in collaboration with the University of the Witwatersrand.
- Statements presented at the 47th Session of the African Commission on Human and People's Rights, detailing steps taken by the Commission to promote and protect human rights in South Africa.
- Co-hosting of a regional workshop for National Human Rights Institutions in collaboration with the United Nations Development Programme (UNDP) and the Network of African National Human Rights

Institutions (NANHRI).

- A reconciliation process between workers and former students of the University of the Free State, led by the Free State Provincial Office in collaboration with the University of the Free State and Mangaung Municipality.
- Africa Human Rights Day seminar to commemorate the 24th anniversary of the coming into force of the African Charter on Human and People's Rights, attended by, amongst others, the Chairperson of the African Commission, Mr Mumba Malila.

### 2.4.2 Promotion of the protection, development and attainment of human rights

The provision of legal services aimed at protecting human rights in the Republic of South Africa through the investigation of human rights violations and the mediation, arbitration and litigation of systemic human rights violations, remained a priority for the Commission. As a result, a total of 5 626 complaints were handled during the period under review.

Discrimination, inequality, poverty and basic service delivery were prevalent in the service delivery environment in which the Commission operated. These issues are reflected in the top five types of complaints dealt with, namely equality; human dignity; just administrative action; arrested, detained and accused persons; and labour.

In addition, the Commission investigated a number of high profile complaints involving alleged hate speech and the right to freedom of expression; litigated 24 matters in the Equality Courts; and was involved in a few precedent-setting court proceedings involving the right to basic sanitation and the right to basic education respectively, which are expected to be concluded during the next period.

### 2.4.3 The monitoring and assessment of the observance of human rights

The observance and assessment of human rights is monitored through various mechanisms, which culminate in the annual Human Rights Development Report.

In 2009, the Research and Policy Analysis Programme developed a monitoring methodology entitled 'The Progressive Realisation and Constitutional Accountability Model'. In the 2010/11 financial year, the Programme pursued a collaborative project with the Studies in

Poverty and Inequality Institute in which the methodology was interrogated in pursuit of a development of an economic and social rights matrix. This collaborative project was formalised in January 2011 through a memorandum of understanding between the Commission and the Studies in Poverty and Inequality Institute.

#### 2.4.4 Reporting on legislative obligations on the PAIA and PEPUA statutes

The Commission is required in terms of both the Promotion of Access to Information Act 2 of 2000 and the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 to report to Parliament on its legislative obligations. The mandates are not funded separately and the limited resources hamper the Commission's ability to meet its obligations.

In relation to PAIA, the Commission has approached Parliament in terms of legislation for the funding of its PAIA work. Despite non-funding of the mandate, the Commission responded to Parliament's concerns about the lack of visibility of the Programme and the amount of resources dedicated to it by elevating the Programme to be in the Office of the CEO.

The Programme's promotion and advocacy interventions saw over 1 000 public officials trained on PAIA and increased provincial awareness of the legislation. PAIA once again successfully hosted the National Information Officers Forum, celebrating a decade of the legislation. The Commission's monitoring and law reform activities have also brought value to the Parliamentary processes in relation to emerging legislation. PAIA outputs are detailed comprehensively in Part 5 of this Report.

## 2.5 OVERVIEW OF THE ORGANISATIONAL ENVIRONMENT

The efficiency and effectiveness of any organisation is largely determined by the structure and the manner in which it operates. The Commission has celebrated many achievements. However, budget constraints, inadequate resources as well as having an organisational structure and staff constituent that is not aligned to the broad mandate, continued to hamper the Commission's ability to deliver on its objectives.

### 2.5.1 Mid-year restructuring of the organisation

The Commission's existing structure is not sufficiently aligned with its mandate and resources. This became evident following the results of an organisational survey conducted by the CEO in September 2010. Consequently, a major restructuring exercise was embarked upon at the Commission and should be finalised by the end of September 2011.

The restructuring process comprises four phases:

- Development of a new mission, vision and strategic plan (completed in March 2011).
- Alignment of the organisation structure with the mission, vision and strategic plan (May 2011).
- Implementation of the new structure (March 2012).
- Monitoring and evaluation of the new structure (March 2012).

The ultimate aim of the restructuring process is to make the Commission more effective and efficient by utilising the limited resources of the Commission to achieve its mandate.

### 2.5.2 Budgetary constraints

Budget constraints adversely impacted on the achievement of, amongst others, human resources priority areas. For instance, a number of Programmes were put on hold, pending the finalisation of the restructuring budget. These include the acquisition of a new human resources information system, review of the performance management system, staff development initiatives and management development. The recruitment and filling of vacant positions was also suspended due to the budget constraints.

### 2.5.3 Move to new premises

In October 2010, the Commission received communication that its office premises in Parktown had been sold to Wits University and that the Commission would be required to vacate the premises at the end of the lease on 31 March 2011.

In order to achieve this objective, the Commission embarked on an exercise to find new premises for leasing and also conducted a risk and threat analysis. While there was no budget allocation for the relocation, the Commission made efforts to source funds for the relocation

project. Various options based on costs and benefits were identified and appraised and despite a tight timescale, the Commission's Head Office and Gauteng Provincial Office relocated to new premises at the end of March 2011.

During the relocation process, the work and records of the Commission were transferred. The Commission minimised the disruptive effects of the relocation by ensuring that two parallel networks were established – one at the old premises and the other at the new premises. The

relocation itself took place in two phases and these were completed within the time schedule at a cost of R281 000.

The new building, located at 33 Hoofd Street, Braamfontein, Forum 3 in Braamfontein, was selected because of its proximity to the Constitutional Court, the Johannesburg central business district and various nodes of transport which allow members of the public easy access to the offices, thus contributing to improved overall efficiency and quality of service.

## 2.6 KEY POLICY DEVELOPMENTS AND LEGISLATIVE CHANGES

During the period under review, a number of submissions were made through the Commission's PIAP Programme to Parliament on various pieces of legislation:

Submissions/briefings/public hearings	Government Department or Parliamentary Committee	Topic
Presentation and submission of additional information on the Commission's Strategic Plan	Portfolio Committee Justice and Constitutional Development, National Assembly	Submission of additional information requested by the Committee, arising out of the Commission's appearance and presentation of 2010/11 Strategic Plan and Budget before the Committee, 14/04/10
Choice on Termination of Pregnancy Amendment Bill submissions	Private Members' Legislative Proposals and Special Petitions, National Assembly	Oral submission indicating the lack of support by the Commission for the proposed amendments to Termination of Pregnancy legislation 04/06/10, written submission 15/07/10
Preliminary remarks on the Black Authorities Act Repeal Bill	Rural Development and Land Reform Portfolio Committee, National Assembly	Submitted Preliminary Remarks supporting the repeal of the Act, 20/07/10
Briefing on xenophobia	Justice and Constitutional Development Portfolio Committee	Briefing on the Commission's Xenophobia Report (Report on the SAHRC Investigation into Issues of Rule of Law, Justice and Impunity arising out of the 2008 Public Violence against Non-Nationals), 21/07/10
Protection of Information Bill (POI) submissions	Ad hoc Committee on Protection of Information Bill, National Assembly	Oral and written submission on the Bill and its relation to and impact on the Commission's mandate in terms of the Protection of Information Act (PAIA), 22/07/10
Independent Police Investigative Directorate Bill submissions	Police Portfolio Committee, National Assembly	Two submissions on the Bill were made orally and in writing. The first submission discussed the definition and inclusion of torture in the Bill and the second, raised general concerns regarding the Bill, 10/08/10
Briefing on the Commission's first quarter performance	Portfolio Committee on Justice and Constitutional Development	Quarterly briefing on the Commission's first quarter performance, 18/08/10
Submission on the Prevention and Combating of Trafficking in Persons Bill submissions	Justice and Constitutional Development Portfolio Committee, National Assembly	Oral and written submissions supporting the Trafficking Bill, 25/08/10
Briefing on xenophobia	International Relations and Cooperation Portfolio Committee, National Assembly	Briefing on the Commission's Xenophobia Report (Report on the SAHRC Investigation into Issues of Rule of Law, Justice and Impunity arising out of the 2008 Public Violence against Non-Nationals) and South Africa's international human rights law obligations, 15/09/10
Briefing on international human rights instruments	Portfolio Committee on International Relations and Cooperation, National Assembly	Briefing to the Committee on implications for South Africa when ratifying the African Union Charter on Democracy, Elections and Governance, 10/11/10
Briefing on xenophobia	Social Development Portfolio Committee, National Assembly	Briefing on the Commission's Xenophobia report and recommendations made to the Department of Social Development in the report
Submission on Protection of Personal Information (POPIA) Bill	Justice and Constitutional Development Portfolio Committee	Submission in response to requests from Parliament on specific aspects of the POPIA Bill and PAIA, 26/01/11
Briefing on Commission's Strategic Plan	Justice and Constitutional Development Portfolio Committee, National Assembly	Commission's briefing on 2011/12 Strategic Plan and 4th quarter activities, 16/03/11

## PART 3

### PROGRAMME PERFORMANCE

#### 3.1 PROGRAMME: OFFICE OF COMMISSIONERS

##### Purpose of the Programme

The Commissioners provide leadership and guidance to the professional work of the Commission through the facilitation of the South African human rights agenda at international, regional, national and provincial level.

##### Strategic Objectives

The following are the measurable objectives of the Commissioners' Programme:

*It must be acknowledged that in line with the commencement of the term of office of the current group of Commissioners, some have proceeded to refine the measurable objectives initially specified in the 2010/11 ENE and Strategic Plan, and the following reflect the current measurable objectives of the Commissioners' Programme:*

- To provide strategic leadership of the Commission and to oversee the performance of the Chief Executive Officer
- To facilitate strategic human rights interventions in the country
- To engage with human rights stakeholders at regional, national and international levels
- To represent the Commission in both provincial and national legislatures around human rights matters
- To oversee the complaints process and manage the appeals process
- To collaborate with other Chapter 9 institutions and institutions supporting constitutional democracy to strengthen the observance, protection and promotion of human rights in South Africa
- To strengthen collaboration and cooperation amongst National Human Rights Institutions (NHRIs) in the African region and other parts of the world and provide support to the Network of African NHRIs
- To strengthen relations with, and support the work of, the African Union and the African Commission on Human and People's Rights (ACHPR)

### Service delivery objectives and indicators

Commissioners provide guidance in developing the vision of the institution by setting its priorities and ensuring that its policies, programmes and allocated resources are consistent with their vision. This is done through exercising good corporate governance and providing leadership and guidance on the professional work of the Commission. In addition to having attended, on a regular basis, fortnightly performance reporting meetings with the CEO and overseeing the quarterly plenary reporting processes, Commissioners have attended a Strategic Planning Workshop in January 2011 with a view to guiding the vision of the institution for the 2011–14 period.

The Commissioners are the public face of the Commission, representing the organisation not only at national, regional and international forums, but also interacting with local communities and stakeholders at the national level, as required, to mainstream human rights issues.

Through the Commissioners, relationships with state organs, civil society structures and Chapter 9 institutions have been established. The Commissioners develop these relationships through extensive engagement and consultation with all stakeholders, including the media.

The Commissioners conceptualised, organised, co-managed and participated at the Workshop on Eq-

uity in the Realisation of Child Rights in South Africa, Midrand, an event which constituted the Human Rights Month event for the institution.

The Commissioners have hosted Section 5 Committee meetings on varied focus areas, including: children, disability, education, human rights and the environmental impact of mining, and particularly, acid mine drainage and older persons.

During this reporting period the Commission officially adopted its media strategy, which provides for a formal and documented strategic framework on how the institution will engage with the media. For some time, the lack of a coordinated and agreed to approach on how to manage media enquiries has been one of the major media engagement challenges confronting the Commission. Before the strategy was adopted, the Commission did not have a formal and approved framework, and consequently there was poor organisational response to the media.

Since the adoption of the strategy, the Commission's relationship with various key personnel within South Africa's newsrooms has improved significantly. Due to these improved relationships the Commission successfully generated positive coverage for the following events and issues: Africa Human Rights Day, International Human Rights Day, 2011 Human Rights Day, the Launch of the Report on Equity and Child Rights, and issues relating to torture and police brutality.

Office of Commissioners

Programme objectives	Outputs	Measure/indicator	Actual performance against targets		Reasons for variance
			Target	Actual	
To provide strategic leadership of the Commission and to oversee the performance of the Chief Executive Officer	Performance agreement with the Chief Executive Officer (CEO) signed	Annual Report on the South African Human Rights Commission's (SAHRC) performance Follow-up of Audit Report	Fortnightly performance reporting meetings with CEO Quarterly plenary oversight	Achieved	
	Engaging role-players around progress regarding service delivery Engaging role-players on the implementation of the Child Justice Act Engaging role-players around advancing compliance with the employment obligations particularly in relation to people with disability Engaging with the responsible ministers and stakeholders regarding the issue of refugees and asylum seekers Engaging with the responsible ministers on the issues of acid mine drainage Participating in the Equality Review Committee Continuing engagement with UNHCR, UNOHCHR and UNICEF Engaging role-players in South Africa around CEDAW	Direction in terms of compilation of reports on annual human rights development in South Africa Direction on reports in relation to different activities regarding: <ul style="list-style-type: none"> <li>• Service delivery;</li> <li>• Implementation of the Child Justice Act;</li> <li>• Compliance with employment obligations particularly in relation to people with disabilities;</li> <li>• Issues of refugees and asylum seekers;</li> <li>• Acid mine drainage; and</li> <li>• CEDAW.</li> </ul>	The SAHRC's strategic direction through annual development of human rights priorities is set Regular media interventions Monthly interventions on human rights focus areas per Commissioner Ensure that findings and recommendations of the Commission are implemented	Achieved	
To engage with human rights stakeholders at regional, national and international levels	Chairing the Network of African National Human Rights Institutions	Human rights policy positions articulated at regional and international forums	Regular briefings of national stakeholders on important international human rights matters Regular contact with identified stakeholders such as NHRIs, the AU and the NHRI International Coordinating Committee (ICC)	Achieved	
To represent the Commission in both national and provincial legislatures around human rights matters	Engaging regularly with both provincial and national legislatures Engaging with responsible ministers regarding the operationalisation of international instruments Engaging with responsible ministers on the amendment of the Human Rights Commission Act 54 of 1994 Engaging with responsible ministers on the Promotion of Equality and Prevention of Unfair Discrimination Act, 4 of 2000 and the Promotion of Access to Information Act 2 of 2000 Ensure proper monitoring of the recommendations flowing from the Commission's reports and findings	Reports on engagement with speaker, Office for the Institutions Supporting Democracy (OISD) and various portfolio committees	Development of strategy and plan for Parliament representation Ensure that submissions and presentations are made to portfolio committees	Achieved Achieved	

## Office of Commissioners

Programme objectives	Outputs	Measure/indicator	Actual performance against targets		Reasons for variance
			Target	Actual	
To oversee the complaints process and manage the appeals process	Integrity of complaints process assured	Appeals resolved Regular reports on complaints received	Resolution of appeals within agreed timeframes	Achieved	
			Preside over public hearings and subpoena hearings		
			Monthly legal committee meetings		
To collaborate with other Chapter 9 institutions and Institutions Supporting Constitutional Democracy to strengthen the observance, protection and promotion of human rights in South Africa	Continuing engagement at the Forum of Chapter 9 Institutions	Record of meetings attended of Chapter 9 Forum	Stakeholder engagement report	Achieved	
	Engagement with the Commission for Gender Equality on CEDAW	Stakeholder engagement plan	Stakeholder engagement plan developed	Achieved	
	Engagement with the Office on Institutions Supporting Democracy	Stakeholder assessment report	Annual stakeholder assessment report	Not achieved	Commissioners have revised the strategy of how they shall be dealing with institutions supporting constitutional democracy
To strengthen collaboration and cooperation amongst National Human Rights Institutions (NHRIs) in the African region and other parts of the world and providing support to the Network of African NHRIs	Greater collaboration and cooperation amongst African NHRIs	Active engagement of African NHRIs through study visits, network forums and capacity-building workshops	100% response and participation to study visits and exchange programmes between the SAHRC and other NHRIs	Achieved	
			ANHRI network forum or meetings Capacity-building workshops for ANHRIs		
To strengthen relations with, and support the work of, the African Union and the African Commission on Human and People's Rights (ACHPR)	Enhanced relations and partnerships with the ACHPR	Reports of pre-session preparatory forums or workshops. Reports of ordinary sessions of the ACHPR	ACHPR pre-session preparatory forums or workshops	Not achieved	Commissioners have not been called upon to attend any pre-session preparatory forum meetings or any ordinary sessions of the ACHPR during the period under review
			ACHPR ordinary sessions		



## Official visits abroad

The table below reflects the Commission's international and regional human rights work, and indicates the dates and purpose of the official visits abroad by both Commissioners and Secretariat:

Place	Date	Purpose
Geneva, Switzerland	3–4 May 2010	J Cohen (Head of PIAP) and Commissioner L Mokate: Attendance of workshop, Enhancing Cooperation between the International Human Rights System and the Regional Human Rights Mechanism
Banjul, The Gambia	12–17 May 2010	ML Mushwana (Chairperson) and V Maloka (Head of ETP): Attendance at 47th Ordinary Session of the African Commission on Human and People's Rights
Geneva, Switzerland	27–28 May 2010	Commissioner P Govender: Representing the Commission at the Seminar on Trafficking
New York, USA	8–12 June 2010	P Govender (Deputy Chairperson): Speaker at the Opening Plenary at the Realising Rights and MDGs meeting
Marrakech, Morocco	9–10 June 2010	J Cohen: Invited as expert to NHRI's Expert Meeting on Strengthening the Human Rights Treaty Body System
Geneva, Switzerland	7–8 July 2010	Y Ramkissoo (Senior Researcher: Environment): Expert Convening on the Right to Water and the Right to Food in Relation to the Activities of Business, hosted by the Institute for Human Rights and Business
Vienna, Austria	19–23 July 2010	Pregs Govender: Session speaker at the International AIDS Conference
Bellagio, Italy	1–6 August 2010	Pregs Govender: Session speaker at the Bellagio Conference, at which discussions on establishment of a human rights commission for the United States took place
Mutare, Zimbabwe	23–25 August 2010	V Maloka: Induction seminar for newly-appointed Commissioners of the Zimbabwe Human Rights Commission
Mombasa, Kenya	1–4 September 2010	Commissioner Malatji: Stakeholders' Conference on the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights
Berlin, Germany	14–15 October 2010	J Cohen: Participation in the Conference, The Human Rights Council's Performance to Date: A Civil Society Perspective on Priorities for the Review 2011
Geneva, Switzerland	17–20 October 2010	K Kometsi (Coordinator: Racism): Expert panellist at the session of the ICWG–OHCHR
Beijing, China	18–22 October 2010	Commissioner Love: Attendance at the 3rd Beijing Forum on Human Rights
New Delhi, India	21–28 November 2010	Commissioner Govender: Keynote speaker at the International Conference on Women's Safety
Addis Ababa, Ethiopia	6–9 December 2010	K Kometsi and J Tlou: Presentation on South Africa's perspective at the stakeholder consultation on the National Action Plan on Racism and Xenophobia and Related Intolerance
Geneva, Switzerland	16–17 December 2010	K Kometsi: National Action Plan technical team workshop – expert meeting to develop National Action Plan against racial discrimination
Nairobi, Kenya	08–10 February 2011	Y Ramkissoo: Attendance at a convention on Land, Water and Food: Advancing Human Rights Due Diligence, hosted by the Institute for Human Rights and Business
Brussels, Belgium	18 March 2011	Commissioner Baai: Delivering of a paper at the Seminar of Experts on "The role of national human rights institutions in the protection of social and economic rights"
Geneva, Switzerland	14–15 March 2011	Y Ramkissoo: Consultation with UN Independent Expert on Human Rights, Water and Sanitation – Consultation on Good Practices hosted by United Nations Independent Expert on Water and Sanitation, Ms Catarina de Albuquerque
Gaborone, Botswana	28–30 March 2011	ML Mushwana and J Cohen: NANHRI/FES Stakeholder's Conference on Corruption and Human Rights
Lisbon, Portugal	29 March–5 April 2011	Commissioner Govender: Speaker at the Centre for Women's Global Leadership Meeting on the Right to Water and Sanitation

### 3.2 PROGRAMME: OFFICE OF THE CHIEF EXECUTIVE OFFICER

#### Purpose of the Programme

The establishment and maintenance of an effective and efficient corporate governance framework that ensures management accountability through improved mechanisms for controlling and directing management activities.

#### Strategic objectives

- To provide strategic management leadership, ensuring achievement of the Commission's objectives;
- To create and maintain systems and continuously improve processes that link Commission goals and priorities to individual performance, facilitating continuous performance improvement and organisational development;
- To enhance planning, organisation and management of human and financial resources of the Commission within the guidelines of the PFMA, providing valid and auditable information on which to base management decisions;
- To manage SAHRC processes and systems that relate to the acquisition, creation, organisation, distribution and use of information within the Commission;
- To develop structured processes for measuring, monitoring and controlling operational risks that allow for systematic selection of cost effective approaches to minimising threats to the Commission's operations;
- To manage regulatory non-compliance risks through the development of a system that enables the Commission to keep up with emerging legislation, thereby assuring compliance with applicable legislative statutes;
- To ensure appropriate and optimal operational and governance efficacy, enhancing interactions between internal and external stakeholders;
- To track projects within the Commission, facilitating business improvement, systems redesign and integration, as well as providing a systematic leadership approach to deliver solutions development.
- To audit and advise the Commission on risk management, governance and control processes.

#### Service delivery objectives and indicators Strategic Management

The management function involves the development, implementation and review of the Commission's Strategic Plan.

The Chief Executive Officer works with the Commissioners and the Secretariat to reshape and revise the Commission's way of engaging in the work of promoting, protecting and monitoring human rights within the given constitutional mandate of transforming society. In this process, the Commission is engaged in critical self-reflection to give expression to these ideals. The ultimate aim is to review performance and to realign the Commission's limited resources for greater organisational effectiveness.

Both the Strategic Business Plans for the years 2010–13 and the new one of 2011–14 recognise, among other things, organisational constraints and the limited resources with which to discharge the Commission's mandate. However, the drive for the creation of an effective Commission, made possible by the realignment and rationalisation processes currently under way, has become the focal point to which the Commission is expanding its energy and resources.

#### Realignment process

The process to realign the organisation, which started with a consultation process in September 2010, is a management process that seeks to make the Commission more effective and responsive to the needs of the people the Commission is serving.

The Commission has over the years been short on both financial and human resources. Therefore, the process of realignment seeks to achieve the optimal utilisation of available resources by realigning limited resources to a structure that will ensure greater organisational effectiveness.

The Commissioners have already appointed two consultants – Mediation and Transformation Practice and Resolve – to design a new structure and implement it. It is expected that a series of workshops will take place in order to brief staff about developments and progress.

### Stakeholder management

The office of the CEO recognises the importance of stakeholder management in organisational governance. A strategy and plan have been developed, and so has the training tools to execute the plan.

### Performance management

The process to review the current performance management system was initiated at the end of the 2010/11 financial year in March 2011. Operational plans have been developed to feed into the system currently under review.

### Project management

Part of the project management process is to review spending patterns in the Commission. This is done against the allocated budget. The idea is to identify over- or under-spending and take necessary measures where there are deviations. The finance project team, led by the CEO and with the support of the Acting Chief Financial Officer (CFO), meet on a weekly basis to engage in the process.

### Information management

The Commission, in reviewing its information management system, has developed an IT strategy which is currently being reviewed by the Head of the Administration and Supply Chain Programme. It will be forwarded to the Internal Audit Programme for further comments and then to the IT Steering Committee for ratification before finally being signed off by the CEO.

The improvement of the IT systems, including the information technology infrastructure, had been identified as a priority for attention for the 2009/10 financial year. This has resulted in the 2010/11 development of an IT governance framework that will be implemented in the new financial year.

### Risk management

Effective risk management is critical for the achievement of the Commission's objectives and mandate. The

organisation continues to improve its risk management capabilities.

The Internal Audit Programme held workshops with the senior management team and developed a strategic risk register. This is a requirement by the National Treasury framework.

The risk mitigation plans have been developed and assigned to the senior management team as risk owners. This will be renewed on a quarterly basis by the internal audit. The Audit Committee will provide oversight on the implementation of risk mitigation plans.

### Compliance

All aspects of this function have been delegated to the Heads of Programmes to ensure compliance with the relevant legislation and statutes pertaining to their programmes.

The Heads of Programmes report and escalate issues to the Deputy CEO and the CEO, who monitor and ensure compliance.

A compliance checklist has been developed to assist with monitoring compliance in keeping with the PFMA and Treasury regulations. This checklist is tabled to the Audit Committee on a quarterly basis.

### Governance

The Commission appreciates the importance of ensuring management accountability. The corporate governance function affords the CEO an opportunity to direct and control management activities. Mechanisms used to achieve this include monthly senior management report-back meetings and bi-weekly interaction with the Commissioners.

Submissions by management are made to the Audit Committee and other Commission governance committees.

A corporate governance framework has been developed and adopted by the Commissioners articulating the roles and responsibilities of both the Commissioners and the Secretariat.

## Office of the Chief Executive Officer

Programme objectives	Outputs	Measures/Indicators	Actual performance against targets		Reasons for variance
			Target	Actual	
To provide strategic planning and management leadership	SAHRC strategic objectives accomplished in line with the SAHRC mandate	Strategic business plan, detailing the SAHRC's measurable objectives per programme	Mid-year review of strategic objectives by 30 October, 2010	Achieved	
To improve organisational performance and development	Improved organisational performance	Performance monitoring and evaluation reports	Annual Strategic Plan process completed and plan submitted to the Executive by 28 February 2011	Strategic Plan 2011–2014 finalised and presented to Parliament	Objectives not achieved due to capacity and resource constraints
To plan, organise and manage organisational resources (both human and financial) effectively	Improved management capacity in planning, organisation and management of resources	Delivery of work on time and within budget in line with SAHRC operational plan	100% of programme objectives achieved by 30 March 2011	Not achieved	
To measure, monitor and control operational risks	Risks assessed, prioritised and managed	Strategic and operational risk management strategy	Quarterly performance monitoring and evaluation completed	Achieved through production of quarterly reports	
			Operational plan approved by 30 April, 2010	Achieved. Operational plan finalised	
			80% delivery within budget	Monthly expenditure reports to Treasury reviewed and approved	
			Reduce virements and increase financial management compliance	Finance Project Team established to monitor and review financial performance of all Programmes	
			Blueprint restructuring completed by 30 March, 2011	Achieved	
			Reallocation and reprioritisation project completed by 30 October, 2010	Achieved	
			Review of risk management strategy and plan by 30 June 2010	Achieved	
			Begin to implement the plan by 30 April 2010	Asset management project finalised IT governance review finalised Follow-up of AG and internal audit finding finalised	
			Internal audit plan finalised	Risk management plan submitted to the Audit Committee	Risk management responsibility temporarily transferred to IAA

Office of the Chief Executive Officer

Programme objectives	Outputs	Measures/indicators	Actual performance against targets		Reasons for variance
			Target	Actual	
To manage regulatory non-compliance risks	Effective audit and compliance management systems and processes developed	Reduction in compliance risk exposure	Annual review of compliance by 30 November 2010 Unqualified audit from AG with no matters of emphasis	Not achieved Compliance checklists compiled for regulatory compliance requirements	Due to the resignation of the office manager
To oversee the acquisition, creation, organisation, distribution and use of information within the Commission	Effective oversight of the acquisition, creation, organisation, distribution and use of information within the Commission	Alignment of information management and communication strategy to the strategic objectives of the Commission	Approve and implement information management strategy by 30 June 2010 Annual communication strategy approved by 30 April 2010	Not achieved Not achieved	No resources to fill the vacant position of archivist Draft strategy submitted in January 2011
To establish appropriate and optimal operational and governance efficacy mechanisms	Operational and governance reporting mechanism established	Reports and minutes of meetings	Programme performance reports reviewed monthly Quarterly performance reports reviewed and approved Reports submitted to the Audit Committee	Achieved Senior management meetings held fortnightly to review and discuss performance	
To facilitate business systems improvements within programmes	Business systems process improvement and approaches facilitated	Full annual compliance reporting framework	Plenary reports on quarterly organisational performance reviews Annual report – internal reporting guidelines reviewed Report submitted within National Treasury deadlines	Achieved Plenary reports for 3rd quarter approved Achieved	
To promote PMA, monitor implementation and compliance of PMA in line with the SAHRC mandate	Management of interventions to promote, monitor and provide assistance to public and private bodies and individuals	Monitor compliance and annual report thereon/number of awareness raising interventions/research, publications/law reform, and provision of assistance to requestors	Report to Parliament, hosting of events, submission of recommendations and production of publications	Achieved	

### 3.3 PROGRAMME: INTERNAL AUDIT ACTIVITY

#### Purpose of the Programme

To be an independent and objective assurance and consulting activity that is designed to add value and improve the Commission's operations. This will be achieved by following a systematic and disciplined approach to evaluate and improve the Commission's internal controls, risk management and corporate governance processes.

#### Strategic objectives

The primary objectives of the Internal Audit Activity (IAA) are to assist the Commission in achieving the following objectives

- Reliability and integrity of financial and operational information;
- Effectiveness of operations;
- Safeguarding of assets; and
- Compliance with laws and regulations.

#### Service delivery objectives and indicators

During the year under review the internal audit was able to achieve 100% of the approved internal audit annual plan. The risk-based plan focused primarily on reviewing the adequacy and effectiveness of the Commission's internal controls on the following key processes:

- Supply-chain management
- Human resources management and payroll
- Compliance with King III, PFMA and Treasury Regulations
- Fraud prevention
- Risk management
- Complaints-handling
- Records management
- Financial processes

#### Service delivery objectives and indicators

The table below reflects the performance of the Commission in accordance with performance targets and measures, as specified in the 2010/11 ENE and Strategic Plan.

#### Internal Audit Activity

Programme objectives	Outputs	Measures/indicators	Actual performance against targets		Reason for variance
			Target	Actual	
Audit and advise the Commission on risk management, governance and control processes	Annual audit plan Internal audit reports with recommendations for management Quarterly audit reports for the Audit Committee	100% execution of the approved internal audit plan	Quarterly reporting against execution of 2010/11 audit plan to Audit Committee Approval of 2011/12 annual audit plan by 30 March 2011	Achieved Internal audit has reported in all Audit Committee meetings and 100% of the internal audit plan has been implemented 2011/12 annual plan approved by 24 February 2011	

### 3.4 OPERATIONAL PROGRAMMES

#### 3.4.1 Programme: Legal Services

##### Purpose of the Programme

The provision of 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 to, as well as seeking redress through the courts for, victims of human rights violations.

##### Strategic objectives

- To provide quality legal advice and assistance to members of the general public as required;
- To investigate complaints of human rights violations supported by an efficient and functional electronic complaints management and information system;
- To seek appropriate redress for human rights violations, including through litigation in the Equality Courts and other courts focusing on socio-economic rights;
- To provide information relating to patterns, trends and statistics of complaints, upon request from members of the general public and other stakeholders;
- To provide in-house legal services and advice to the Commission;
- To revise, amend and implement effective and realistic complaints-handling standards and regulations to provide for the timeous finalisation of accepted complaints as well as non-jurisdictional cases;
- To develop stakeholder and inter-programme collaboration systems.

##### Service delivery objectives and indicators

The Legal Services Programme (LSP) of the South African Human Rights Commission is primarily responsible for the protection mandate of the SAHRC, as regulated by the Constitution, as well as in accordance with the Commission's founding statute, the Human Rights Commission Act 54 of 1994 (HRC Act).

The provision of quality legal advice and assistance to members of the public, thereby ensuring access to justice and legally empowered beneficiaries

In terms of the above strategic objective, a total number of 4 744 enquiries were received and attended to during the period. These relate to requests for legal advice, and requests for information and legal assistance that are attended to by the LSP, and which do not necessarily constitute human rights violations. However, through this output, access to justice is provided to beneficiaries who as a result are legally empowered and capacitated to assert and enforce their rights.

There has been a significant improvement in relation to reporting on this output compared to the previous period, where under-reporting on this objective, linked to capacity limitations, especially in the provincial office, was a challenge. As a result, the statistics for the period under review reflect that a significant amount of time and resources have been spent towards the achievement of the output.

##### Complaints-handling

The total number of complaints handled during the 2010/11 financial year was 5 626. A total of 2 328 of the complaints have been accepted as prima facie human rights violations, and are current and active matters under investigation. A total of 3 214 investigations consist of accepted complaints and includes those that are current, resolved, and closed matters; 205 of these complaints were resolved through the intervention of the LSP during the period; 681 of the complaints accepted for investigation were subsequently closed, for example due to a lack of interest on the part of the complainant to pursue the complaint or the withdrawal of complaints by complainants. Therefore, the total number of complaints that were finalised during this period was 886. As at the end of the reporting period, a total of 543 complaints were pending, i.e. complaints that, on the face of it, will be accepted as 'human rights violations' but in respect of which more information or particulars are required before an assessment can be made as to whether the complaint will be accepted, referred or rejected.

According to the statistical reports compiled for this period, a total of 1 869 of the complaints received were not accepted for investigation, as they either did not fall within the mandate or jurisdiction of the Commission, did not meet the criteria for acceptance in accordance with the current complaints-handling procedures or it was determined that there are other more appropriate institutions within whose mandates the complaints fall. Of the complaints not accepted, 641 were rejected outright, and 1 228 were referred to other more appropriate or alternative institutions or bodies for further investigation.

A statistical analysis of the complaints received and handled by the Commission during this period indicates that the top five types of complaints, in descending order, relate to equality (Section 9 right violation); human dignity (Section 10 right violation); just administrative action (Section 33 right violation); arrested, detained and accused persons (Section 35 right violation); and labour (Section 23 right violation).

One of the major challenges relating to the full achievement of this objective is compliance with the prescribed timeframes for finalisation of complaints. To this end, the substantive revision of the complaints-handling processes and categorisation of complaints culminating in the compilation of a complaints-handling manual will be undertaken during the next financial year.

During this period, two internal training sessions – one of Commissioners at head office and one of end-users in the Western Cape office – were conducted to enhance understanding and assist staff with the usage of the electronic complaints management software, Flowcentric. The LSP, assisted by the ICP, also liaised with the external service provider regarding a change of scope as well as an upgrade of the system.

#### Seeking appropriate redress for human rights violations

The objective of developing and implementing a litigation strategy and plan for redress on human rights violations focusing on the rights of the child was not achieved. This was mainly as a result of the Deputy-Director: Litigation Coordination position remaining

vacant and subsequently frozen due to internal restructuring. Because of the lack of capacity to execute this objective, the draft strategic litigation policy document was not finalised.

In terms of litigation, and as reflected in the attached charts, 24 cases were litigated during this period in the Equality Courts that have been established in terms of the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (PEPUDA) and other courts. A lack of capacity in the Litigation Coordination sub-Programme continued to impact negatively on the achievement of this output as well as on the provision of litigation coordination support to provincial offices.

Furthermore, in response to the target of identifying and investigating at least one impact/strategic case focusing on socio-economic rights, a number of such cases were identified and investigated. A few examples include the national level own initiative investigation launched by the Commission into the deaths of babies in various provinces in the country, as reported in the media; various cases involving the lack of basic services and sanitation in various provinces across the country, such as the Free State; and investigations launched by the Commission based on media reports relating to the alleged violation of the right to basic education in the Eastern Cape and North West provinces.

#### Reports on patterns, trends and statistics of human rights violations and complaints

During this period, this objective was generally achieved through the compilation and submission of quarterly reports and information relating to patterns, trends and statistics of human rights violations and complaints.

#### Providing in-house legal services and advice to the Commission

In spite of the lack of capacity in the Litigation Coordination sub-Programme responsible for this output, targets were achieved, although turnaround times in finalising in-house matters had to some extent been affected. LSP continued to deal with six carried-over in-house debt collection matters from the previous financial period. In addition, eight other in-house requests were received. These related to requests for reviewing



and vetting of contracts and service level agreements, six of which were finalised and two of which are pending.

#### Revision and re-definition of its operational systems in order to enhance operational efficiency

A three-day workshop was held during December 2010 to critically analyse, substantively review and brainstorm proposals for a more effective and efficient complaints-handling system. The workshop was attended by Commissioners, members of management and LSP staff from national office as well as provinces.

This process is envisaged to continue into and be finalised and implemented during the next reporting period, when long-term rethinking of the programme and organisational structure would take place.

#### Stakeholder and inter-programme collaborations

A number of external stakeholders, as well as internal inter-programme collaboration initiatives were undertaken during this period. Despite the level of consultation required both within the Commission and on the

part of partner institutions in negotiating such collaboration agreements, no Memoranda of Understanding (MoU) were concluded and signed off with external firms or organisations regarding *pro bono* litigation and legal services during the period.

However, there have been various ongoing discussions and informal liaisons with a number of law firms such as Bowman Gilfillan Attorneys; Cliffe Dekker Hofmeyer Inc. and organisations such as the Judicial Inspectorate for Correctional Services regarding the formation of strategic partnerships with the Commission through the LSP. Many of these potential partnership agreements are at an advanced stage and it is expected that the agreements would be finalised during the next period.

In terms of internal inter-programmatic liaison, the LSP has collaborated with various programmes during this period on complaints-handling, strategic interventions, capacity-building initiatives, the preparation of reports to international human rights bodies and pertaining to donor agreements.

Legal Services Programme — Performance Progress Report Table for the Financial Year 2010/11

Objectives (sub-Programme)	Output	Outputs performance measure /service delivery Indicators	Actual performance against targets		Variance and reason for variance
			Target	Actual	
Provide quality legal advice and assistance to members of the general public	Access to justice and legally empowered beneficiaries	Response and attendance to 100% of requests within agreed timeframes	Response and attendance to 100% of requests received within seven days	Achieved 100% of requests were responded and attended to within seven days A total of 4 744 requests/enquiries were attended to	
Investigate complaints of human rights violations	Finalisation of complaints in accordance with adopted complaints-handling procedures	Number of complaints finalised	Finalisation of 100% of all accepted complaints within one year	Not achieved 886 out of a total of 3 214 complaints accepted for investigation were finalised	Lack of sufficient capacity/skills to finalise complaints; complaints-handling processes and systems require revision to facilitate effective and efficient complaints-handling
Seek appropriate redress for Human rights violations, including through litigation in the Equality Courts; and identify and investigate an impact/strategic case focusing on socio-economic rights	Effective redress of Human rights violations focusing on socio-economic rights	Number of relevant impact/strategic cases per annum identified and investigated	Identify and investigate one impact/strategic case per annum focusing on socio-economic rights	Achieved A number of relevant impact/strategic cases focusing on socio-economic rights were identified and investigated during the period	
Provide information relating to patterns, trends and statistics of complaints upon request from members of the general public and other stakeholders	Information relating to patterns, trends and statistics	Reporting framework and reports on patterns, trends and statistics on complaints	Minimum of 36 other general litigation matters in the Equality Courts per annum (i.e. minimum of four general litigation matters in the Equality Courts per province per annum)	Not achieved A total of 24 matters were litigated in the Equality Courts	Lack of capacity in Litigation Coordination sub-Programme to provide required support; lack of suitable cases identified for litigation in Equality Courts
Provide in-house legal services and advice to the Commission	Commission properly advised on legal compliance and legal/contractual issues	Time spent/number of queries attended to and advices given	Quarterly reporting on patterns, trends and statistics on complaints	Achieved	
			Response and attendance to 100% of requests within agreed timeframes	Achieved	

Legal Services Programme – Performance Progress Report Table for the Financial Year 2010/11

Objectives (sub-Programme)	Output	Outputs performance measure/ service delivery Indicators	Actual performance against targets		Variance and reason for variance
			Target	Actual	
Revise, amend and implement effective and realistic complaints-handling standards and regulations to provide for the timely finalization of accepted complaints as well as non-judicial cases	Effective and efficient complaints-handling; classification of complaints; compliance with adopted standards	Effective and efficient complaints-handling in accordance with revised standards and regulations Improved turnaround times Consistent and uniform operational framework	Revise and amend current complaints-handling standards and regulations by 31 December 2010	Not achieved	LSP workshop held during December 2010 to brainstorm and propose revisions to complaints-handling processes; however process of amending standards to be completed during next reporting period. External consultant to be appointed to complete project of developing new manual
			Compliance with adopted operational standards by 31 December 2010	Not achieved	Adoption of revised operational standards dependent on revision of current complaints-handling system and compilation of new manual by appointed external consultant in new financial period. Ongoing organizational restructuring discussions also impacting on revision of complaints-handling procedures Adoption of and compliance with operating standards therefore not achieved by intended timeframe
Develop stakeholder and inter-programme collaboration systems	Coordinated approach to work and maximising available resources through strategic partnerships	Number of inter-programme collaborations and joint interventions	Joint monthly activities		
			Develop and refine inter-programme collaboration systems and operating protocols by 30 May 2010	Not achieved	Due to internal organisational realignment process during the period, inter-programme collaboration systems and operating protocols have not been formalised. This will be done during the new financial period in tandem with the revision of the current complaints-handling processes and the development of a manual
			Develop joint reporting mechanisms by 30 June 2010	Not achieved	As above the process of development and finalisation of joint reporting mechanisms will be done during new financial year
			Bi-annual stakeholder meetings		
			Identify and respond to requests for strategic partnerships	Achieved	
			Consultative meetings; negotiations; drafting, finalisation and obtain approval for MOUs; implementation, monitoring and reporting on usage; roll out to provinces	Achieved	
Number of stakeholders' meetings	Review/stakeholder relationship meetings: bi-annually/ ad hoc	Achieved			
	Number of MOUs concluded	Not achieved	A number of meetings and liaisons took place with identified partners regarding conclusions of MOUs, and these MOUs were drafted, however due to internal consultation and approval processes on both sides, actual sign-off on MOUs expected in the next financial period		
	Stakeholder relationship/review meetings	Achieved			
Number of MOUs signed to enhance the litigation capacity of LSP through partnerships for the provision of pro bono legal services					

Below is a table of noteworthy cases/interventions that were handled:

Complainant/file reference number	Respondent	Right(s) violated and summary of issues and investigations	Status at the end of March 2011
SAHRC GP/2010/0388	Department of Health: Eastern Cape (EC)	Section 11: Life Media reported on the deaths of babies in Mthatha Hospital in the Eastern Cape	Matter was forwarded to head office for further investigation due to the systemic nature of the issues. EC file suspended. Investigation by the Commission being concluded and a report is being finalised
SAHRC	Department of Social Development	Section 9, Section 10, Section 27(1)(b), Section 29(1)(b), Section 12 and Section 32(1)(b) The EC office conducted an investigation on the violation of human rights of the trainees with disabilities at Enoch Sontonga Rehabilitation Centre. It was espoused that the problem had persisted for the past few years without any intervention from the Government	23/07/10. Conducted an inspection <i>in loco</i> and compiled a report 02/08/10. Allegation letter sent 04/08/10. Meeting with Social Development 13/08/10. Meeting with Social Development and other stakeholders, wherein the EC was advised of the progress on this matter. Matter has since been resolved 15–16/03/11. The EC office conducted a workshop on disability rights
Mpetla, V EC/2010/0319	Cambridge High School	Section 29(1)(a): Education Complainant's son was unlawfully expelled from school	23/08/10. Allegation letter was dispatched to the respondent Matter has been resolved to the satisfaction of the complainant
Bikitsha, E EC/2010/0330	Queens College	Section 16(2)(c): Hate speech The complainant's son was insulted and labelled as a "kaffir" by white fellow learners	Matter is still ongoing and the investigation is being conducted
Onceya Family	Yendall Family	Section 10, Section 25(1): Human dignity and property The complainants, living on the farm, were allegedly refused permission to bury a family member on the farm. In his response, the respondent advised that he has an interdict to this effect	19/07/10. Allegation letter was dispatched to the complainants 29/07/10. Response received Matter still pending
Neville Beiling EC/2010/0297	Buffalo City Municipality	Section 9(3): Disability The complainant, a disabled fisherman, wants the municipality to designate an area at Orient Beach for disabled persons to fish from, as it is alleged that they cannot fish at sea	11/08/10. Allegation letter dispatched to the municipality 24/08/10. Response received Investigation ongoing
School Governing Body: Lumko Senior Secondary School EC/2010/0416	Department of Education	Section 29(1)(a): Education The school was given a temporary structure in 2005, in the form of fabricated classrooms with the assurance of a permanent structure in the following year	05/11/10. An allegation letter was dispatched to the respondent 29/11/10. Reminder sent Investigation ongoing
Betela, F EC/2010/0436	Crewe Primary School	Section 29(1)(a): Education Complainant's child is allegedly being ill-treated at the school since she is an albino	08/11/10. Allegation letter sent 08/11/10. Response received Investigation ongoing

Complainant/file reference number	Respondent	Right(s) violated and summary of issues and investigations	Status at the end of March 2011
SAHRC and CGE EC/2010/0470	Vukuhambe School for Disabled/Department of Education: EC	Section 29(1)(a), Section 9(3) and Section 10: Education, equality and dignity  The relevant Chapter 9 institutions were alerted about the poor living conditions and accusation of sexual misconduct of the disabled learners of Vukuhambe Special School	Matter has now been escalated to the office of the MEC of Education, as the Eastern Cape office has not received any satisfactory response from the office of the Superintendent General of Education
SAHRC	Department of Education	Section 29(1)(a) and Section 28(2): Education and children  The media reported on the EC Department of Education allegedly suspending scholar transportation	14/01/11. An allegation letter was dispatched to the respondent  21/01/11. Response received wherein it was advised that farm schools are exempted and the Department's budget is overstretched  28/01/11. Minister intervened and the Department is under administration  File suspended
SAHRC	Department of Education	Section 29(1)(a) and Section 28(2): Education and children  Media reported on EC Department of Education allegedly suspending the school feeding scheme	18/01/11. Sent an allegation letter  02/02/11. Response received  28/01/11. Minister intervened and the Department is under administration  File suspended
SAHRC	Department of Education	Section 29 (1)(a) and Section 9(3): Education and equality  Media reported on pregnant pupils allegedly being banned from school by the school principal	25/02/11. Allegation letter was sent  17/03/11. Reminder letter sent  Matter still pending as investigation ongoing
Namlela, G EC/2011/0089	Kat Leisure Group	Section 25(1): Property  Alleged unlawful removal of farm dwellers from farms they were born on without restitution	28/02/11. Allegation letter sent  10/03/11. Response received  24/03/11. Meeting with the respondent at SAHRC boardroom  28/03/11. Received further information from the respondent  Investigation ongoing
The Honourable X Nqatha	EC Traffic Stations	Section 9(3): Equality  Received correspondence from the office of the Chairperson of the Portfolio Committee on Transport requesting an inquiry into alleged racial discrimination at Traffic Departments	22/03/11. Letter requesting further information requested from the complainant  Matter is still pending
Magistrate Mbude EC/2011/0096	Department of Education	Section 9(3): Equality  The Equality Court referred a matter in terms of Section 20(5) of PEPUDA	10/03/11. Further information requested from the complainant  Matter is still pending

Complainant/file reference number	Respondent	Right(s) violated and summary of issues and investigations	Status at the end of March 2011
K Mokoena AN Dlutu FS/2010/0208 (Joint intervention)	Harmony High School Welkom High School	<p>Section 29(3): Education</p> <p>The cases relate to two pending litigation matters before the Bloemfontein High Court, in which the respective schools and their governing bodies filed applications to court against the Free State Provincial Department of Education</p> <p>Some of the pertinent issues involved in the matters relate to the relationship between, and powers of, the (Head of the) Department of Education vis-à-vis a public school's governing body (SGB), and the policy adopted by the school regarding exclusion of pregnant learners (contrary to a directive issued by the Department)</p> <p>From a rights perspective, the matter involves the right of the child, the right to equality (sex, gender) and the right to basic education</p> <p>It is important to note that prior to the court applications being filed, the Commission's Free State office had received complaints on behalf of the affected (suspended) learners, and had intervened based on these allegations. As a result, the Department ordered the school to re-admit a learner and to allow her to continue with her examination in one of the matters</p>	The Commission intervened in the court proceedings as <i>amicus curiae</i> . The matters were heard during March 2011 and judgment is awaited
Mogapi, M K NW/2010/0135	Gaerupe T C	<p>Section 10: Human dignity</p> <p>Respondent allegedly made derogatory remarks to the complainant</p> <p>The Commission engaged the Bafokeng Magistrate's Court to lodge a case in the Equality Court and was subsequently informed that the court clerks are not equipped with skills to enrol a case for hearing in the Equality Court. They need to go for training</p>	Investigation is ongoing. Currently the Commission is engaging the court manager to arrange training for the clerks
Sun City strip searches NW/2010/0152	Gary Player Health Spa	<p>Section 10: Human dignity</p> <p>The complainants were suspected of stealing money from a client and were subjected to strip searches that included them taking off their underwear and their private parts being searched</p>	Matter pending and investigation is ongoing
Bapong community NW/2010/0191	Madibeng Municipality	<p>Section 24: Environment</p> <p>Complainants allege that some members of the community are herding cattle, pigs and other animals on residential land, causing not only environmental degradation, but also a health hazard</p> <p>This was confirmed through an inspection <i>in loco</i> held on 10 February 2011</p>	An allegation letter has been sent to the Madibeng Municipality. However, the NW office is still awaiting a response

Complainant/file reference number	Respondent	Right(s) violated and summary of issues and investigations	Status at the end of March 2011
Luka Village demolitions NW/2010/0198	Royal Bafokeng Administration	<p>Section 26: Housing</p> <p>The respondent embarked on a mission in which tuck-shops belonging to foreign nationals were demolished without any notice having been given</p> <p>The Commission met with the respondent; the latter alluded to the fact that the Administration was experiencing a problem with ill-informed foreigners when it comes to the laws of the tribe</p> <p>The respondent has undertaken to cease all evictions and demolitions until they furnish the Commission with their land policy</p>	The investigation is ongoing. Various meetings have been held with both parties in order to achieve a resolution to the matter
Sannoeshof grave demolitions NW/2010/0220	Grobbelaar	<p>Section 10: Human dignity</p> <p>The complainants allege that the respondent erected a road over their ancestral grave land, despite knowing that the area was used as a gravesite</p> <p>The Department of Land Affairs and Rural Development was engaged to negotiate with the respondent to cease the usage of the road</p> <p>An investigation is still ongoing at the department and we await further correspondence</p>	An allegation letter has been sent to the Madibeng Municipality, however the Commission still awaits a response
Boshoek farm community NW/2011/0004	Royal Bafokeng Administration (RBA)	<p>Section 26: Housing</p> <p>Residents of Boshoek farm brought a complaint against the RBA alleging that they were given 21 days to vacate their houses, which were going to be demolished</p> <p>The Commission met with the RBA. The motion to evict was put on hold in anticipation of a response by the Rustenburg Local Municipality</p>	The investigation is ongoing
Moeketsi, N J NW/2011/0005	Rustenburg Local Municipality	<p>Section 22: Trade and occupation</p> <p>Complainants were given 48 hours notice by the respondent to vacate the stands that they were occupying for trading. The complainants approached various media houses and the story was published in numerous publications</p> <p>The respondent alleged that the complainants were in violation of a court order issued through the Mafikeng High Court in June 2010, which gave the municipality the authority to remove illegal hawkers from the taxi rank, and that the complainants were not in possession of a valid trading permit</p> <p>The court ordered a settlement agreement that was signed by the complainants' attorney</p> <p>The only issue herein was that the complainants were not informed of the court order by their attorney and the only recourse they had was against their attorney</p>	Matter was finalised during this period and the file has been closed

Complainant/file reference number	Respondent	Right(s) violated and summary of issues and investigations	Status at the end of March 2011
Tshweu, O B NW/2011/0021	Bergsig Academy	Section 29: Education Complainant's son failed matric in 2010. When she tried to get him readmitted to school, she was told that the school does not accept failed matriculants She alleged that this was a violation of her son's right to basic education and that he should be allowed to return to school Upon discussions with the Department, the Commission was informed that each school has their own policy and that they may exercise it at their discretion	The investigation into the matter is ongoing
Omar, A S NW/2011/0040	Koster SAPS	Section 22: Fair trade The complainants are all members of the Somali community, operating businesses in Boshhoek. In mid-February they received threats from members of the local community and were forced to close down their shops. The police allegedly refused to come to their aid The Commission met with the SAPS Station Commander to sensitise him to the fact that the police need to protect all members of the community, including foreigners The SAPS undertook to monitor the situation and prevent any violent incidents, especially after the Somalis reopened their shops	The matter has been resolved
Villiersdorp School matters (four different matters) 1. Anrews. WP/2010/0231 2. Daalimpe. WP/2010/0230 3. Jansen. WP/2010/0232 4. Jansen. WP/2010/0229	School Governing Body, Principal and Deputy School Principal	Section 31 (1) (a): Religion	Awaiting final report from the Western Cape Education Department regarding the investigation
Lavender Hill water matter 1. Charles Daniels. WP/2010/0272	City of Cape Town/Plumstead Municipality	Section 27: Socio-economic rights; water	Investigation into the matter is pending – finding to be finalised
Hangberg matters: 1. ANCYL Dullah Omar. WP/2010/0342 2. Houtbay Aboriginal Korana Council. WP/2010/0365 3. Houtbay Civic Association. WP/2010/0365 4. Houtbay SACP. WP/2010/0344	Mayor of the Western Cape Province; Premier and SAPS	Section 12, Section 10 and Section 34: Freedom and security of the person, human dignity and access to courts The Commission received four complaints from several representative organisations, alleging various violations of human rights, ranging from police brutality to a number of other alleged rights violations such as unlawful evictions and corruption against different respondents, each of which would require a different form of intervention or collaboration by the Commission. The matter received wide media coverage nationally	The investigation is still ongoing and the Commission has been facilitating various discussions, meetings and undertaking a number of other collaborative interventions with the Independent Complaints Directorate and the Public Protector to name a few, with the aim to resolve the matter



Complainant/file reference number	Respondent	Right(s) violated and summary of issues and investigations	Status at the end of March 2011
Nel	Judges Refurbishment	Section 7 and Section 10 of PEPUDA Allegation that Judges Refurbishment is racially discriminating against and harassing their black employees. The alleged violation is captured in a photo in which the employer is pouring alcohol on black shirtless employees who are seated on the floor	An <i>in loco</i> inspection was conducted and the investigation is ongoing
Nxasana	Roosevelt High School	Section 29 and Section 30: Education, use of own language It was alleged that a learner was racially discriminated against and dismissed from class for communicating in own isiXhosa language	Matter is ongoing – the Commission is awaiting complainant's response to respondent's correspondence
K Lombard	Department of Health	Section 27: Health care Complainant alleged that mentally ill patients and/or state patients in Kimberley, Northern Cape, are held in prison instead of in appropriate institutions as required by the Mental Health Care Act	The Commission investigated the matter and conducted an inspection <i>in loco</i> at the old Kimberley prison and the West End Mental Hospital. It was confirmed that there were indeed mentally ill prisoners and/or state patients being held at the old Kimberley prison  The head of the West End Mental Hospital informed the Commission that it is due to a lack of facilities that some of the patients are kept in prison. There is a new hospital being built but building has been put on hold because of disputes between the contractor and government  The Commission has also been reliably informed that this is a national problem. The Commission's investigation is ongoing
W R S Peterson	MEC Ms S Lucas	Section 9: Equality Complainant alleges that on or about 18 September, at Eiland Holiday Resort in Upington, during the provincial budget speech, MEC Ms S Lucas stated that "Ons hotmots is net goed vir klere en kos". He views this as discrimination against the Khoi and San communities	The Commission investigated the matter and is currently arranging to mediate the dispute between the parties
S Halim	Kimberley Islamic School	Section 29, Section 9, Section 10, Section 12, Section 28 and Section 33 Complainant's ten-year-old child was expelled from the Kimberley Islam School for allegedly being in possession of pornographic cards	Investigation into the matter is ongoing
Mohamed D Gooni	Khara Hais Local Municipality	Section 33 and Section 9: Just administrative action and equality The complainant, a non-national from Somalia, lodged a complaint on behalf of himself and other non-nationals who are tuck-shop owners in Upington. Their complaint is against the municipality, which closed their tuck-shops without any reasons advanced to them. The complainants see this as discrimination because they allege that tuck-shops owned by the local residents were not targeted in this operation	The Commission met with the municipal manager regarding the matter and eventually agreed that it would make a representation to council on a date to be made available to the Commission  The Commission has subsequently received a letter inviting the Commission to make representation to council on 19 April 2011
Job Pens	Rence Maree de Waal	Section 9: Equality Complainant was dismissed from his employment at the River Bank Lodge based on his sexual orientation (he is homosexual). He referred the matter to the CCMA. However, the latter addressed the dismissal issue only and not the discrimination aspect of the matter	The Commission intends taking the matter to the Equality Court

Complainant/file reference number	Respondent	Right(s) violated and summary of issues and investigations	Status at the end of March 2011
Piet Springbok	Mr Gabriel Gresse	Section 9: Equality Complainant was falsely accused of refusing to fill in a logbook by a co-worker. He was subsequently called in by his employer, and after some discussions, was forced to sign the said logbook. As he continued to refuse, the respondent said: "jy is 'n aap", meaning that he was a monkey	The Commission is investigating the matter and intends to lodge the case at the Equality Court
Deeyone De Koker	!Kheis Municipality	Section 10, Section 24 and Section 26: Human dignity, environment and housing 1. Complainant is a resident of Duineveld in Grobblershoop. For the past five to six years the community has been given toilets that are referred to as UDS system toilets Some members of the community were trained on how to treat and convert the waste to manure. This, however, is not practical, as it appears that the people did not really understand Consequently, the waste is overflowing and the toilets are unusable. People now use the open veld to relieve themselves. This is an environmental risk and a health hazard. There are flies and maggots everywhere. The community has unsuccessfully engaged the municipality 2. Lack of housing	The Commission travelled to Grobblershoop for an investigation <i>in loco</i> . It was informed that the municipality was not delivering the bags nor replacing the bags that have to be used to collect the waste The method is highly unhygienic. At the moment the community takes out the waste themselves and throws it in the veld and some make holes in their yards and throw the waste in there The Commission sent an allegation letter to the municipality. The latter's response was that training awareness, with the assistance of Department of Water Affairs, on how to use the toilets properly and effectively had been done The Commission has once again written to the municipality as they did not respond to the issues of the health risk involved. The Commission believes that there is a possibility that these toilets are also being used in other provinces and that the problem may be a national issue Regarding the housing issue, the Municipality informed that they were in a process of formalising the plots that had been demarcated for town establishment. The Commission's investigation is ongoing
Mr V J Ties	Kalahari High School	Section 9: Equality Complainant alleges that there is racial discrimination between white and black learners at Kalahari High School in Kurume. As a result, two white male Grade 12 learners assaulted a black Grade 12 learner	An educator at this school (who is also the complainant in the matter) informed the Commission that they would arrange a stakeholders meeting with the provincial office to address the issue The educator requested the Commission to attend a meeting and thereafter conduct a workshop on racism with the learners The Commission has in the interim presented a seminar on "school safety" which was attended by four Grade 12 learners from the school, who also gave presentations
ANCYL on behalf of members of the Machala community	City of Cape Town	Section 10, Section 14, Section 24 and Section 26: Human dignity, privacy, environment and housing This complaint involved the "open toilets" that were allegedly erected by the City of Cape Town in the Machala community and which allegedly violated several of the community's rights. The matter received wide media attention and highlighted the issue of basic sanitation services not only in the Western Cape province, but across the country	The Commission investigated the matter and issued a finding in which it found that the respondent had, <i>inter alia</i> , violated the rights of the community by erecting unenclosed toilets. The respondents appealed the finding of the Commission and the appeal was rejected. A court application was subsequently brought against the City of Cape Town and others on behalf of the community members, which matter is currently pending before court, and which initially relied on the Commission's finding. Although the respondent, the City of Cape Town, indicated that it would be taking the Commission's finding on review, the main application is still to be finalised

### 3.4.2 Programme: Education and Training

#### Purpose of the programme

The purpose of the Programme is to promote awareness of human rights and contribute to the development of a sustainable human rights culture in South Africa.

#### Measurable objectives

- To raise awareness of human rights through rural community outreach, presentations and other capacity-building interventions on the thematic areas of the Commission;
- To encourage public participation on contemporary human rights issues by hosting seminars and conferences, as well as social media and networking forums;
- To execute the Commission's e-learning blueprint and strategy through development and deployment of e-learning courseware;
- To collaborate with Chapter 9 institutions, civil society organisations and the South African government.

#### Service delivery objectives and indicators

The Education and Training Programme (ETP) is responsible for discharging the promotion mandate of the Commission. It is tasked with raising awareness of human rights and building a culture of respect for human rights in South Africa through community outreach as well as public participation and dialogues. The Programme's human rights awareness interventions primarily target impoverished communities in rural as well as in peri-urban areas where the need for human rights awareness is greater.

The Programme also works with organised civil society such as non-governmental organisations (NGOs), community-based organisations (CBOs) and community development workers (CDWs). During the period under review, the Programme attracted greater

partnerships with Chapter 9 institutions, civil society organisations (CSOs), municipalities and government departments. Collaborations with community-based radio stations in different provinces have also extended the reach of the Programme to audiences who are normally not easily accessible to the work of the Commission. Internationally, the Programme also worked with relevant United Nations (UN) and African Union (AU) agencies.

During this reporting period, the ETP secured financial support from two external donors to implement special projects, i.e. the Community Radio Station Project supported by AUS-Aid and the Anti-Discrimination Project funded by the United Nations Office of the High Commissioner for Human Rights (OHCHR). Activities under the AUS-Aid Project are scheduled to be implemented in the 2011/12 financial year whereas implementation of the Anti-Discrimination Project started in November 2010. Some of the activities undertaken by the SAHRC/OHCHR Anti-Discrimination Project include, amongst others, the monitoring of Lindela Repatriation Centre; the social cohesion dialogues in the Skierlik community following racially-motivated violence; and the development of promotional material to popularise the National Action Plan to Combat Racism (NAPCR), arising out of the Durban Declaration and Programme of Action.

The Programme discharges its mandate through two sub-Programmes: Outreach and Provincial Coordination and Public Participation and Dialogues. The third sub-Programme, e-Learning, was suspended due to the ongoing organisational realignment processes within the Commission.

In addition, some target milestones were also revised during the mid-term strategic review process, and also as a result of the organisational realignment processes where three staff members from the Programme were moved to other Programmes within the Commission.

### Outreach and provincial coordination

The objective of this sub-Programme is to raise awareness of human rights through rural community outreach, training workshops and other capacity-building interventions on the thematic areas of the Commission. The sub-Programme also provides coordination support to provincial offices. The sub-Programme's strategic audiences are impoverished communities in rural and peri-urban areas as well as urban areas. These include, among others, CBOs, NGOs, traditional leaders, school communities and farming communities. The sub-Programme has also formed strategic partnerships with government departments, municipalities and statutory bodies such as Chapter 9 institutions in order to implement its strategic objectives.

For the period under review, the sub-Programme delivered 454 community outreach interventions. These included, among others, presentations, walkabouts, exhibitions, media (both electronic and print), information sharing sessions, etc. The sub-Programme also delivered 150 workshops to different audiences in various parts of the country. In addition, 155 Chapter 9 Forum meetings were held across all provincial offices. The collaborative interventions with Chapter 9 institutions, civil society organisations and government-facilitated co-hosting of interventions as a means of doubling the capacity of the Commission. Overall, 193 collaborative interventions were held with these strategic partners.

Some of the notable highlights during this reporting period include, among others, the provincial Human Rights Month outreach activities on 'Equity in the Realisation of Child Rights in South Africa' that were held throughout the country; Ukuthwala workshops in the Eastern Cape Province; Mandela Day outreach interventions in Limpopo and the North West Provinces; the media interventions in the Western Cape and in partnership with Independent Newspapers; Human Rights Day outreach in Mpumalanga in collaboration with the Department of Sports, Arts and Culture; and the post service delivery strikes site visits/monitoring in Freedom Park informal settlement by the Gauteng Office.

Other notable highlights include the work of the Programme in supporting other national human rights institutions in the African continent. For example, the Programme co-hosted a regional workshop for National Human Rights Institutions (NHRI) in collaboration with the United Nations Development Programme (UNDP) and the Network of African National Human Rights Institutions (NANHRI). The workshop brought together senior leaders (chairpersons, deputy chairpersons, commissioners and CEOs) of various National Human Rights Institutions from Eastern and Southern Africa. The Programme also supported the newly established Zimbabwe Human Rights Commission in a three-day workshop hosted by NANHRI and the United Nations Office of the High Commissioner for Human Rights. In addition, the Programme also represented the Commission at the 47th session of the African Commission on Human and People's Rights held in Banjul, The Gambia, at which representatives presented a statement on how the Commission has taken steps in holding the South African government accountable for promoting and protecting human rights in the country.

### Public participation and dialogues

The objective of this sub-Programme is to encourage public participation on contemporary human rights issues by hosting seminars, conferences, as well as social media and networking forums. The work of the sub-Programme is divided between the head office and the provincial offices. Seminars/dialogues dealing with issues of national concern are held at the head office, while provincial offices focus mainly on issues of particular concern to them. Except for Human Rights Month dialogues, provincial offices determine the scope and focus of provincial seminars according to the human rights concerns they are grappling with at that time.

During the period under review, the sub-Programme hosted 37 provincial seminars and five national seminars. Of those seminars, 21 were hosted in collaboration with strategic partners such as government, civil society organisations or Chapter 9 institutions. In addition, three human rights calendar events were successfully held, namely, the

Africa Human Rights Day seminar to commemorate the 24th anniversary of the coming into force of the African Charter on Human and People's Rights in collaboration with the Human Rights Institute of South Africa (HURISA); the International Human Rights Day seminar to commemorate the 62nd anniversary of the Universal Declaration of Human Rights and the three-day Human Rights Month workshop to commemorate National Human Rights Day in South Africa, in partnership with the United Nations Children's Fund (UNICEF). The sub-Programme also co-hosted a three-day regional workshop for Southern African National Human Rights Institutions in collaboration with the NANHRI and the OHCHR as part of the International Human Rights Day celebrations.

Some of the highlights for this reporting period include, among others:

- The four-pronged reconciliation process between workers and former students of the University of the Free State, led by the Free State Provincial Office in collaboration with the University of the Free State and Mangaung Municipality;
- The three-day Annual Human Rights Month workshop in collaboration with UNICEF;
- The Dialogues on Lebollo/Koma/Ukweluka, in collaboration with the National House of Traditional Leaders and the Commission on the Protection and

Promotion of Cultural, Religious and Linguistics Communities (CRL) in Limpopo and Mpumalanga Provinces;

- The social cohesion interventions in Skierlik, North West Province, in collaboration with the University of the Witwatersrand;
- The consumer rights seminars in KwaZulu-Natal, in collaboration with the Democracy Development Project; and
- The Schools Safety Seminar in the Northern Cape and the Presidential Human Rights Day celebrations, organised in the Western Cape in collaboration with the Department of Justice and Constitutional Development and other Chapter 9 institutions, amongst others.

In addition to the above-mentioned strategic partners, the sub-Programme also co-hosted events with, among others, the Desmond Tutu Peace Centre in the Western Cape; the University of the North West; the Umjindini Municipality in Mpumalanga; the Limpopo Provincial Office of the Commission on Gender Equality; the Eastern Cape Provincial Office of the Public Protector and the Commission on Gender Equality; the Parliamentary Democracy Office; Pan-South African Language Board (PANSALB).

## Education and Training Programme

Objectives	Outputs	Performance measures/service delivery indicators	Actual against target		Reasons for variance
			Target	Actual	
Outreach and Provincial Coordination	Community outreach interventions	Analytical and statistical reports of community outreach activities	Two community outreach interventions per month per office (including walkabouts, exhibitions, site visits, campaigns, media – newspapers, radio, television, etc)	Achieved 497 Community outreach interventions	
	Workshops	Analytical and statistical reports of workshops	One workshop per month per office	Achieved 157 Workshops conducted	
To collaborate with Chapter 9 institutions (C9s), civil society organisations (CSOs) and the South African government	Additional collaborative interventions with Chapter 9 institutions (C9s), civil society organisations (CSOs) and the South African government	Reports of collaborative interventions	One C9 Forum strategic partnership meeting per office per annum	Achieved 155 C9 Forum interventions 21 seminar collaborations	
	Additional collaborative interventions with Chapter 9 institutions (C9s), civil society organisations (CSOs) and the South African government	Reports of collaborative interventions	Ten collaborative interventions with either C9s, government or civil society, per annum per office	Achieved 160 Collaborative interventions with either C9s, government or civil society, per annum per office	

## Public Participation and Dialogues

Objective	Output	Performance measures/service delivery indicators	Actual performance against target		Reason for variance
			Target	Actual	
Public Participation and Dialogues	Public debate and dialogue on contemporary human rights issues including on relevant human rights calendar days	Narrative and statistical reports	Two seminars per annum per provincial office	Achieved 29 Provincial seminars	
	Public debate and dialogue on contemporary human rights issues including on relevant human rights calendar days	Narrative and statistical reports	Four seminars on topical human rights concerns per annum at national office	Achieved Five head office seminars	
	Annual Human Rights Conference	Narrative and statistical reports	One Annual Human Rights Conference on National Human Rights Day by national office	Achieved One HRM workshop	
	Africa Human Rights Day Seminar	Narrative and statistical reports	One Seminar on Africa Human Rights Day by national office	Achieved One AHRD seminar	
	Annual Human Rights Lecture	Narrative and statistical reports	One Annual Human Rights Lecture on International Human Rights Day by national office	Achieved Two IHRD events	
	Internal Dialogues/Lekgotla	Statistical reports	Four internal dialogues/Lekgotla per annum at national office	Not achieved One internal dialogue/Lekgotla	Not achieved due to lack of response to invitations to the internal Lekgotla

### 3.4.3 Programme: Research, Development and Policy Analysis

#### Purpose of the Programme

To plan, design, conduct and manage research on the promotion and protection of human rights aimed at monitoring, assessing and documenting developments in human rights policy within the Republic.

#### Strategic objectives

- To devise methods and procedures for collecting and processing data, utilising knowledge of available sources of data to analyse the trends and patterns of human rights promotion and protection;
- To develop general recommendations on human rights issues that contribute to proposals for legislative reform and policy recommendations that contribute to plans to respond to human rights challenges;
- To coordinate the activities of the SAHRC in relation to research on economic and social rights and policy developments;
- To contribute towards the implementing the SAHRC's obligations in relation to the right to equality and non-discrimination;
- To contribute towards resolution of complaints in relation to human rights portfolios; and
- To support knowledge generation, dissemination and information management activities through documentation, research and library services.

#### Service delivery objectives and indicators

Under challenging circumstances, the Research and Policy Analysis Programme achieved the majority of its targets for the financial year 2010/11. The Economic and Social Rights sub-Programme finalised and submitted the 7th ESR Report to Parliament in December 2010. The sub-Programme, in collaboration with the Institute for Business and Human Rights, also played a key role in the convening on land, post-conflict and water. It also provided research support for legal complaints. In respect of the various equality portfolios, these were some of the highlights: matters relating to teenage pregnancy; a follow-up on the report on Is-

sues of Justice, Rule of Law and Impunity on Violence against Non-Nationals; training on the National Action Plan Against Racism as well as enquiries in respect of the death of babies in public hospitals.

#### Library

The library achieved six outputs (financial management, cataloguing and classification, Kardex management, customer service, comprehensive and integrated management, and quality assurance system) out of eight. It partially achieved one (acquisitions) because it could not renew subscriptions to overseas journals. During the last two months of the 2009/10 financial year, the Department of Justice and Constitutional Development included the library in their virtual library project effective from 2010/11. This changed at the beginning of the financial year because of financial constraints on the Department. If this had succeeded, the library would not have paid for databases (Jutastat and Butterworths Online).

The impact of this was that the library had to pay for subscription to the databases and consequently there was not enough money left to fund the overseas subscriptions. The output on strategic partnerships was therefore not achieved. Despite this, the library got book donations through colleagues in RDP, other programmes and NGOs.

#### Economic and social rights portfolios

##### Economic and social rights

The main output for the year was the editing and publication of the 7th Economic and Social Rights Report. The portfolio also assisted in the co-hosting of two meetings with the Institute for Human Rights and Business and also providing research input on the right of access to sanitation in respect of a legal complaint. Finally, the development of a research methodology for economic and social rights is a continual theme for the portfolio.

##### Environmental rights

The Senior Researcher: Environment spent much of the time in the year under review organising and co-hosting two meetings with the Institute for Human Rights and

Business. The first was a convening on Business in Post Conflict Regions and the second was a convening on Land and Water and the Role of Business in Respecting Human Rights. The Senior Researcher also made comments to the National Climate Change Response Strategy Green Paper to the Department of Environmental Affairs. In addition, much of the Senior Researcher's time was taken up by performing Acting Head of Programme (HoP) duties from May to October.

#### Human rights and economy

The economy and human rights portfolio conducted research that was used to deal with specific government economic policies and decisions that affect progressive realisation of human rights. The research culminated in specific submissions and recommendations which was presented to state departments. In order to support the research mandate of the Commission, the portfolio contributed towards the finalisation of the 7th ESR report by analysing budget allocation and achievement in realising the rights enshrined in the constitution.

The portfolio also contributed to developing the future economic and social rights strategy of the Commission by conducting research and submitting recommendations from an economy and human rights perspective. In terms of providing support to Commissioners to carry the mandate of the Commission, the portfolio drafted papers and participated in discussions that assisted in advancing specific human rights issues in the public domain.

#### Specialist portfolios

##### Children's rights

In February 2011, the Child Law Centre represented two learners in the Bloemfontein High Court. These learners had been expelled from school because they had fallen pregnant. The Child Rights Coordinator was asked to conduct research into the phenomenon of learner pregnancy in support of the *amicus curiae* role that had been assumed by the Commission.

The investigation and its findings played a crucial role in providing information regarding the rights of pregnant learners in general, and specifically their right to access education in an environment which is free of

victimisation, discrimination and isolation. The Chairperson of the Commission has indicated that a further comprehensive study on learner pregnancy should be undertaken. The Coordinator will commence with such a study during the next financial year.

##### Disability

A key area for this portfolio during the financial year has been the focus on the status of inclusive education and the slow pace and inadequate planning for access to education for learners with disabilities; the portfolio delivered a submission in this respect. The Coordinator also assisted in the establishment of the disability Section 5 Committee. Finally, the Coordinator highlighted the gap in policy provision for the regulation of private mental health care facilities such as Uitkoms.

##### HIV/AIDS and health

The death of babies in the South African public health institutions is a cause for concern. Between January and April 2010 at the Nelson Mandela Academic Hospital, 181 babies died. In May 2010, six babies died at Charlotte Maxeke Academic Hospital in Johannesburg. The Commission engaged the Minister of Health regarding these issues and embarked on a preliminary investigation. Further research will be conducted in the 2011/12 financial year.

The HIV/AIDS and Health Rights Coordinator also wrote to the South African Medical Association and the Health Professional Council of South Africa to find out if these bodies had a plan to root out the practices of bogus doctors in South Africa. The issue came to light after several doctors were arrested in some provinces around the country.

##### Human rights and business

The Coordinator in this portfolio worked with the Danish Institute for Human Rights on the development of a human rights and business guide, wrote a joint article with the Human Rights and Economy Coordinator on the impact of the Gauteng toll road system, drafted a legal opinion on the Companies Bill and provided comment on the UN Draft Guiding Principles on Human Rights and Business.



### Non-nationals and migration

Issues relating to social conflict and xenophobia remained high on the agenda for the portfolio on non-nationals. The portfolio focused on publicising and following up with specific critical government departments on the recommendations flowing from the Commission's March 2010 report on Issues of Justice, Rule of Law and Impunity on Violence against Non-Nationals. The main recommendations were identified as the need to ensure protection for everyone, including non-nationals; arrest and prosecution of perpetrators of violence to discourage impunity and promote justice, as well as the maintenance of law and order so as to preserve the rule of law. The Commission made presentations to the Ministerial Cluster on Justice, Crime Prevention and Security; the Parliamentary Portfolio Committee on Justice; the Department of Justice and the South African Police Service in a bid to emphasise the importance of the report's findings and recommendations.

The report's findings became even more relevant in the second quarter of 2010 as rumours of threats of renewed violence against non-nationals gained momentum. With this coming against a backdrop of the country's preparations to host the prestigious FIFA Soccer World Cup tournament for the first time on the African continent, the government was galvanised into action. Thus the Commission commends the government's overall response to the threats and handling of the outbreaks of violence at that stage.

The main challenge for the portfolio remains the lack of a designated government department to lead and coordinate; as well as the lack of a comprehensive national proactive state strategy on issues pertaining to social conflict and violence against non-nationals.

### Older persons

The older persons portfolio focused on conducting workshops for the communities and social workers from the Ekurhuleni Municipality. The issue of witchcraft ac-

cusations is still a challenge in the Eastern Cape. As a result, the Coordinator, together with the Eastern Cape provincial office and other stakeholders, embarked on some groundwork and subsequently developed a response plan. A proposal for a dialogue was, thereafter, drafted with the aim of facilitating the dialogue in the 2011/12 financial period.

The Section 5 Committee on Older Persons was revived, with stakeholders showing enthusiasm in partaking in the activities of the committee. A publication on the ESR Review of older persons by the University of the Western Cape and Community Law Project was also released. One of the recommendations of the report was to have a specific convention on the rights of older persons and to also include older persons in the new Ministry of Women, Children and Persons with Disabilities.

### Racism and non-discrimination

For the 2010/11 year the Coordinator: Racism and non-discrimination focused on preparation for the OHCHR-funded project, which entails presenting provincial seminars promoting the national action plan to combat racism, racial discrimination, xenophobia and related intolerance (NAP) as well as the monitoring of Equality Courts and setting up a pilot intervention to manage racial conflict. Furthermore, the Coordinator presented and participated in UNHCHR organised events, both within the African region and in Geneva, where he shared experiences with other experts in the field, as well as learned from experiences from other countries in regard to the development and implementation of the NAP. Other activities included conference presentations, project identification, research report writing and working with other local stakeholders to promote equality, especially around issues of race and sexual orientation (the latter being an issue which the LGBTI community in SA is of the opinion that the country representatives in the UN system seem to disregard the constitution of the Republic).

## Specialist, Economic and Social Rights Portfolios

Objectives	Outputs	Measures/indicators	Actual performance against target		Reasons for variances
			Target	Actual	
To analyse national trends and patterns of human rights promotion and protection	Reports on monitoring, assessment and development in relation to human rights portfolios	Human rights development chapter per portfolio	2009 Human Rights Development report published in March 2011	Not achieved	Report not published yet as it is currently being edited
	Publication on portfolio-relevant subject	Completed chapter/article per portfolio	2010 Human Rights Development report	Not achieved	Due to a delay in 2009 HRDR, not all chapters have been drafted
Provide support to Commissioners and Commission through contribution to proposals and plans on human rights legislative and policy reforms	Publication on portfolio-relevant subject	Completed chapter/article per portfolio	One publication per portfolio per annum	Not achieved	Six publications (Children, Older Persons, Economy, ESR, Non-nationals, Racism)
	Development of general recommendations on human rights legislative and policy reforms	Comprehensive summaries regarding legislative and policy reforms and jurisprudence	Quarterly summaries on portfolio relevant legislative and policy reforms and jurisprudence	Achieved	Business, HIV/AIDS, Disability and Economy Portfolios did not meet target due to increased workload in the financial year
To coordinate the activities of the SAHRC in relation to research on economic and social rights and policy developments	Development of general comments and recommendations on human rights legislative and policy reforms and monitoring of economic and social rights	Number of general comments and recommendations and Economic and Social Rights Report, review and public hearings	Secondary research on ESR	Achieved	
			Refine the ESR methodological framework	Submitted the 7th ESR Report to Parliament in December 2010	Conducted research on the right to sanitation
			Commence the development of indicators for each right	Reviewed and refined the existing methodological framework and initiated discussions with external service provider to develop an ESR matrix	

## Specialist, Economic and Social Rights Portfolios

Objectives	Outputs	Measures/indicators	Actual performance against target		Reasons for variances
			Target	Actual	
To contribute towards the implementation of the SAHRC's obligations concerning awareness in relation to the right to equality and non-discrimination	Assistance and support of other SAHRC programmes in promoting and raising awareness in respect of equality and non-discrimination	Contribute to advocacy and education and training activities specific to each human rights portfolio in respect of equality and non-discrimination	Minimum of five presentations per portfolio One resource manual and/or review of resource per portfolio	Not achieved Not achieved Five reviews (Children, Disability, Economy, Environment, ESR, HIV/AIDS, Older Persons, Racism)	Due to budgetary constraints Business portfolio did not meet target
To contribute towards resolution of complaints in relation to human rights portfolios	Drafting of opinions and/or recommendations and response to requests for information in relation to human rights portfolios	Minimum of two opinions and/or recommendations and responses to portfolio-relevant issues or requests	Quarterly submissions of draft opinion or recommendation; and quarterly submission of response to request for information within one month of receipt of request 12 responses to requests for information (Equality) <sup>2</sup>	Not achieved 67 opinions/recommendations (Business, Disability, Economy, Non-nationals, Older Persons, Racism)	Business and Child Rights portfolios did not meet target Business, Child Rights and HIV/AIDS portfolios did not meet target due to lack of complaints in the respective portfolios
To provide an efficient library service for the Commission	Developed and maintained library and documentation system	Monthly and quarterly reports on subscriptions, acquisitions and donations	2 opinions or recommendations per portfolio in relation to ESR primary interventions (ESR) Maintenance of library and documentation system through subscriptions, acquisitions and donations Support of library users	Achieved 79 responses (Business, Children, Disability, Economy, Environment, ESR, HIV/AIDS, Non-nationals, Older Persons, Racism) 9 opinions, recommendations or requests for information	Achieved: Business, HIV/AIDS and Older Persons portfolios did not meet target Achieved
				Achieved 90% of the target (9 out of 10 sub-objectives achieved) Material was received as follows: <ul style="list-style-type: none"> <li>● 151 journal issues</li> <li>● 47 magazine/newsletters</li> <li>● 41 books donated</li> <li>● 44 law reports</li> <li>● 88 loose leaf updates (52 provinces and 36 library)</li> </ul>	

1. Important to note that target is subject to number of requests from internal departments and external complainants.

2. Important to note that target is subject to number of requests from internal departments and external stakeholders.

### 3.4.4 Programme: Parliamentary and International Affairs

#### Purpose of the programme

To engage with Parliamentary processes and promote international and regional human rights instruments.

#### Strategic objectives

- To facilitate interaction between the SAHRC and the national Parliament, provincial legislatures and municipal councils on human rights issues
- To support the Commission's engagement with the legislative drafting and oversight function of national Parliament, provincial legislatures and municipal councils
- To monitor and raise awareness about South Africa's international and regional human rights obligations

#### Service delivery objectives and indicators

The Parliamentary and International Affairs Programme (PIAP) assists the Commission in carrying out specific aspects of its promotion, protection and monitoring mandate. The programme engages with international and Parliamentary processes in order to promote compliance by South Africa with its international obligations and promote the development of legislation that complies with fundamental human rights principles. The Programme also assists in ensuring that the Commission carries out its expected responsibilities at both regional and international levels, as South Africa's UN-recognised 'A' status national human rights institution (NHRI).

The Programme began the year with a full complement of full time staff which includes a Head of Programme, one Senior Researcher (Level 12), two Researchers (Level 9) and one Administrative Secretary. In September 2010, one of PIAP's researchers resigned and the position was not filled pending the outcome of the restructuring process. The Programme continued to receive a number of foreign interns who have assisted the Programme in its research work. The resignation of the researcher had an impact on the Programmes anticipated outputs and this is reflected in the Programme's under spending in the area of salaries and professional services.

#### Parliamentary liaison

This sub-Programme promotes and facilitates interaction between the SAHRC and the national Parliament, provincial legislatures and municipal councils on human rights issues.

- Seven briefings were provided to various Parliamentary portfolio committees during the course of the year. There was increased interaction between the Commission and its Parliamentary oversight committee during the year. The Commission appeared before the Justice and Constitutional Development Portfolio Committee on three occasions during the year to present the Annual Report, the 1st quarter performance and the new 2011/12 Strategic Plan.
- Three Portfolio Committees (Justice and Constitutional Development; Social Development and International Relations and Cooperation) were briefed on the Commission's Report on the SAHRC Investigation into Issues of Rule of Law, Justice and Impunity arising out of the 2008 Public Violence against Non-Nationals. These briefings and the subsequent oversight role of the committees will play an important role in ensuring that the Commission's recommendations are given effect to.
- In November 2010, the Commission briefed the Portfolio Committee of International Relations and Cooperation on the implications of ratifying the AU Charter on Democracy, Elections and Governance. The Commission welcomed the committee's decision to recommend a resolution to the National Assembly that South Africa should ratify this important new instrument. South Africa proceeded to ratify the Charter on 24 December 2010. As of February 2011, there were eight African countries that had ratified the Charter and 37 countries that had signed. Fifteen ratifications are necessary in order for the Charter to come into effect. The Charter promotes human rights, democracy and the rule of law. It also encourages the strengthening of the AU organs, encourages civil society participation in democratic processes and strongly condemns undemocratic changes of government. The Charter has a strong gender focus by recognising the important role of women in development and democracy.

- During the course of 2010/11, there was initial interaction between the Commission and the Office on Institutions Supporting Democracy (OISD) that is located in the Speaker of the National Assembly's Office. PIAP provided the office with information as requested. The Programme continues, within its limited resources, to attend Parliamentary committee and stakeholder meetings that are of interest to the Commission either in terms of content or to monitor the processing of a Bill. During the year, 52 such meetings were attended. The Programme was unable to produce its biannual 'In Parliament' inserts for the Commission's newsletter *Kopanong*, as the production thereof did not occur, as was anticipated, during the year.

#### Legislation and oversight

This sub-Programme supports the Commission's engagement with legislative drafting and oversight functions of Parliament and provincial legislatures.

- There were a number of important pieces of legislation that PIAP assisted the Commission in commenting on by drafting submissions. These include: the Choice on Termination of Pregnancy Bill; Prevention and Combating of Trafficking in Persons Bill, Protection of Information Bill, Protection of Personal Information Bill, the Independent Police Investigative Directorate Bill; and preliminary remarks on the Black Authorities Act Repeat Bill.
- The Human Rights Commission Act Amendment Bill was still being processed by the Department of Justice and Constitutional Development at the end of March 2011. The Commission has engaged and interacted with the department and provided information on request.
- South Africa is yet to enact legislation that criminalises torture, as obligated in terms of having ratified the Convention against Torture. The Commission continues to interact with the Department of Justice and Constitutional Development and relevant stakeholders on this matter. During 2010/11, PIAP in anticipation of being provided with an opportunity to comment on a draft Bill, prepared background research on aspects of torture legislation that have

been subjected to considerable debate in other jurisdictions, for example the definition of torture.

- The Programme has continued to implement its electronic monitoring and evaluation system, which determines the impact of the Commission's submission on legislation, that is signed into law. The system evaluates the impact in terms of the strategic significance allocated to the various submissions, as well as the time spent on the submission. A 2010/11 report has been produced, though it will take a few years to begin fully realising the benefits of the system which is dependent on legislation being finalised by Parliament.
- Due to staff vacancies, work on the human rights-based oversight manual was placed on hold. Given the Programme's challenges in completing this project, discussions were initiated with external stakeholders to explore possible collaborations.

#### International and regional

This sub-Programme monitors and raises awareness about South Africa's international and regional human rights obligations. PIAP conducts work in line with the Commission's international obligations to ensure the ratification of international and regional human rights instruments, advocates for these instruments' domestication, drafts independent NHRI reports for the treaty bodies to consider alongside state and civil society reports, monitors the government's follow-up to recommendations from these treaty bodies and contributes towards general awareness-raising of South Africa's international and regional human rights obligations.

The Section 5 Torture Committee continued its work to promote compliance with South Africa's international obligations in terms of the Convention of Torture and the recommendations of the Committee against Torture and the Human Rights Council (HRC) (through the Universal Periodic Review [UPR] process), that South Africa must criminalise torture; ratify the Optional Protocol to the Convention Against Torture (OPCAT) and establish a National Preventative Mechanism (NPM) to prevent torture.

The Commission's Section 5 Torture Committee works to promote compliance with these international

obligations and monitors government's follow-up to the recommendations by international bodies. In September 2010, following the annual Section 5 Committee meeting, an important workshop took place in collaboration with the Association for the Prevention of Torture (APT), which considered the implications for South Africa of ratifying the OPCAT. The workshop was attended by Section 5 committee members, representatives of relevant government departments and external stakeholders on South Africa's progress towards the establishment of an NPM. The meeting was provided with inputs from APT, a Geneva-based international NGO that works worldwide, promoting and assisting the establishment of NPMs. A staff member of the New Zealand Human Rights Commission, Jessica Ngatai, addressed the workshop on their commission's experience as New Zealand's NPM.

PIAP finalised its OPCAT Demonstration Project conducted in unregistered drug rehabilitation centres in the Western Cape. The purpose of the Demonstration Project was to determine whether OPCAT-style visits to places where persons are deprived of their liberty can reduce incidents of torture and treatment that is cruel, inhuman or degrading. The final report indicates that the Commission's monitoring visits to a number of these places did improve conditions and created an awareness of human rights obligations by the persons in charge of these centres.

The Section 5 Disability Convention Committee met in January 2010. There were many additional activities arranged by the Commission and Section 5 members to coincide with the meeting and take advantage of Prof Michael Stein of the Harvard Project on Disability being in Cape Town.

During March 2011, the Commission was provided with two opportunities to promote non-discrimination

on the basis of sexual orientation at an international level, in line with the Human Rights Council's UPR recommendation number 20, which encourages South Africa to "continue to promote and protect the rights of all persons to equality without discrimination based on sexual orientation, at both the national and international levels".

The Commission signed on to a joint ICC statement advocating for non-discrimination on the basis of sexual orientation and addressed a letter to the South African government urging it to withdraw a draft resolution on sexual orientation and sexual identity. The government withdrew the draft resolution.

The International and Regional Human Rights Toolkit, which comprises a user's manual accompanied with a CD containing all relevant international and regional human rights instruments, was rolled out on three occasions during the year. With the development of the SAHRC Human Rights Matrix, a tool to assist Commissioners and staff to locate all relevant international instruments pertinent to the Commission's work, the Toolkit has been revised in order to ensure alignment.

PIAP has continued with attendance and participation in various events to promote ratification and compliance with South Africa's international obligations. Examples include: hosting a meeting with the Department of Women, Children and Persons with Disabilities on South Africa's progress on its overdue CRPD Initial State Report; attending international conferences on treaty body and UN reform; attending meetings concerning the ratification of the ICESCR, a presentation on the CERD. PIAP has also commenced research which focuses on the implications of article 19 of CRPD (living in the community) within the South African context.

Parliamentary and International Affairs

Objectives	Outputs	Performance measures/indicators	Actual performance against targets		Reasons for variance
			Target	Actual	
To facilitate interaction between the SAHRC and the national Parliament, provincial legislatures and municipal councils on human rights issues	Increased awareness of the Commission at national, regional and local level	Coordinate Section 5 Committee on Government and Parliamentary Liaison (Participation Forum) meeting	One Section 5 Committee on Government and Parliamentary Liaison (Participation Forum) meeting	Not achieved	This meeting is held annually in the 4th quarter. Commissioners are in the process of considering the role and function of the Committee. This resulted in insufficient time to complete this process
		Number of attendances at Parliamentary and relevant stakeholder meetings	Ten attendances per quarter	Achieved	The Programme achieved in excess of the target 1st quarter – 10; 2nd quarter – 19; 3rd quarter – 10; 4th quarter – 12
		Facilitate a number of meetings/briefings at national Parliament, provincial legislatures and municipal councils	Five meetings/briefings at national Parliament, provincial legislatures and municipal councils	Achieved	The Programme achieved in excess of the target Accumulated performance, two meetings with MPs from national Parliament, regarding children and 2010 World Cup soccer and PMA, two briefings on SAHRC Annual Report, SAHRC 1st quarter performance, SAHRC Strategic Plan, three Xenophobia Reports and AU Charter on Elections, Democracy and Governance
		Contribute to Kopanong newsletter	Biannual contribution to Kopanong newsletter	Not achieved	Kopanong has been discontinued. Therefore no opportunity was provided to perform. One submission was made to the MANHR newsletter
		Parliamentary Liaison Project	Report to C9 Unit	Achieved	There has been limited activity in this area, as the OISD in the Speaker's Office is yet to engage actively with the Commission
To support the Commission's engagement with the legislative drafting and oversight function at national Parliament, provincial legislatures and municipal councils	Ensure the promotion and protection of human rights in legislation and oversight processes	Monitoring and evaluation of Commission's legislative submissions	Establishment of Monitoring and evaluation system	Achieved	No variance Annual MSE report finalised
			Seven legislative submissions	Achieved	The programme assisted with eight legislative submissions during 2010/11
			HRC Act Amendment Bill Project	Achieved	No variance
			Torture Bill Project	Achieved	Research on torture legislation was conducted and written up in anticipation of the Bill being placed before Parliament. There was liaison with role-players and the DoJCD in relation to the Bill. A meeting was held to discuss the Bill with stakeholders
			Development and roll-out of oversight manuals	Not achieved	This has not been achieved due to limited staff resources

## Parliamentary and International Affairs

Objectives	Outputs	Performance measures/indicators	Actual performance against targets		Reasons for variance
			Target	Actual	
To monitor and raise awareness about South Africa's international and regional human rights obligations	Increased awareness of international and regional human rights obligations	Progress report Number of activities and interventions	Annual International and Regional Developments Report	Achieved	
			One Treaty Body Report	Achieved	One NHRI CEDAW Report completed but not submitted to CEDAW committee
			Submitted information, as requested, to the DoJCD on freedom of expression for South Africa's ICPR State Report		
			SA International and Regional Human Rights Mainstreaming Project	Achieved	
			Treaty Body Toolkit launched in WC provincial office. Two civil society launches of the Toolkit		
			Treaty Body Toolkit aligned with SAHRC Human Rights Matrix		
			Establishment of international and regional ratification and follow up on recommendations monitoring and advocacy project (includes government and civil society liaison)	Achieved	ICESCR (one); CERD (one); OPCAT (one); CRPD (two); meetings, seminars, conferences and workshops attended: treaty body and international UN reform (two international); SA's treaty body obligations (two); MDGs (one); UN Charter Democracy, Elections Governance (one); ICESCR (one); CAT and OPCAT (two); child rights (one); CRPD (four); Corruption (one international); OPCAT Demonstration Project Report; one ICC questionnaire completed on NHRI Participation at HRC, Commenced Article 19 CRPD Research
			Facilitate UN Human Rights Council and African Commission on Human and People's Rights NHRI Statements	Achieved	
			ICC joint statement on sexual orientation and discrimination and letter sent to government regarding draft resolution on sexual orientation, March 2011		
			Coordinate Section 5 Committees (Torture, Disability and Children)	Achieved	
	One Section 5 Torture Committee Report distributed (minutes of meeting)		No variance		
	One Section 5 Disability Convention Committee Report		Report distributed (minutes of meeting)		
	Set up Section 5 Children's Committee		Achieved	No variance	
				Drafted Terms of Reference for Section 5 Children's Rights Committee and Section 5 Basic Education Committee	
				Attended inaugural meeting of Children's Committees	



## Summary of South Africa's International and Regional Treaty Body Obligations

Treaty Body	Ratification	Reports	Reports outstanding	
International	International Covenant on Civil and Political Rights (ICCPR) 1966	South Africa ratified on 10 December 1998	No reports submitted	Initial report overdue since March 2000
	International Covenant on Economic Social and Cultural Rights (ICESCR) 1966 Optional Protocol to ICESCR (OPCESCR) 2008	South Africa signed on 4 October 1994 South Africa has not ratified South Africa has not signed	N/A The OPCESCR opened for signature on 24 September 2009. As of 31 March 2011, 35 State Parties had signed and 3 State Parties had ratified. 10 ratifications are needed for the coming into force of the OPCESCR	
	International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) 1966	South Africa signed on 3 October 1994 and ratified on 10 December 1998	South Africa submitted its 1st and all outstanding reports in 2004 South Africa appeared before the Committee in August 2006	Supplementary report due on 15 August 2007 outstanding South Africa's 4th periodic report outstanding since 9 January 2010
	Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979	South Africa signed 29 January 1993 and ratified 15 December 1995	South Africa submitted its initial report and appeared before the Committee in 1998	South Africa submitted its consolidated 2nd, 3rd and 4th (due 2001, 2005 and 2009) report to CEDAW Committee in January 2011. This report covered the period 1998–2008
	Convention Against Torture and other Cruel Inhuman or Degrading Treatment (CAT) 1984	South Africa signed on 29 January 1993 and ratified on 10 December 1998 South Africa signed on 20 September 2006 South Africa signed 20 September 2006 but is yet to ratify	South Africa appeared before the Committee in November 2006 The Optional Protocol entered into force on 22 June 2006	South Africa's follow-up report overdue since 7 December 2007 and 2nd periodic report overdue since 31 December 2009
	Convention on the Rights of the Child (CRC) 1989	South Africa signed on 29 January and ratified 16 June 1995	South Africa presented its initial report to the Committee in December 1997 and appeared before the Committee in January 2000	South Africa's 2nd and 3rd periodic reports overdue since 2002 and 2007 respectively
	Convention on the Rights of Persons with Disabilities (CRPD) 2006	South Africa signed 30 March 2007 and ratified 30 November 2007	The Convention entered into force on 3 May 2008	Initial Report due since 2 May 2010. South Africa has still not submitted this report
	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW)	South Africa has not signed or ratified	This Convention entered into force in 2003; there are currently 44 State Parties to the Convention	
	International Convention for the Protection of All Persons from Enforced Disappearance (ICPED) 2006	South Africa has not signed or ratified	This Convention opened for signature on 6 February 2007. There are currently 88 signatories and 25 State Parties. The Convention has now officially entered into force after the 20th ratification in December 2010	
	Human Rights Council	Mechanism	Review Date	Next Review Date
	Universal Periodic Review (UPR)	In terms of this mechanism, every four years, each country appears before the HRC to review the fulfilment of the State's human rights obligations.	South Africa appeared before the HRC in April 2008 Unlike most other countries South Africa chose not to submit a written submission prior to its appearance but made an oral statement on the day of its appearance	South Africa is due to appear before the HRC in 2012 All 22 recommendations made to South Africa are pending as it has not been indicated if the country accepts or rejects the recommendations

Treaty Body		Ratification	Reports	Reports outstanding
Regional	African Charter on Human and People's Rights (ACHPR) 1981	South Africa acceded to the charter on 9 July 1996	Reports due every two years. Initial report submitted October 1998 and 2nd Report May 2005 combining 3rd and 4th reports, considered December 2005	Subsequent reports outstanding
	African Charter on the Rights and Welfare of the Child (ACRWC) 1990	South Africa signed on 10 October 1997 and ratified on 7 January 2000	Initial report due within 2 years and every 3 years thereafter. The Committee only began reviewing State Parties report in May 2008	South Africa's initial report is due
	Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa	South Africa signed on 16 March 2004 and ratified on 17 December 2004	South Africa to report on the Optional Protocol in its report on the African Charter	

### 3.5 CORPORATE SERVICES

#### 3.5.1 Programme: Administration and Supply Chain

##### Purpose of the programme

To establish and manage an integrated supply chain management, asset management and coordination of all administrative functions of the SAHRC within defined regulatory frameworks.

##### Strategic objectives

- To manage the sourcing, procurement, inventory and distribution management activities of the Commission, including the management of supplier relationships within the Preferential Procurement Policy Framework Act 5 of 2000 (PPPEA), PFMA and Broad-Based Black Economic Empowerment (BBBEE) regulatory frameworks;
- To manage the asset provision, operation and care activities of the Commission in order to improve physical asset performance in line with GRAP 17 and the PFMA;
- To inform management decisions on capital expenditure in compliance with GRAP 13;
- To efficiently and effectively coordinate the Commission's travel and events;
- To manage security, both physical and infrastructural, within the legislative framework of Minimum

Information Security Standards (MISS) and appropriate national directives;

- To manage the fleet management activities of the Commission, i.e. vehicle financing, maintenance, driver management and health and safety management.

##### Strategic objectives and indicators

During the period under review, the Programme implemented projects in line with the PFMA and Treasury regulations:

- a) Asset and fleet management as well as cleaning and auxiliary services were reviewed and improved where necessary.
- b) The supplier database was updated in line with policy. However the challenge in ensuring that the small, medium and micro enterprises or black economic empowerment are given the bulk of the business still remains due to a lack of valid tax clearance certificates for orders in excess of R30 000.
- c) Measures to curb over-expenditure were maintained in areas affecting telephone usage and travel.
- d) Total orders issued by the Programme on behalf of the Commission amount to R15 028 850 compared with R18 115 741.76 in the previous year.

The table reflects the performance of the Programme in accordance with its targets and measures as specified in the 2010/11 ENE and Strategic Plan.

## Administration and Supply Chain Management

Objective	Outputs	Performance measures/service delivery indicators	Actual performance against target		Reason for variance	
			Target	Actual		
Administration	Asset management Implementation and execution of the asset plan Determination of residual values; useful life and depreciation	Up-to-date fixed asset register	Monthly report on additions to the asset register	Achieved		
			Quarterly asset movement review/report			
			Mid-year asset verification by 30 November 2010			
			Annual asset verifications by 31 March 2011			
	Fleet management	Efficient fleet management Replacement of fleet Development of fleet management strategy and standards	Disposal of obsolete assets			
			Fleet maintained regularly New vehicles purchased for four Provinces	Not achieved	The fleet management strategy and standards were not finalised by financial year end	
	Improved management of capital expenditure Classification of leases	Controlled expenditure on maintenance and expenditure inclusive of municipal services and electricity	New offices for Gauteng Province	Not achieved	Process deferred to new financial year to allow for consultation with Department of Public Works for the leases	
			New offices for North West and Mpumalanga Provinces			
			Renew leases for Cape Town, Northern Cape, Free State and Polokwane			
	Security management	Compliance with SHE and MISS and relevant national directives	No asset write-offs due to negligence			
Security reaction and monitoring in all offices			Achieved			
Travel and events coordination	Well coordinated events and minimum travel complaints Minimise travel overheads	Implementation of document security by September 2010				
		Monitoring and evaluation of systems implementation by 30 March 2011				
		Review travel policy by 31 October 2010	Achieved			
Procurement	Supply chain management	Reduction of overheads and wastage of resources				
		Compliance monitoring and assessment policy Integrate the supplier database Submit SCM compliance reports to National Treasury by 15th of each month	Achieved			

## Administration and Supply Chain Management

Objective	Outputs	Performance measures/service delivery indicators	Actual performance against target		Reason for variance
			Target	Actual	
Ensure effective and efficient Information Technology Services	Execution of the IT plan and governance framework	<p>Improved and stable IT operations</p> <p>Establish IT governance</p> <p>Establish best practice e.g. COBIT, ITIL and PMBOK</p> <p>Aligned IT organisation</p>	<p>MS Exchange hosting</p> <p>Licence management</p> <p>IT infrastructure enhancement</p> <p>IT security</p> <p>User access profiles</p> <p>Strategic partners – appointment</p> <p>Maintaining project charters and plans</p> <p>Network monitoring tools procured</p> <p>Audit queries resolved</p> <p>Flowcentric system reviewed</p> <p>Management information systems</p>	Not achieved	This is due to organisational structure changes and capacity constraints
Management of the classification, custody, care of and access to records and archives of the Commission	Implementation of the records management plan and strategy	<p>Classified and accessible records with approved systems</p> <p>A systematic disposal programme in place</p> <p>Preservation and arranged archival records</p> <p>Accessible knowledge and information user database</p>	<p>Fully implemented records classification system at Head Office, March 2011</p> <p>Implement retention and disposal schedule and procedure, March 2011</p> <p>Compiled finding aids on archival records: Two programmes by March 2011</p> <p>Identified, collated and collect programme information and document categories, March 2011</p>	Not achieved	Process deferred to new financial year

### 3.5.2 Programme: Financial Management

#### Purpose of the Programme

To provide effective and efficient management of the SAHRC budget to allow for successful achievement of the SAHRC strategic objectives within limited resources.

#### Strategic objectives

- To minimise the SAHRC's financial risk exposure
- To oversee budgetary processes
- To implement and control the budget
- To provide timely and accurate financial performance information
- To manage supplier payments
- To develop and improve CRM with major stakeholders
- To implement effective financial management controls
- To correctly capacitate the programme with relevant skills.

#### Service delivery objectives and indicators

The Programme ensures that financial controls are exercised and financial procedures are consistently adhered to throughout the organisation. It also renders financial management support to the organisation by ensuring that financial management processes are coalesced into regular reviews and assessments of the Commission's adherence to its Strategic Plan.

#### Budget

During 2010/11 the Commission, in its 2011/12 MTEF submission to National Treasury, submitted a requested for additional funding for its operations which was honoured with R3m, R5m and R7m for the 2011/12–2013/14 MTEF period. These funds are intended to increase capacity at the provincial level.

#### Re-alignment vs budget

The Commission embarked on a re-alignment exercise during the 2010/11 period, which resulted in the realignment of the financial resources. This exercise involved all the Head of Programmes whereby funds were channelled to projects that were identified by a special committee (Finance Project Task Team)

This team ensured that funds that could have been saved as a result of posts frozen and other projects deferred to the following financial periods were utilised during the financial period.

#### Capacity constraints

Due to capacity constraints the Programme could not achieve the following objectives:

1. Review of financial policies and procedures
2. Implementation of the upgraded budget module

Despite the non-achievement of the abovementioned targets for the financial period 2010/11, the Programmes ensured that the internal financial controls were maintained. This was confirmed by the key controls audit which was conducted twice during the financial period by the Auditor-General.

In addition, the resignation of the Chief Financial Officer (CFO) and the Accounts Clerk further placed immense pressure on the Programme's performance as the posts were subsequently frozen due to the restructuring process.

#### Liquidity and solvency

The Commission, through the Finance Programme, ensured that it remained solvent throughout the period. This was made possible through close monitoring of the spending patterns on a weekly basis.

## Financial Management

Objective	Outputs	Performance measures/ service delivery indicators	Actual performance against target		Reason for variance
			Target	Actual	
To minimise the SAHRC's financial risk exposure	Monthly cashflow projections	Submission of monthly and quarterly cashflow projections	Monthly submissions by the 7th of every month	Achieved	
Oversee budgetary processes, implementation and control	Alignment of MTEF budget to Strategic Plan and operational requirements	MTEF annual submission aligned with Strategic and Operational Plan	Development and execution of MTEF budget processes and framework	Achieved	
Provide timely and accurate financial information	Financial reports on SAHRC financial performance within treasury guidelines	Monthly, quarterly and annual SAHRC financial performance reporting	Provision of up-to-date spending against budget Timely submission of the financial performance information to relevant stakeholders Review of payment processes and system	Achieved Implementation of the budgetary control measures Achieved	MTEF submission in July due to date change by National Treasury
Implement effective financial management controls	Improve implementation of financial management control systems	Progress reports on financial management compliance implemented	100% compliance to legislation and regulations Review of financial policies and procedures Reduce matters of emphasis in AG audit reports Review of delegation of authority	Not achieved	This is mainly due to capacity constraints

### 3.5.3 Programme: Human Resources Management

#### Purpose of the Programme

Alignment of SAHRC human resources objectives to planning processes, enabling employment and retention of staff with the capacity to support the achievement of SAHRC strategic objectives.

#### Strategic objectives

- To ensure that the SAHRC manages an efficient compensation system;
- To manage the HR engagement plan of the SAHRC;
- To enhance staff development in the SAHRC; and
- To implement and promote sound employee relations, ensuring compliance with relevant labour legislation.

#### Service delivery objectives and indicators

The HR Programme's annual report reflects the overall performance based on the key human resources strategic objectives established beginning the period under review. The HR Strategic Plan was informed by HR strategic importance based on the following:

- The Commission's strategic and operational objectives
- The human resource's strategic and operational challenges.

Human resource management operations include: coordination of staff management, leave administra-

tion, time and performance management, recruitment and selection, training and development in each programme and provincial office. The Human Resources Programme's key role is to provide services to the Commission as a whole in partnership with line managers.

#### General administration

The existing Human Resources Information system created major challenges which were evident, particularly on leave administration. Initiatives to install a new HR Information system could not be implemented due to budgetary constraints.

#### Stakeholder management

The effectiveness of human resources is very much dependent on its clientele i.e. both internal and external stakeholders. The Programme has experienced challenges due to non-responsiveness of the stakeholders, with the realisation that, in some instances, this non-responsiveness emanates from over-commitment of stakeholders in various areas of the Commission. This was revealed in the audit that was conducted on the effectiveness of all consultative committees.

#### Employee relations

The Employment Equity Report was submitted as required by the Employment Equity Act. The Employment Equity Plan is also in place. Further, the Human Resources Programme has fulfilled the recommendations of the Labour Inspector, following inspection with regard to Employment Equity.

### Occupational health and safety

- **Training.** Thirteen staff members were trained on Health and Safety. The training was on fire drill and first aid. Subsequently, a fire drill exercise was conducted successfully and was observed by the City of Johannesburg Disaster Management, followed by a debriefing meeting with the Disaster Management representative.
- **In-House Audit.** A regular in-house audit of offices on health and safety was also conducted at head office and all other provincial offices. The audit report revealed that the basement at head office was full of unused material which had to be removed. Inspection of firefighting equipment, escape routes and doors, as well as signs and emergency lights was conducted by the City of Johannesburg Emergency Management Services on 14 May 2010. The inspected items were found to be adequate and in order.

### Policy development

Five policies on policy development, bereavement, remuneration, employees under the influence of intoxicating substance policy and HIV/AIDS were developed. The following policies were reviewed: conflict of interest, leave and flexitime policy.

### Disciplinary hearing

There were two disciplinary hearings, related to misconduct, held during the period under review; both

employees received written warnings. One employee was, as a result, suspended for two months whilst investigations were conducted. On conclusion, the employee was recommended to go for counselling. Three staff grievances were lodged, investigated and concluded.

### New time management

The new time management system was introduced at head office, effective in December 2010. As a result of the new system all staff members were required to use their access cards when entering or leaving the building.

### Wellness programme

An internal AIDS day was observed as part of the Human Resources Wellness Programme. Staff members were encouraged to participate in voluntary HIV/AIDS testing. In terms of the Employee Assistant Programme, an ICAS Employee Assistant Programme presentation for all staff was held on re-launch.

### Staff retention programme

Eleven staff members who have been with the Commission for five years or more were awarded long service awards. This was part of the Human Resource Programme on staff retention.

### Staff benefits

Staff medical aid was increased from R2 175 to R2 570.



Human Resource Programme

Objective	Outputs	Performance measures/service delivery indicators	Actual performance against target		Variance
			Target	Actual	
Effective compensation system	Compliance with Compensation for Occupational Injuries and Diseases Act, 130 of 1993	Department of Labour reports on compliance	Payment within 30 days from receipt of the assessment forms from the Department of Labour	Not achieved	The Commission was not invoiced by the Dept of Labour and as a result no payment made. However, the Commission remains compliant with the relevant Act and received a certificate of good standing
			Submit HR payroll information by the 10th day of every month	Not achieved	The current system did not allow HR to process input whilst finance was working on the system, hence submissions were made on the 15th
			Review effectiveness of VIP by October 2010	Not achieved	The new system could not be implemented due to financial challenges
			Review the implementation of the grading system by April 2011	Not achieved	Recommendations could not be implemented due to organisational restructuring
Talent and engagement strategy	Recruitment and selection of suitable and competent staff as required	Reduced turnaround time on recruitment and appointment of employees	Filling of vacant posts within three to four months from date in which the position was vacant	Achieved	
			Adoption and implementation of improved HR engagement strategy by July 2010		
Performance management system	Compliance with performance management system requirements	Review performance management system requirements by July 2010	Review performance management system by 2011	Not achieved	The service provider was appointed in March 2011 to review the current performance management system. Work in progress
			Processing and finalisation of Staff Performance Agreements by 31 March 2010		
			Submitting and processing of 2009/10 staff appraisal by May 2010	Achieved	There are almost five outstanding performance appraisals to be finalised
Staff development	Enhance staff development initiatives of the SAHRC	Improve quality of work in different programmes	Fifty percent of staff will be trained by 30 March 2011	Achieved	Forty-seven percent of staff were trained. Three percent was the variance. This was informed by budgetary constraints
			Training Diary developed and finalised. Fifty-seven staff members trained and 11 awarded bursaries		

## Human Resource Programme

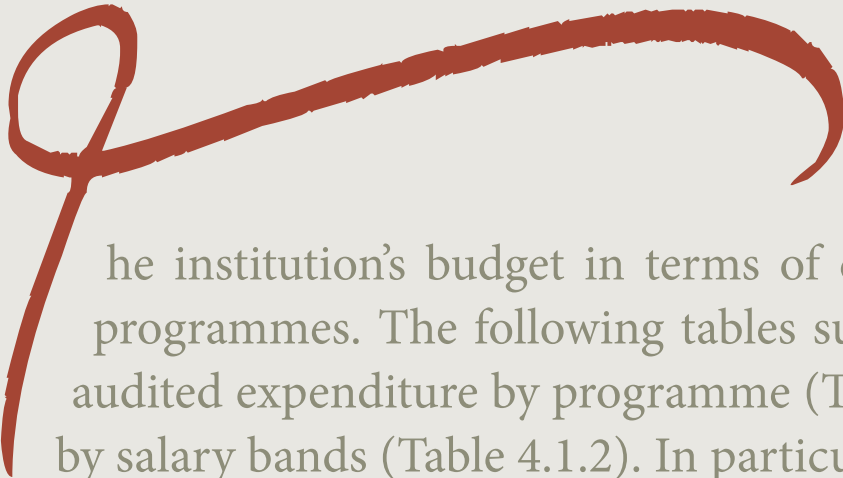
Objective	Outputs	Performance measures/service delivery indicators	Actual performance against target		Variance
			Target	Actual	
Employee relations	Compliance with Employment Equity Act	Meet SAHRC Employment Equity Plan targets	Processing and finalisation of staff performance agreements by 31 March 2011	Achieved Employment Equity Plan developed	Approved
	Compliance with Occupational Health and Safety Act	Health and Safety environment as required by the Act	Submitting and processing of 2009/10 staff appraisals by May 2010 Adopted employment Equity Plan by May 2010 Meet seventy percent of Employment Equity Plan target by March 2011. Refresher training for Health and Safety representatives by February 2011	Achieved External training programme on Health and Safety was attended by three employees who also conducted internal workshop where a total of ten staff members attended	Referred for approval
	Review and development of all HR policies and procedures	Sound workplace policies	Refresher training for Health and Safety representatives by February 2011 Implementation of the Health and Safety Audit recommendations by October 2010	Regular in-house audit of offices on Health and Safety was conducted. Fire drill conducted successfully. Exercise observed by the City of Johannesburg Disaster Management. Debriefing meeting held with the Disaster Management representative	Referred for approval
	Align HR policies with labour legislation		Implementation of the Health and Safety Audit recommendations by October 2010	Not achieved	Yet to be reviewed
	Improve HR stakeholder management engagement and communication	HR road shows and workshop on policies and systems	Implementation of reviewed policies by July 2010 Workshop and presentation HR matters for staff be conducted by November 2010	Not achieved	Yet to be approved
				Not achieved	Some policies are yet to be reviewed/approved

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**PART 4**

## HUMAN RESOURCE MANAGEMENT

## 4.1 EXPENDITURE



he institution's budget in terms of clearly defined programmes. The following tables summarise final audited expenditure by programme (Table 4.1.1) and by salary bands (Table 4.1.2). In particular, it provides an indication of the amount spent on personnel costs in terms of each of the programmes or salary bands within the Commission.

Table 4.1.1. Personnel costs by programme, 2010/11

Programme	Total Expenditure R'000	Personnel expenditure R'000	Training Expenditure R'000	Professional and Special Services R'000	Personnel cost as a percent of total expenditure	Average personnel cost per employee R'000
Commissioners	6 063 110	5 149 144	–	640 000	10%	271 008
Office of the CEO	3 128 421	2 483 644	–	620 000	5%	413 941
Financial management	3 931 083	2 460 147	44 788	1 056 500	5%	273 350
Internal audit	1 538 561	1 751 056	–	204 000	3%	350 211
Human resources	18 374 704	16 150 230	117 168	1 415 000	32%	179 447
Administration and supply chain management	17 272 397	3 295 822	2 622	10 513 623	7%	164 791
Education and training	3 837 528	3 482 780	–	650 000	7%	386 976
Legal services	4 081 427	3 069 458	–	430 344	6%	219 247
Research and documentation and policy analysis	6 641 178	6 558 642	1 853	444 200	13%	385 802
Parliamentary and internal affairs	1 639 627	1 896 607	–	100 000	4%	316 101
Information communication	8 351 746	4 010 851	30 745	3 356 446	8%	222 825
<b>Total</b>	<b>74 859 782</b>	<b>50 308 380</b>	<b>197 176</b>	<b>19 430 113</b>	<b>100%</b>	<b>3 183 698</b>

Table 4.1.2. Personnel costs by salary band, 2010/11

Salary bands	Personnel expenditure R'000	% of total personnel cost	Average personnel cost per employee R'000
Lower skilled (level 1–2)	2 330 747	4.6%	31 928
Skilled (level 3–5)	1 864 726	3.7%	124 315
Highly skilled production (levels 6–8)	2 361 825	4.7%	63 833
Highly skilled supervision (levels 9–12)	31 481 560	62.6%	431 254
Senior management (13–16)	12 269 522	24.4%	817 968
<b>Total</b>	<b>50 308 380</b>	<b>100%</b>	<b>1 469 299</b>

The following tables provide a summary per programme (Table 4.1.3) and salary bands (Table 4.1.4), 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 the personnel budget that was used for these items.

Table 4.1.3. Salaries, overtime, home owner's allowance and medical assistance by programme, 2010/11

Programme	Salaries		Overtime		Home owner's 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
Commissioners	5 149 144	10%	–	–	30 000	1%	167 015	3%
Office of the CEO	2 483 644	5%	9 290	0.4%	160 836	6%	71 223	3%
Financial management	2 460 147	5%	–	–	40 500	2%	126 576	5%
Internal audit	1 751 056	3%	–	–	15 000	1%	46 930	3%
Human resources	16 168 067	32%	42 783	0.3%	333 106	2%	701 815	4%
Administration and supply chain management	3 295 822	7%	5 567	0.2%	221 400	7%	211 636	6%
Education and training	3 482 780	7%	464	0%	77 152	2%	127 366	4%
Legal services	3 069 458	6%	–	–	79 647	3%	108 941	4%
Research and documentation and policy analysis	6 558 642	13%	1 154	0%	147 833	2%	173 170	3%
Parliamentary and internal affairs	1 896 607	4%	–	–	67 300	4%	94 755	5%
Information communication	4 010 851	8%	2 014	0.1%	51 388	1%	132 553	3%
<b>Total</b>	<b>50 326 217</b>	<b>100%</b>	<b>61 271</b>	<b>1%</b>	<b>1 224 162</b>	<b>30%</b>	<b>1 961 980</b>	<b>43%</b>

Table 4.1.4. Salaries, overtime, home owners allowance and medical assistance by salary bands, 2010/11

Salary bands	Salaries		Overtime		Home owner's allowance		Medical assistance	
	Amount	Salaries as a % of personnel cost	Amount	Overtime as a % of personnel cost	Amount	HOA as a % of personnel cost	Amount	Medical assistance as a % of personnel cost
Lower skilled (level 1–2)	2 330 747	5%	16 559	1%	7 500	0%	10 786	0%
Skilled (level 3–5)	1 864 726	4%	2 909	0%	109 300	6%	194 123	10%
Highly skilled production (levels 6–8)	2 361 825	5%	33 483	1%	265 644	11%	548 790	23%
Highly skilled supervision (levels 9–12)	31 499 397	63%	8 321	0%	471 236	1%	989 618	3%
Senior management (levels 13–16)	12 269 522	24%	–	–	370 483	3%	218 664	2%
<b>Total</b>	<b>50 326 218</b>	<b>100%</b>	<b>61 271</b>	<b>2%</b>	<b>1 224 163</b>	<b>2%</b>	<b>1 961 980</b>	<b>4%</b>

## 4.2 EMPLOYMENT AND VACANCIES

The following tables summarise the number of posts on the establishment, the number of employees, the vacancy rate, and whether there are any staff that are additional to the establishment. This information is presented in terms of three key variables: programme (Table 4.2.1), salary band (Table 4.2.2) and critical occupations (Table 4.2.3). Critical occupations that need to be monitored have been identified. Table 4.2.3.3 provides establishment and vacancy information for the key critical occupations of the Commission. The vacancy rate reflects the percentage of posts that are not filled.

Table 4.2.1. Employment and vacancies by programme, 31 March 2011

Programme	Number of posts	Number of posts filled	Vacancy rate	Number of posts filled additional to the establishment
Commissioners	12	9	25%	3
Human resources	8	7	12.5%	–
ICP	15	11	26.67%	–
Legal services	9	8	11.11%	–
Research	16	13	18.75%	–
Education	9	9	–	–
Provinces	44	39	11.36%	–
Finance	8	6	25%	–
Parliament	5	4	20%	–
Admin	13	12	7.69%	–
Internal audit	4	4	–	–
CEO's Office	5	4	20%	–
<b>Total</b>	<b>148</b>	<b>126</b>	<b>14.86%</b>	<b>–</b>

Table 4.2.2. Employment and vacancies by salary band, 31 March 2011

Salary bands	Number of posts	Number of posts filled	Vacancy rate	Number of posts filled additional to the establishment
Lower skilled (levels 1–2)	1	1	–	–
Skilled (levels 3–5)	15	14	6.67%	–
Highly skilled production (levels 6–8)	39	33	15.38%	1
Highly skilled supervision (levels 9–12)	77	65	15.58%	1
Senior management (levels 13–16)	16	13	18.75%	1

Table 4.2.3. Employment and vacancies by critical occupation, 31 March 2011

Critical occupations	Number of posts	Number of posts filled	Vacancy rate	Number of posts filled additional to the establishment
Legal	24	18	25%	–
Training	16	16	–	–
Research	15	12	20%	–
<b>Total</b>	<b>55</b>	<b>46</b>	<b>16.36%</b>	<b>–</b>

The information in each case reflects the situation as at 31 March 2011. For an indication of changes in staffing patterns over the year under review, please refer to section 4.4 of this report.

### 4.3 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 his or her organisation. In terms of the Regulations all vacancies on salary levels 9 and higher must be evaluated before they are filled. This was complemented by a decision by the Minister for the Public Service and Administration that all SMS jobs must be evaluated before 31 December 2002.

No jobs were evaluated during the year under review, nor were any posts upgraded or downgraded.

### 4.4 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 Commission. The following tables provide a summary of turnover rates by salary band (Table 4.4.1) and by critical occupations (Table 4.4.2).

Table 4.4.1. Annual turnover rates by salary band for the period 1 April 2010 to 31 March 2011

Salary bands	Number of employees per band as on 1 April 2010	Appointments and transfers into the department	Terminations and transfers out of the department	Turnover rate
Lower skilled (levels 1–2)	1	–	–	–
Skilled (levels 3–5)	15	–	1	6.67%
Highly skilled production (levels 6–8)	39	–	4	10.25%
Highly skilled supervision (levels 9–12)	64	7	8	12.5%
Senior management service Band A	8	2	1	12.5%
Senior management service Band B	2	1	1	50%
Senior management service Band C	1	1	–	–
<b>Total</b>	<b>130</b>	<b>11</b>	<b>15</b>	<b>11.54%</b>

Table 4.4.2. Annual turnover rates by critical occupation for the period 1 April 2010 to 31 March 2011

Occupation	Number of employees per occupation as on 1 April 2010	Appointments and transfers into the department	Terminations and transfers out of the department	Turnover rate
Legal services	20	3	5	25%
Education	13	3	–	–
Research	13	1	2	15.38%
<b>Total</b>	<b>46</b>	<b>7</b>	<b>7</b>	<b>15.22</b>

Table 4.4.3 identifies the major reasons why staff left the institution.

Table 4.4.3. Reasons why staff are leaving the institution

Termination Type	Number	% of total
Death	–	–
Resignation	14	10.76%
Expiry of contract	–	–
Dismissal – operational changes	–	–
Dismissal – misconduct	–	–
Dismissal – inefficiency	–	–
Discharged due to ill-health	–	–
Retirement	1	0.77%
Transfers to other public service departments	–	–
Other	–	–
<b>Total</b>	<b>15</b>	<b>11.54%</b>
<b>Total number of employees who left as a % of the total employment</b>		

Table 4.4.4. Promotions by critical occupation

Occupation	Employees as at 1 April 2010	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	20	–	–	14	70%
Education	13	–	–	8	61.53%
Research	13	–	–	11	84.62%
<b>Total</b>	<b>46</b>	<b>–</b>	<b>–</b>	<b>33%</b>	<b>71.74%</b>





Table 4.5.2. Total number of employees (including employees with disabilities, interns and contractors) in each of the following occupational bands as on 31 March 2011

Occupational bands	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Top management	3	1	–	–	1	–	1	–	6
Senior management	3	–	1	–	1	2	–	1	8
Professionally qualified and experienced specialists and mid-management	31	1	3	1	17	6	5	2	66
Skilled technical and academically qualified workers, junior management, supervisors, foreman and superintendents	8	–	–	–	33	1	–	–	42
Semi-skilled and discretionary decision making	7	1	–	–	16	2	–	–	26
Unskilled and defined decision making	5	–	–	–	10	1	–	–	16
<b>Total</b>	<b>57</b>	<b>3</b>	<b>4</b>	<b>1</b>	<b>78</b>	<b>12</b>	<b>6</b>	<b>3</b>	<b>164</b>

Table 4.5.3. Recruitment (including employees with disabilities, interns and contractors) for the period 1 April 2010 to 31 March 2011

Occupational bands	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Top management	1	–	–	–	–	–	–	–	1
Senior management	2	–	1	–	–	–	–	–	3
Professionally qualified and experienced specialists and mid-management	5	–	1	–	–	2	–	–	8
Skilled technical and academically qualified workers, junior management, supervisors, foreman and superintendents	2	–	–	–	2	–	–	–	4
Semi-skilled and discretionary decision making	6	1	–	–	17	3	–	–	27
Unskilled and defined decision making	2	–	–	–	1	–	–	–	3
<b>Total</b>	<b>18</b>	<b>1</b>	<b>2</b>	<b>–</b>	<b>20</b>	<b>5</b>			<b>46</b>
Employees with disabilities	–	–	–	–	–	–	–	–	–



Table 4.5.6. Disciplinary action for the period 1 April 2010 to 31 March 2011

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

Table 4.5.7. Skills development for the period 1 April 2010 to 31 March 2011

Occupational categories	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Legislators, senior officials and managers	28	3	0	0	4	6	1	1	43
Professionals	12	2	8	0	7	6	5	4	44
Technicians and associate professionals	6	0	0	2	7	0	0	0	15
Clerks	3	0	0	0	29	1	0	0	33
Service and sales workers	–	–	–	–	–	–	–	–	–
Skilled agriculture and fishery workers	–	–	–	–	–	–	–	–	–
Craft and related trades workers	–	–	–	–	–	–	–	–	–
Plant and machine operators and assemblers	–	–	–	–	–	–	–	–	–
Elementary occupations	9	0	0	0	1	1	–	–	11
<b>Total</b>	<b>58</b>	<b>5</b>	<b>8</b>	<b>2</b>	<b>48</b>	<b>14</b>	<b>6</b>	<b>5</b>	<b>146</b>
Employees with disabilities	1	–	–	–	–	–	–	–	1

## 4.6 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 4.6.1), salary bands (Table 4.6.2) and critical occupations (Table 4.6.3).

Table 4.6.1. Performance rewards by race, gender, and disability, 1 April 2010 to 31 March 2011

	Beneficiary profile			Cost	
	Number of beneficiaries	Total number of employees in group	% of total within group	Cost R'000	Average cost per employee
<b>Total African</b>	<b>80</b>	<b>103</b>	<b>77.67%</b>	<b>707</b>	<b>8</b>
Male	28	45	–	322	–
Female	52	58	–	385	–
<b>Total Asian</b>	<b>7</b>	<b>8</b>	<b>87.5%</b>	<b>254</b>	<b>36</b>
Male	2	2	–	49	–
Female	5	6	–	205	–
<b>Total Coloured</b>	<b>8</b>	<b>13</b>	<b>61.54%</b>	<b>128</b>	<b>16</b>
Male	1	3	–	32	–
Female	7	10	–	96	–
<b>Total White</b>	<b>2</b>	<b>4</b>	<b>50%</b>	<b>57</b>	<b>28</b>
Male	1	1	–	47	–
Female	1	3	–	10	–
Employees with a disability	1	2	50%	7	–
<b>Total</b>	<b>98</b>	<b>130</b>	<b>75.38%</b>	<b>1,146</b>	

Table 4.6.2. Performance rewards by salary band for personnel below senior management service, 1 April 2010 to 31 March 2011

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)	1	1	100%	6	6	–
Skilled (levels 3–5)	14	15	7.14%	18	1	–
Highly skilled production (levels 6–8)	30	39	30%	277	9	–
Highly skilled supervision (levels 9–12)	48	64	75%	770	16	–
<b>Total</b>	<b>93</b>	<b>119</b>	<b>78.15%</b>	<b>1,071</b>	<b>32</b>	

Table 4.6.3. Performance rewards by critical occupations, 1 April 2010 to 31 March 2011

Critical occupations	Beneficiary profile			Cost	
	Number of beneficiaries	Number of employees	% of total within occupation	Total cost R'000	Average cost per employee
Legal services	14	20	70%	177	13
Research	11	13	84.62%	311	28
Education	8	13	61.54%	98	12
<b>Total</b>	<b>33</b>	<b>46</b>	<b>71.74%</b>	<b>586</b>	<b>18</b>

Table 4.6.4. 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	4	8	50%	78	20	–
Band B	1	2	50%	12	12	–
Band C	–	1	–	–	–	–
Band D	–	–	–	–	–	–
<b>Total</b>	<b>5</b>	<b>11</b>	<b>45.45%</b>	<b>180</b>	<b>32</b>	<b>–</b>

## 4.7 FOREIGN WORKERS

No foreign nationals were employed in the institution in this financial year.

#### 4.8 LEAVE UTILISATION FOR THE PERIOD 1 JANUARY 2010 TO 31 DECEMBER 2010

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 (Table 4.8.1) and disability leave (Table 4.8.2). In both cases, the estimated cost of the leave is also provided.

Table 4.8.1. Sick leave, 1 January 2010 to 31 December 2010

Salary bands	Total days	% days with medical certification	Number of employees using sick leave	% of total employees using sick leave	Average days per employee	Estimated cost R'000
Lower skilled (levels 1–2)	1	–	1	100%	1	0.2
Skilled (levels 3–5)	60	–	15	100%	4.29	19
Highly skilled production (levels 6–8)	205	–	36	93%	5.69	111
Highly skilled supervision (levels 9–12)	408	–	60	92%	6.8	465
Senior management (levels 13–16)	59	–	6	54%	9.8	91
<b>Total</b>	<b>733</b>	<b>–</b>	<b>118</b>	<b>91%</b>	<b>6.2</b>	<b>867</b>

Table 4.8.2. Disability leave (temporary and permanent), 1 January 2010 to 31 December 2010

Salary bands	Total days taken	% days with medical certification	Number of employees using disability leave	% of total employees using disability leave	Average days per employee	Estimated cost R'000
Lower skilled (levels 1–2)	–	–	–	–	–	–
Skilled (levels 3–5)	–	–	–	–	–	–
Highly skilled production (levels 6–8)	30	100%	1	0.77%	30	26
Highly skilled supervision (levels 9–12)	–	–	–	–	–	–
Senior management (levels 13–16)	–	–	–	–	–	–
<b>Total</b>	<b>30</b>	<b>100%</b>	<b>1</b>	<b>0.77%</b>	<b>30</b>	<b>26</b>

Table 4.8.3 summarises the utilisation of annual leave. The wage agreement concluded with trade unions in the PSCBC in 2000 requires management of annual leave to prevent high levels of accrued leave being paid at the time of termination of service.

Table 4.8.3. Annual leave, 1 January 2010 to 31 December 2010

Salary bands	Total days taken	Average per employee
Lower skilled (levels 1–2)	22	22
Skilled (levels 3–5)	335	22.33
Highly skilled production (levels 6–8)	1 013	25.97
Highly skilled supervision (levels 9–12)	1 797	28.08
Senior management (levels 13–16)	305	27.73
<b>Total</b>	<b>3 472</b>	<b>27.85</b>

Table 4.8.4. Capped leave, 1 January 2010 to 31 December 2010

Salary bands	Total days of capped leave taken	Average number of days taken per employee	Average capped leave per employee as at 31 December 2010
Lower skilled (levels 1–2)	–	–	–
Skilled (levels 3–5)	–	–	–
Highly skilled production (levels 6–8)	–	–	–
Highly skilled supervision (levels 9–12)	–	–	–
Senior management (levels 13–16)	–	–	–
<b>Total</b>	<b>–</b>	<b>–</b>	<b>–</b>

Table 4.8.5. Leave payouts for the period 1 April 2010 to 31 March 2011

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

Reason	Total amount R'000	Number of employees	Average payment per employee R'000
Leave payout for 2010/11 due to non-utilisation of leave for the previous cycle	–	–	–
Capped leave payouts on termination of service for 2010/11	–	–	–
Current leave payout on termination of service for 2010/11	152	15	10
<b>Total</b>	<b>152</b>	<b>15</b>	<b>10</b>



## 4.9 HIV AND AIDS AND HEALTH PROMOTION PROGRAMMES

Table 4.9.1. Steps taken to reduce the risk of occupational exposure

Units/categories of employees identified to be at high risk of contracting HIV and related diseases (if any)	Key steps taken to reduce the risk
–	N/A
–	N/A
–	N/A

Table 4.9.2. Details of health promotion and HIV and AIDS programmes (tick the applicable boxes and provide the required information)

Question	Yes	No	Details, if yes
1. Has the institution a member of the SMS to implement the provisions contained in Part VI E of Chapter 1 of the Public Service Regulations, 2001? If so, provide her/his name and position.		X	
2. Does the institution have a dedicated unit or has it designated specific staff members to promote the health and well being of your employees? If so, indicate the number of employees who are involved in this task and the annual budget that is available for this purpose.	X		Five members – R200 000
3. Has the institution introduced an Employee Assistance or Health Promotion Programme for your employees? If so, indicate the key elements/services of this Programme.	X		ICAS counselling; wellness and health advice; financial advice
4. Has the institution established (a) committee(s) as contemplated in Part VI 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) that they represent.		X	
5. Has the institution 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/practices so reviewed.	X		Health and Safety policy
6. Has the institution 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 institution encourage its employees to undergo Voluntary Counselling and Testing? If so, list the results that you have achieved.	X		Only 9.15% of employees attended voluntary counselling and testing
8. Has the institution developed measures/indicators to monitor and evaluate the impact of its health promotion programme? If so, list these measures/indicators.		X	

## 4.10 LABOUR RELATIONS

The following collective agreements were entered into with trade unions within the institution.

Table 4.10.1. Collective agreements, 1 April 2010 to 31 March 2011

Subject matter	Date
Deputy directors and personal assistants were allowed to join and participate in union activities	04 February 2011

The following table summarises the outcome of disciplinary hearings conducted within the institution for the year under review.

Table 4.10.2. Misconduct and disciplinary hearings finalised, 1 April 2010 to 31 March 2011

Outcomes of disciplinary hearings	Number	% of total
Correctional counselling	0	0
Verbal warning	0	0
Written warning	2	100%
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
<b>Total</b>	<b>2</b>	<b>100%</b>

Table 4.10.3. Types of misconduct addressed at disciplinary hearings

Type of misconduct	Number	% of total
Divulging confidential information	1	50%
Negligence	1	50%
<b>Total</b>	<b>2</b>	<b>100%</b>

Table 4.10.4. Grievances lodged for the period 1 April 2010 to 31 March 2011

	Number	% of total
Number of grievances resolved	1	16.67%
Number of grievances not resolved	5	83.33%
<b>Total number of grievances lodged</b>	<b>6</b>	<b>100%</b>

Table 4.10.5. Disputes lodged with councils for the period 1 April 2010 to 31 March 2011

	Number	% of total
Number of disputes upheld	–	–
Number of disputes dismissed	–	–
<b>Total number of disputes lodged</b>	<b>–</b>	<b>–</b>

Table 4.10.6. Strike actions for the period 1 April 2010 to 31 March 2011

Total number of person working days lost	–
Total cost R'000 of working days lost	–
<b>Amount R'000 recovered as a result of no work no pay</b>	<b>–</b>

Table 4.10.7. Precautionary suspensions for the period 1 April 2010 to 31 March 2011

Number of people suspended	1
Number of people whose suspension exceeded 30 days	1
Average number of days suspended	60
<b>Cost (R'000) of suspensions</b>	<b>R68 082.24</b>

## 4.11 SKILLS DEVELOPMENT

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

Table 4.11.1. Training needs identified 1 April 2010 to 31 March 2011

Occupational categories	Gender	Number of employees as at 1 April 2010	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	Female	10	–	50	–	50
	Male	12	–	66	–	66
Professionals	Female	14	–	70	–	70
	Male	15	–	68	–	68
Technicians and associate professionals	Female	20	–	56	–	56
	Male	16	–	86	–	86
Clerks	Female	30	–	171	–	171
	Male	7	–	14	–	14
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	31	–	4	–	4
	Male	14	–	12	–	12
Subtotal	Female	–	–	–	–	–
	Male	–	–	–	–	–
Total		169	–	597	–	597

Table 4.11.2. Training provided 1 April 2010 to 31 March 2011

Occupational categories	Gender	Number of employees as at 1 April 2010	Training provided within the reporting period			
			Learnerships	Skills programmes and other short courses	Other forms of training	Total
Legislators, senior officials and managers	Female	10	–	13	–	13
	Male	12	–	30	–	30
Professionals	Female	14	–	18	–	18
	Male	15	–	26	–	26
Technicians and associate professionals	Female	20	–	7	–	7
	Male	16	–	8	–	8
Clerks	Female	30	–	30	–	30
	Male	7	–	3	–	3
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	31	–	2	–	2
	Male	14	–	9	–	9
Subtotal	Female	–	–	–	–	–
	Male	–	–	–	–	–
<b>Total</b>		<b>169</b>	<b>–</b>	<b>146</b>	<b>–</b>	<b>146</b>

## 4.12 INJURY ON DUTY

No injuries were reported.

## 4.13 UTILISATION OF CONSULTANTS

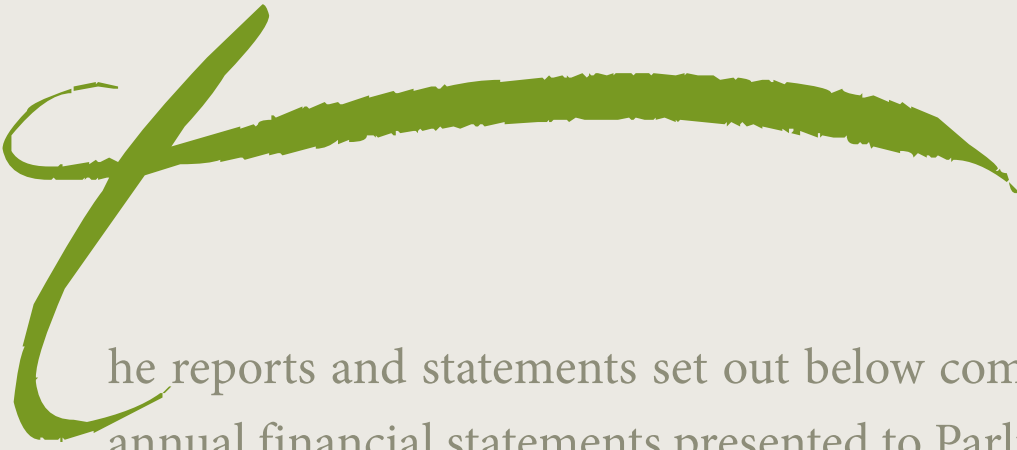
Table 4.13.1. Report on consultant appointments using appropriated funds

Project title	Total number of consultants that worked on the project	Duration: Work days	Contract value in Rand
Job evaluation	1	2.5 months	R152 760
Performance management system review	1	5 months	R150 000
<b>Total number of projects</b>	<b>Total individual consultants</b>	<b>Total duration: work days</b>	<b>Total contract value in Rands</b>

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## PART 5

SOUTH AFRICAN HUMAN RIGHTS COMMISSION  
ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2011



The reports and statements set out below comprise the annual financial statements presented to Parliament:

### INDEX

79	5.1 Chief Executive Officer's Report
83	5.2 Audit Committee Report
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88	5.5 Statement of Changes in Net Assets
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113	5.9 Annexure A to the Annual Financial Statements

## 5.1 CHIEF EXECUTIVE OFFICER'S REPORT

The Chief Executive Officer submits his report for the year ended 31 March 2011.

### 1. Incorporation

The institution was incorporated on 01 March 1996 and obtained its certificate to commence business on the same day.

### 2. Review of activities

#### Main business and operations

The entity is engaged in constitutional institution and operates principally in South Africa.

#### Spending trends from 2005/06 – 2010/11 as per standard items

Programme	Audited expenditure outcomes					Actual
	R'000 2005/6	R'000 2006/7	R'000 2007/8	R'000 2008/9	R'000 2009/10	R'000 2010/11
Personnel	25 073	26 498	31 659	38 966	46 851	50 308
Administrative	4 890	3 736	2 936	7 464	9 235	5 937
Inventories	756	307	246	309	693	557
Equipment	1 215	2 937	5 940	1 525	632	604
Land and buildings	5 403	6 182	6 109	7 432	7 820	10 513
Professional services	4 985	9 752	10 036	7 287	7 524	7 039
<b>Total</b>	<b>42 322</b>	<b>49 412</b>	<b>56 926</b>	<b>62 983</b>	<b>72 755</b>	<b>74 958</b>
Baseline allocation	41 774	49 220	55 281	60 603	68 278	73 474
Additional funding	–	–	–	585	1 257	894
Donor funding	–	1 315	309	495	996	608

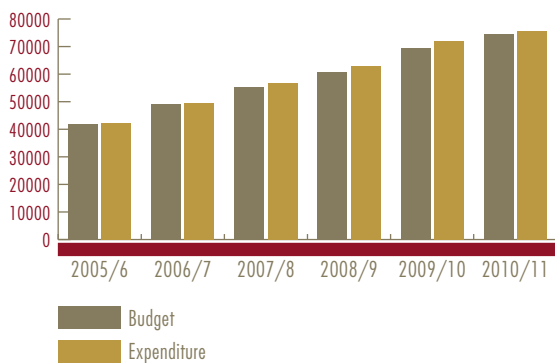
The expenditure trend in the table above reflects the results for the past five years, and the results of the financial year 2010/11.

On average the MTEF baseline allocation comprised an increase of 12% for the past five years and the period under review. The actual expenditure for 2010/11 was R74m, which included depreciation on assets amounting to R2.4m.

The graph illustrates the grant received against the total expenditure for the past five years and the period under review.



### Budget vs Expenditure Graphic Analysis



### Services rendered by the Commission

The mandate of the SAHRC, as contained in Section 184 of the Constitution (Republic of South Africa Constitution Act No. 108 of 1996), is as follows: Section 184(1): “The SA Human Rights Commission must –

- Promote respect for human rights and a culture of human rights;
- Promote the protection, development and attainment of human rights; and
- Monitor and assess the observance of human rights in the Republic.”

Section 184(2) reads as follows: “The SA Human Rights Commission has the powers, as regulated by national legislation, necessary to perform its functions, including the power –

- To investigate and to report on the observance of human rights;
- To take steps to secure appropriate redress where human rights have been violated;
- To carry out research; and
- To educate.”

Section 184(3) states as follows: “Each year, the SA Human Rights Commission must require relevant organs of state to provide the Commission with information on the measures that they have taken towards the realisation of the rights in the Bill of Rights concerning housing, health care, food, water, social security, education and the environment.”

The SAHRC has specific obligations in terms of the Promotion of Access to Information Act No. 2 of 2000 (PAIA) and the Promotion of Equality and Prevention

of Unfair Discrimination Act No. 4 of 2000 (PEPUDA).

The overarching responsibilities in terms of these statutes are for the SAHRC to promote awareness of the statutes; to report to Parliament on matters relating to these statutes; and to develop recommendations on persisting challenges relating to these statutes and any necessary reform.

### Utilisation of donor funding

For the period under review, the Commission received and utilised donor funding from the following projects:

a) Australian Aid Grant

The amount of R176 657 showing in this account represent interest that was accumulated on the capital amounts whilst held by National Treasury. This amount was transferred from National Treasury to the Commission in the 2010/11 financial year. These funds will be utilised by the Commission in the 2011/12 financial year.

b) Atlantic Philanthropies

The project was launched in November 2009 with a transfer of R497 000 to the Commission. As at 31st March 2010, there was a balance of R42 238.23. R 30 174.74 was utilised, leaving a balance of R12 063.49 which must be paid to the donors in 2011/12 financial year, as the project expired.

c) UHCHR (UN)

An amount of R608 000.00 was received through the National Treasury, by the SAHRC during the 2010/11 financial year for the purpose of this project, a total R 56 97.66 had been spent. The balance of R551 302.34 will be used in pursuance of the purposes intended for with the funds in terms of the agreement with the donors.

### Capacity constraints

Due to budgetary constraints, the Deputy Director: Administration and Risk Officer positions could not be filled. The resignation of the, Chief Financial Officer (CFO) and Head of Programme Research and Information, Communication and Technology created further capacity challenges for the Commission.

### Trading entities/public entities

There are no trading entities or public entities under the control of the Commission.

Other organisations to which transfer payments have been made

None.

Public-private partnerships

The Commission has not entered into any such agreements.

Discontinued activities and new activities

None.

Events after the reporting date

There were no events to be reported.

### 3. Going concern

We draw attention to the fact that at 31 March 2011, the entity had accumulated surplus of R5 187m and that the entity's total liabilities exceed its assets by R5 187m.

The annual financial statements have been prepared on the basis of accounting policies applicable to a going concern. This basis presumes that funds will be available to finance future operations and that the realisation of assets and settlement of liabilities, contingent obligations and commitments will occur in the ordinary course of business.

### 4. Subsequent events

The members are not aware of any matter or circumstance arising since the end of the financial year.

### 5. Accounting authority

The members of the entity during the year and to the date of this report are as follows:

Name	Nationality
Adv M L Mushwana	South African
P Govender	South African
L Mokate	South African
B Malatji	South African
D Titus	South African
J Love	South African

## 6. Corporate governance

### General

The accounting authority is committed to business integrity, transparency and professionalism in all its activities. As part of this commitment, the accounting authority supports the highest standards of corporate governance and the ongoing development of best practice.

The entity confirms and acknowledges its responsibility to total compliance with the Code of Corporate Practices and Conduct ("the Code") laid out in the King Report on Corporate Governance for South Africa 2002. The accounting authority discusses the responsibilities of management in this respect, at Board meetings and monitors the entity's compliance with the code on a three-monthly basis.

### Functioning audit committee

The SAHRC Audit Committee continues to function and has met six times during the period under review. The Audit Committee is responsible for improving management by overseeing the audit functions, internal controls and the financial reporting process.

### Internal audit

For the period under review, the internal audit activity for 2010/11 was performed by the in-house internal auditors.

In line with the PFMA requirements, the internal audit activity provides the Audit Committee and Management with assurance that the internal controls are appropriate and effective. This is achieved by means of objective appraisal and evaluation of the risk management processes, internal control and governance processes, as well as identifying corrective action and suggested enhancements to the controls and processes. The audit plan is responsive to the Commission's risk profile.

The Internal Audit Activity is fully supported by the management, the Commissioners and the Audit Committee, and has full, unrestricted access to all organisational activities, records, property and personnel.

### Internal controls

The Commission has ultimate responsibility for establishing a framework for internal controls, including an appropriate procurement and provisioning system. The controls throughout the Commission focus on those critical risk areas identified by operational risk management, confirmed by management and assessed by the auditors. The controls are designed to provide cost-effective assurance that assets are safeguarded and that the available working capital is managed efficiently and economically.

Organisational policies, procedures and the delegation of authority provide direction, accountability and division of responsibilities and contain self monitoring mechanisms. The designed internal controls are closely monitored by both management and Internal Audit and action is taken to correct any deficiencies identified.

### 7. Auditors

Auditor-General will continue in office for the next financial period.

### 8. Risk management

The legislating of the implementation of risk management in public sector institutions is part of a macro strategy of the South African government towards ensuring 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 is therefore a compliance matter.

The Commission continues to recognise the importance of risk management in ensuring its objectives and therefore endeavours to comply with the requisite legislation as it pertains to risk management.

At the start of the 2009/10 financial year, the risk management function lay with the Internal Audit Unit of the Commission, who facilitated the process by providing support to management in managing the organisation's risks. However, this raised conflict issues and the Audit Committee advised the CEO that there should be a position created for a risk officer. The Commission has been unable to appoint the risk management officer due to financial constraints.

The lack of management support capacity engendered by the lack of risk manager continues to provide the Commission with the following challenges:

- Continued undeveloped project risk management capabilities;
- The inability of the Commission to develop an effective risk management strategy;
- The inability of the Commission to provide the Audit Committee with proper risk management information required for them to discharge their oversight responsibilities; and
- Inability to comprehensively and effectively manage risks within the Commission.

Despite the challenges articulated above, the Commission undertook a risk assessment process and designed controls for identified risks. The appointed risk management committee continued to play an oversight role in enterprise wide risk management activities.

### 9. Approval of finances

The financial statements fairly represent the state of affairs of the Commission as at 31st March 2011. These statements are the responsibility of the Commission while the auditors are responsible for reporting on the fair presentation of these financial statements. The annual financial statements reflect appropriate accounting policies and adhere to applicable accounting standards.

The annual financial statements for the year ended 31 March 2011 were submitted to the Accounting Officer for approval on 31 May 2011 for submission to the Auditor-General and the National Treasury, in terms of Section 40(1)(c) of the Public Finance Management Act, 1999 (Act 1 of 1999) as amended.

The annual financial statements as set out on pages 79 to 113 have been approved by the Accounting Officer and signed on behalf of the SAHRC by:

Accounting Officer



Mr K Ahmed

## 5.2 AUDIT COMMITTEE REPORT

We are pleased to present our report for the financial year ended 31 March 2011.

### Audit committee members and attendance

The SAHRC audit committee consists of the members listed hereunder and should meet four times per annum as per its approved terms of reference and makes provision for extra two special audit committee meetings as might be required. During the current year six meetings were held.

Name of member	Number of meetings attended
Mr D Coovadia	6
Ms T V Ndou	5
Mr L Radzuma	5

The following additional independent audit committee members were appointed during the year under review. However, they were able to attend meetings only in the 2011/12 reporting period.

- Mr RP Mnisi
- Mr W Hattingh

### Audit committee responsibility

The Audit Committee reports that it has adopted appropriate formal terms of reference of its charter as its Audit Committee Charter, has regulated its affairs in compliance with this Charter and has discharged all its responsibilities as contained therein.

### The effectiveness of internal control

The system of controls is designed to provide cost-effective assurance that assets are safeguarded and that liabilities and working capital are managed efficiently. In line with the Public Finance Management Act of 1999 (PFMA) and the King III Report on Corporate Governance requirements, Internal Audit provides the Audit Committee and management with assurance that the internal controls are appropriate and effective. This is achieved by means of the risk management process, as well as the identification of corrective actions and

suggested enhancements to the controls and processes.

From the various reports of the internal auditors, the Audit Report on the Annual Financial Statements and management letter of the Auditor-General, it was noted that several matters of non-compliance with prescribed policies and procedures have been reported and that management has put mechanisms in place to mitigate against the weaknesses identified.

### Risk management

During the period under review, a risk management strategy and fraud prevention plan have been formalised. This was done by conducting a formal risk assessment where strategic and operational risks were identified. Action plans were developed by management to mitigate the risks identified. As a result a risk register was developed which is monitored by the Internal Audit function for effectiveness and by the Audit Committee in its oversight role.

### Internal audit

The Commission has established a system of Internal Audit under the control and direction of the Audit Committee. As such, the Committee has during the financial year ended March 2011, reviewed:

- The activities and effectiveness of the Internal Audit function
- The accounting and auditing concerns identified as a result of the internal/external audits
- The effectiveness of internal control systems

The Internal Audit unit has executed 100% of the approved internal audit plan. Based on the work performed Internal Audit would like to report that the systems of internal control for the period under review were effective and efficient.

### The quality of in-year management and quarterly reports submitted in terms of the PFMA

The Audit Committee has noted and is satisfied with the content and quality of the Quarterly Reports prepared and issued by the Accounting Officer during the year

under review. Suggestions were made and implemented by management to improve on the reports.

#### Evaluation of annual financial statements

The Audit Committee has carried out the following:

- Reviewed and discussed with the Auditor-General the audited annual financial statements to be included in the Annual Report;
- Reviewed the Auditor-General's management letter and management's response thereto;
- Reviewed changes in accounting policies and practices; and
- Reviewed the significant adjustments resulting from the audit.

We concur with and accept the Auditor-General of South Africa's report the annual financial statements, and are of the opinion that the audited annual financial statements should be accepted and read together with the report of the Auditor-General of South Africa.



D Coovadia CA (SA)  
Chairperson of the Audit Committee  
26 July 2011

## 5.3 REPORT OF THE AUDITOR-GENERAL

for the Year Ended 31 March 2010

### Report on the Financial Statements

#### Introduction

1. I have audited the accompanying financial statements of the South African Human Rights Commission, which comprise the statement of financial position as at 31 March 2011, and the statement of financial performance, statement of changes in net assets and cash flow statement for the year then ended, and a summary of significant accounting policies and other explanatory information, as set out on pages 79 to 113.

#### Accounting officer's responsibility for the financial statements

2. The accounting officer is responsible for the preparation and fair presentation of the financial statements in accordance with South African Standards of Generally Recognised Accounting Practice (SA Standards of GRAP) and the requirements of the Public Finance Management Act 1 of 1999 (PFMA), and for such internal control as management determines necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

#### Auditor-General's responsibility

3. As required by Section 188 of the Constitution of South Africa, 1996 (Act 108 of 1996), Section 4 of the Public Audit Act of South Africa, 2004 (Act 25 of 2004) (PAA) and Section 16(2) of the Human Rights Commission Act of 1994 (Act 54 of 1994), my responsibility is to express an opinion on these financial statements based on my audit.

4. I conducted my audit in accordance with International Standards on Auditing and General Notice 1111 of 2010 issued in *Government Gazette* 33872 of 15 December 2010. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

5. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

6. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

#### Opinion

7. In my opinion, the financial statements present fairly, in all material respects, the financial position of the South African Human Rights Commission as at 31 March 2011, and its financial performance and its cash flows for the year then ended in accordance with SA Standards of GRAP and the requirements of the PFMA.

#### Report on other legal and regulatory requirements

8. In accordance with the PAA and in terms of General Notice 1111 of 2010, issued in *Government Gazette* 33872 of 15 December 2010, I include below my findings on the annual performance report as set out on pages 12 to 57 and material non-compliance with laws and regulations applicable to the constitutional institution.

### Predetermined objectives

#### Usefulness of information

9. The reported performance information was deficient in respect of the following criterion:
- Measurability: Not all targets were time-bound.
10. The following audit finding relates to the above criterion:
- For the selected programmes, 30% of the planned and reported targets were not time bound in specifying the period or deadline for delivery.

### Compliance with laws and regulations

#### Annual financial statements, performance report and annual report

11. The accounting officer submitted financial statements for auditing that had not been prepared in all material aspects in accordance with generally recognised accounting practice, as required by Section 40(1)(b) of the PFMA. The material misstatements identified by the AGSA with regard to contingent liabilities, provisions, property, plant and equipment as well as finance leases were subsequently corrected.

#### Expenditure management

12. The accounting officer did not take effective and appropriate steps to prevent irregular expenditure, as per the requirements of Section 38(1)(c)(ii) of the PFMA.

#### Procurement and contract management

13. An award was made to a supplier who failed to provide written proof from the South African Revenue Service that their tax matters were in order as per the requirements of the Preferential Procurement Regulations 16 and TR 16A9.1(d).

#### Strategic planning and performance management

14. The accounting officer did not ensure that the entity had and maintained an effective, efficient and transparent system of internal controls regarding performance management, which described and

represented how the institution's processes of performance planning, monitoring, measurement, review and reporting were conducted, organised and managed, as required by Section 38(1)(a)(i) and (b) of the PFMA.

### Internal Control

15. In accordance with the PAA and in terms of General Notice 1111 of 2010, issued in Government Gazette 33872 of 15 December 2010, I considered internal control relevant to my audit, but not for the purposes of expressing an opinion on the effectiveness of internal control. The matters reported below are limited to the significant deficiencies that resulted in the basis of the opinion, the findings on the annual performance report and the findings on compliance with laws and regulations included in this report.

#### Leadership

16. The leadership of the commission did not exercise oversight responsibility regarding financial and performance reporting and laws and regulations as well as related internal controls.

#### Financial and performance management

17. Management did not prepare regular, accurate and complete financial reports.
18. The commission did not have sufficient monitoring controls to ensure compliance with all applicable laws and regulations.

*Auditor-General*

Pretoria

30 July 2011



AUDITOR-GENERAL  
SOUTH AFRICA

Auditing to build public confidence

## 5.3 STATEMENT OF FINANCIAL POSITION

	Note(s)	2011 R'000	2010 R'000
<b>ASSETS</b>			
<b>Current assets</b>			
Inventories	2	106	147
Trade and other receivables from exchange transactions	3	725	403
Cash and cash equivalents	4	7 171	3 459
		<b>8 002</b>	<b>4 009</b>
<b>Non-current assets</b>			
Property, plant and equipment	5	9 725	9 841
Intangible assets	6	160	324
		<b>9 885</b>	<b>10 165</b>
<b>Total Assets</b>		<b>17 887</b>	<b>14 174</b>
<b>LIABILITIES</b>			
<b>Current liabilities</b>			
Trade and other payables from exchange transactions	7	9 212	4 454
Employee benefits due	8	2 052	1 466
Finance lease obligation	9	344	224
Operating lease liability	10	48	745
Deferred revenue	11	740	219
		<b>12 396</b>	<b>7 108</b>
<b>Non-current liabilities</b>			
Finance lease obligation	9	304	199
<b>Total liabilities</b>		<b>12 700</b>	<b>7 307</b>
<b>Net assets</b>		<b>5 187</b>	<b>6 867</b>
<b>NET ASSETS</b>			
<b>Accumulated surplus</b>		<b>5 187</b>	<b>6 867</b>



## 5.4 STATEMENT OF FINANCIAL PERFORMANCE

	Note(s)	2011 R'000	2010 R'000
<b>Revenue</b>			
Non-exchange revenue	13	74 455	70 532
Exchange revenue	14	685	628
<b>Total revenue</b>		<b>75 140</b>	<b>71 160</b>
<b>Expenditure</b>			
Personnel expenditure	15	(50 308)	(46 851)
Depreciation and amortisation		(2 404)	(2 448)
IT upgrades licences and maintenance	16	(88)	(208)
Administrative expenditure	17	(18 966)	(17 477)
Operating expenditure	18	(4 983)	(5 677)
<b>Total expenditure</b>		<b>(76 749)</b>	<b>(72 661)</b>
Loss on disposal of assets and liabilities		(71)	(95)
<b>Surplus (deficit) for the year</b>		<b>(1 680)</b>	<b>(1 596)</b>

## 5.5 STATEMENT OF CHANGES IN NET ASSETS

	Accumulated surplus R'000	Total net assets R'000
<b>Balance at 01 April 2009</b>	<b>8 463</b>	<b>8 463</b>
<b>Changes in net assets</b>		
Surplus for the year	(1 596)	(1 596)
Total changes	(1 596)	(1 596)
<b>Balance at 01 April 2010</b>	<b>6 867</b>	<b>6 867</b>
<b>Changes in net assets</b>		
Surplus for the year	(1 680)	(1 680)
Total changes	(1 680)	(1 680)
<b>Balance at 31 March 2011</b>	<b>5 187</b>	<b>5 187</b>

## 5.6 CASH FLOW STATEMENT

	Note(s)	2011 R'000	2010 R'000
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
<b>Receipts</b>			
Grants from the Department		74 368	69 535
Interest income		516	632
Other income		87	996
Administrative fees		–	(15)
		<b>74 971</b>	<b>71 148</b>
<b>Payments</b>			
Employee costs		(50 308)	(46 851)
Other suppliers		(18 869)	(20 903)
Finance costs		–	(168)
		<b>(69 177)</b>	<b>(67 922)</b>
<b>Net cash flows from operating activities</b>	<b>19</b>	<b>5 794</b>	<b>3 226</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
Purchase of property, plant and equipment	5	(2 300)	(611)
Purchase of other intangible assets	6	(7)	(28)
<b>Net cash flows from investing activities</b>		<b>(2 307)</b>	<b>(639)</b>
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>			
Finance lease		225	(328)
<b>Net increase/(decrease) in cash and cash equivalents</b>		<b>3 712</b>	<b>2 259</b>
Cash and cash equivalents at the beginning of the year		3 459	1 200
<b>Cash and cash equivalents at the end of the year</b>	<b>4</b>	<b>7 171</b>	<b>3 459</b>

## 5.7 ACCOUNTING POLICIES

### 1. Presentation of annual financial statements

The annual financial statements have been prepared in accordance with the effective Standards of Generally Recognised Accounting Practice (GRAP) including any interpretations, guidelines and directives issued by the Accounting Standards Board.

These annual financial statements have been prepared on an accrual basis of accounting and are in accordance with historical cost convention unless specified otherwise. They are presented in South African Rand.

A summary of the significant accounting policies, which have been consistently applied, are disclosed below. These accounting policies are consistent with the previous period.

#### 1.1 Significant estimates and judgements made by management

In preparing the annual financial statements, management is required to make estimates and assumptions that affect the amounts represented in the annual financial statements and related disclosures. Use of available information and the application of judgement is inherent in the formation of estimates. Actual results in the future could differ from these estimates which may be material to the annual financial statements. Significant judgements include:

##### Provisions

Provisions were raised and management determined an estimate based on the information available. Additional disclosure of these estimates of provisions are included in note – Provisions.

##### Useful life of property, plant and equipment

The Commission has in the period under review assessed the useful lives of property plant and equipment. The assumption used in determining the useful lives and residual values were based on the following:

- Asset type and what it is made of;
- Asset special features;

- Asset condition, i.e. the physical condition and age of the assets;
- The rate of use of assets, number of users and location; and
- The residual value for vehicles set at the industry norm of 30%.

Interest used in the calculation of fair value of the financial instruments

Fair value of non-derivative financial liabilities is calculated based on the present value of future principal and interest cash flows, discounted at the market rate of interest at the reporting date. For finance leases, the market rate of interest is determined by reference to similar lease agreements.

#### 1.2 Property, plant and equipment

Property, plant and equipment are tangible assets that are held for use in the production or supply of goods or services, and are expected to be used during more than one period.

The cost of an item of property, plant and equipment is recognised as an asset when:

- it is probable that future economic benefits or service potential associated with the item will flow to the entity; and
- the cost of the item can be measured reliably.

Property, plant and equipment are initially measured at cost.

The cost of an item of property, plant and equipment is the purchase price and other costs attributable to bring the asset to the location and condition necessary for it to be capable of operating in the manner intended by management. Trade discounts and rebates are deducted in arriving at the costs. Where an asset is acquired at no cost or for a nominal cost, its cost is fair value as at date of acquisition. Where an item of property, plant and equipment is acquired in exchange for a non-monetary asset or monetary asset, or a combination of monetary and non-monetary assets, the asset acquired is initially

measured at fair value (the cost) if the acquired item's fair value was not determinable. Its deemed cost is the carrying amount of the asset or assets given up.

Costs include costs incurred initially to acquire or construct an item of property, plant and equipment and costs incurred subsequently to add to, replace part of, or service it. If a replacement cost is recognised in the carrying amount of an item of property, plant and equipment, the carrying amount of the replaced part is derecognised.

The initial estimate of the costs of dismantling and removing the item and restoring the site on which it is located is also included in the cost of property, plant and equipment, where the entity is obligated to incur such expenditure, and where the obligation arises as a result of acquiring the asset or using it for purposes other than the production of inventories.

Recognition of costs in the carrying amount of an item of property, plant and equipment ceases when the item is in the location and condition necessary for it to be capable of operating in the manner intended by management.

Major spare parts and stand by equipment which are expected to be used for more than one period are included in property, plant and equipment. In addition, spare parts and stand by equipment which can only be used in connection with an item of property, plant and equipment are accounted for as property, plant and equipment.

Property, plant and equipment is carried at cost less accumulated depreciation and any impairment losses which is carried at revalued amount being the fair value at the date of revaluation less any subsequent accumulated depreciation and subsequent accumulated impairment losses.

Property, plant and equipment is carried at revalued amount, being the fair value at the date of revaluation less any subsequent accumulated depreciation and subsequent accumulated impairment losses.

Property, plant and equipment are depreciated on the over their expected useful lives to their estimated residual value.

Property, plant and equipment is carried at revalued amount, being the fair value at the date of revaluation less any subsequent accumulated depreciation and sub-

sequent accumulated impairment losses. Revaluations are made with sufficient regularity such that the carrying amount does not differ materially from that which would be determined using fair value at the end of the reporting period.

Any increase in an asset's carrying amount, as a result of a revaluation, is credited directly to a revaluation surplus. The increase is recognised in surplus or deficit to the extent that it reverses a revaluation decrease of the same asset previously recognised in surplus or deficit.

Any decrease in an asset's carrying amount, as a result of a revaluation, is recognised in surplus or deficit in the current period. The decrease is debited in revaluation surplus to the extent of any credit balance existing in the revaluation surplus in respect of that asset.

The useful lives of items of property, plant and equipment have been assessed as follows:

Class	Estimated useful life in years
Computer equipment	5–14
Office equipment	5–13
Furniture and fittings	8–14
Motor vehicles	5–10
Library materials	3–14
Leasehold improvements	3–5
Finance lease (office equipment)	3–5

The residual value, and the useful life and depreciation method of each asset are reviewed at the end of each reporting date. If the expectations differ from previous estimates, the change is accounted for as a change in accounting estimate.

Each part of an item of property, plant and equipment with a cost that is significant in relation to the total cost of the item is depreciated separately.

The depreciation charge for each period is recognised in surplus or deficit unless it is included in the carrying amount of another asset.

Items of property, plant and equipment are derecognised when the asset is disposed of or when there are no further economic benefits or service potential expected from the use of the asset.

The gain or loss arising from the derecognition of an item of property, plant and equipment is included in surplus or deficit when the item is derecognised. The gain or loss arising from the derecognition of an item of property, plant and equipment is determined as the difference between the net disposal proceeds, if any, and the carrying amount of the item.

### 1.3 Intangible assets

An asset is identified as an intangible asset when it:

- is capable of being separated or divided from an entity and sold, transferred, licensed, rented or exchanged, either individually or together with a related contract, assets or liability; or
- arises from contractual rights or other legal rights, regardless whether those rights are transferable or separate from the entity or from other rights and obligations.

An intangible asset is recognised when:

- it is probable that the expected future economic benefits or service potential that are attributable to the asset will flow to the entity; and
- the cost or fair value of the asset can be measured reliably.

Intangible assets are initially recognised at cost.

An intangible asset acquired at no or nominal cost, the cost shall be its fair value as at the date of acquisition.

Expenditure on research (or on the research phase of an internal project) is recognised as an expense when it is incurred.

An intangible asset arising from development (or from the development phase of an internal project) is recognised when:

- it is technically feasible to complete the asset so that it will be available for use or sale.
- there is an intention to complete and use or sell it.
- there is an ability to use or sell it.
- it will generate probable future economic benefits or service potential.
- there are available technical, financial and other resources to complete the development and to use or sell the asset.

- the expenditure attributable to the asset during its development can be measured reliably.

Intangible assets are carried at cost less any accumulated amortisation and any impairment losses.

The amortisation period and the amortisation method for intangible assets are reviewed at each reporting date.

Amortisation is provided to write down the intangible assets, on a straight line basis, to their residual values as follows:

Item	Useful life
Computer software, other	3–9 years

Intangible assets are derecognised:

- on disposal; or
- when no future economic benefits or service potential are expected from its use or disposal.

The gain or loss is the difference between the net disposal proceeds, if any, and the carrying amount. It is recognised in surplus or deficit when the asset is derecognised.

### 1.4 Financial instruments

#### Classification

The entity classifies financial assets and financial liabilities into the following categories:

#### Loans and receivables

Classification depends on the purpose for which the financial instruments were obtained/incurred and takes place at initial recognition. Classification is re-assessed on an annual basis, except for derivatives and financial assets designated as at fair value through surplus or deficit, which shall not be classified out of the fair value through surplus or deficit category.

#### Initial recognition and measurement

Financial instruments are recognised initially when the entity becomes a party to the contractual provisions of the instruments.

The entity classifies financial instruments, or their component parts, on initial recognition as a financial asset, a financial liability or an equity instrument in accordance with the substance of the contractual arrangement.

Financial instruments are measured initially at fair value, except for equity investments for which a fair value is not determinable, which are measured at cost and are classified as available-for-sale financial assets.

For financial instruments which are not at fair value through surplus or deficit, transaction costs are included in the initial measurement of the instrument.

#### Subsequent measurement

Loans and receivables are subsequently measured at amortised cost, using the effective interest method, less accumulated impairment losses.

#### Impairment of financial assets

At each end of the reporting period the entity assesses all financial assets, other than those at fair value through surplus or deficit, to determine whether there is objective evidence that a financial asset or group of financial assets has been impaired.

For amounts due to the entity, significant financial difficulties of the debtor, probability that the debtor will enter bankruptcy and default of payments are all considered indicators of impairment.

Impairment losses are recognised in surplus or deficit.

Impairment losses are reversed when an increase in the financial asset's recoverable amount can be related objectively to an event occurring after the impairment was recognised, subject to the restriction that the carrying amount of the financial asset at the date that the impairment is reversed shall not exceed what the carrying amount would have been, had the impairment not been recognised.

#### Trade and other receivables

Trade receivables are measured at initial recognition at fair value, and are subsequently measured at amortised cost using the effective interest rate method. Appropriate allowances for estimated irrecoverable amounts are

recognised in surplus or deficit when there is objective evidence that the asset is impaired. Significant financial difficulties of the debtor, probability that the debtor will enter bankruptcy or financial reorganisation, and default or delinquency in payments (more than 30 days overdue) are considered indicators that the trade receivable is impaired. The allowance recognised is measured as the difference between the asset's carrying amount and the present value of estimated future cash flows discounted at the effective interest rate computed at initial recognition.

The carrying amount of the asset is reduced through the use of an allowance account, and the amount of the deficit is recognised in surplus or deficit within operating expenses. When a trade receivable is uncollectible, it is written off against the allowance account for trade receivables. Subsequent recoveries of amounts previously written off are credited against operating expenses in surplus or deficit.

Trade and other receivables are classified as loans and receivables.

#### Trade and other payables

Trade payables are initially measured at fair value, and are subsequently measured at amortised cost, using the effective interest rate method.

#### Cash and cash equivalents

Cash and cash equivalents comprise cash on hand and demand deposits and other short-term highly liquid investments that are readily convertible to a known amount of cash and are subject to an insignificant risk of changes in value. These are initially and subsequently recorded at fair value.

### 1.5 Leases

A lease is classified as a finance lease if it transfers substantially all the risks and rewards incidental to ownership. A lease is classified as an operating lease if it does not transfer substantially all the risks and rewards incidental to ownership.

#### Finance leases – lessee

Finance leases are recognised as assets and liabilities in the statement of financial position at amounts equal

to the fair value of the leased property or, if lower, the present value of the minimum lease payments. The corresponding liability to the lessor is included in the statement of financial position as a finance lease obligation.

The discount rate used in calculating the present value of the minimum lease payments is the interest rate implicit in the lease.

Minimum lease payments are apportioned between the finance charge and reduction of the outstanding liability. The finance charge is allocated to each period during the lease term so as to produce a constant periodic rate of on the remaining balance of the liability.

#### Operating leases – lessee

Operating lease payments are recognised as an expense on a straight-line basis over the lease term. The difference between the amounts recognised as an expense and the contractual payments are recognised as an operating lease asset or liability.

#### 1.6 inventories

Inventories are initially measured at cost except where inventories are acquired at no cost, or for nominal consideration, and then their costs are their fair value as at the date of acquisition.

Subsequently inventories are measured at the lower of cost and net realisable value.

Inventories are measured at the lower of cost and current replacement cost where they are held for;

- distribution at no charge or for a nominal charge; or
- consumption in the production process of goods to be distributed at no charge or for a nominal charge.

Net realisable value is the estimated selling price in the ordinary course of operations less the estimated costs of completion and the estimated costs necessary to make the sale, exchange or distribution.

Current replacement cost is the cost the entity incurs to acquire the asset on the reporting date.

The cost of inventories is assigned using the first-in, first-out (FIFO) formula. The same cost formula is used for all inventories having a similar nature and use to the entity.

#### 1.7 Employee benefits

##### Short-term employee benefits

The cost of short-term employee benefits, (those payable within 12 months after the service is rendered, such as paid vacation leave and sick leave, bonuses, and non-monetary benefits such as medical care), are recognised in the period in which the service is rendered and are not discounted.

The expected cost of compensated absences is recognised as an expense as the employees render services that increase their entitlement or, in the case of no accumulating absences, when the absence occurs.

The expected cost of surplus sharing and bonus payments is recognised as an expense when there is a legal or constructive obligation to make such payments as a result of past performance.

#### 1.8 Provisions and contingencies

Provisions are recognised when:

- the entity has a present obligation as a result of a past event;
- it is probable that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation; and
- a reliable estimate can be made of the obligation.

The amount of a provision is the best estimate of the expenditure expected to be required to settle the present obligation at the reporting date.

Where the effect of time value of money is material, the amount of a provision is the present value of the expenditures expected to be required to settle the obligation.

Provisions are reviewed at each reporting date and adjusted to reflect the current best estimate. Provisions are reversed if it is no longer probable that an outflow of resources embodying economic benefits or service potential will be required, to settle the obligation.

Where discounting is used, the carrying amount of a provision increases in each period to reflect the passage of time. This increase is recognised as an interest expense.

A provision is used only for expenditures for which the provision was originally recognised.

A restructuring provision includes only the direct expenditures arising from the restructuring, which are those that are both:

- necessarily entailed by the restructuring; and
- not associated with the ongoing activities of the entity

A contingent liability is a possible obligation that arises from past events and the existence of which will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events that are beyond the control of the Commission; alternatively, a contingent liability is a present obligation that arises from past events but is not recognised because of the following:

- It is not probable that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation; or
- The amount of the obligation cannot be measured with sufficient reliability.

Contingent assets and contingent liabilities are not recognised. Contingencies are disclosed in note 25.

### 1.9 Revenue from exchange transactions

Revenue is the gross inflow of economic benefits or service potential during the reporting period when those inflows result in an increase in net assets, other than increases relating to contributions from owners.

An exchange transaction is one in which the municipality receives assets or services, or has liabilities extinguished, and directly gives approximately equal value (primarily in the form of goods, services or use of assets) to the other party in exchange.

Fair value is the amount for which an asset could be exchanged, or a liability settled, between knowledgeable, willing parties in an arm's length transaction.

### 1.10 Revenue from non-exchange transactions

Non-exchange transactions are defined as transactions where the entity receives value from another entity without directly giving approximately equal value in exchange.

Revenue is the gross inflow of economic benefits or service potential during the reporting period when those inflows result in an increase in net assets, other than increases relating to contributions from owners.

Fair value is the amount for which an asset could be exchanged, or a liability settled, between knowledgeable, willing parties in an arm's length transaction.

### Government grants

Government grants are recognised as revenue when:

- it is probable that the economic benefits or service potential associated with the transaction will flow to the entity;
- the amount of the revenue can be measured reliably; and
- to the extent that there has been compliance with any restrictions associated with the grant.

The entity assesses the degree of certainty attached to the flow of future economic benefits or service potential on the basis of the available evidence. Certain grants payable by one level of government to another are subject to the availability of funds. Revenue from these grants is only recognised when it is probable that the economic benefits or service potential associated with the transaction will flow to the entity. An announcement at the beginning of a financial year that grants may be available for qualifying entities in accordance with an agreed programme may not be sufficient evidence of the probability of the flow. Revenue is then only recognised once evidence of the probability of the flow becomes available.

Restrictions on government grants may result in such revenue being recognised on a time proportion basis. Where there is no restriction on the period, such revenue is recognised on receipt or when the Act becomes effective, whichever is earlier.

When government remit grants on a reimbursement basis, revenue is recognised when the qualifying expense has been incurred and to the extent that any other restrictions have been complied with.



#### Other grants and donations

Other grants and donations are recognised as revenue when:

- it is probable that the economic benefits or service potential associated with the transaction will flow to the entity;
- the amount of the revenue can be measured reliably; and
- to the extent that there has been compliance with any restrictions associated with the grant.

If goods in-kind are received without conditions attached, revenue is recognised immediately. If conditions are attached, a liability is recognised, which is reduced and revenue recognised as the conditions are satisfied.

#### 1.11 Fruitless and wasteful expenditure

Fruitless expenditure means expenditure which was made in vain and would have been avoided had reasonable care been exercised.

All expenditure relating to fruitless and wasteful expenditure is recognised as an expense in the statement of financial performance in the year that the expenditure was incurred. The expenditure is classified in accordance with the nature of the expense, and where recovered, it is subsequently accounted for as revenue in the statement of financial performance.

#### 1.12 Irregular expenditure

Irregular expenditure as defined in Section 1 of the PFMA is expenditure other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including:

- (a) this Act; or
- (b) the State Tender Board Act, 1968 (Act No. 86 of 1968), or any regulations made in terms of the Act; or
- (c) any provincial legislation providing for procurement procedures in that provincial government.

National Treasury practice note no. 4 of 2008/2009 which was issued in terms of Sections 76(1) to 76(4) of

the PFMA requires the following (effective from 1 April 2008):

- Irregular expenditure that was incurred and identified during the current financial and which was condoned before year end and/or before finalisation of the financial statements must also be recorded appropriately in the irregular expenditure register. In such an instance, no further action is also required with the exception of updating the note to the financial statements.
- Irregular expenditure that was incurred and identified during the current financial year and for which condonement is being awaited at year end must be recorded in the irregular expenditure register. No further action is required with the exception of updating the note to the financial statements.
- Where irregular expenditure was incurred in the previous financial year and is only condoned in the following financial year, the register and the disclosure note to the financial statements must be updated with the amount condoned.
- Irregular expenditure that was incurred and identified during the current financial year and which was not condoned by the National Treasury or the relevant authority must be recorded appropriately in the irregular expenditure register. If liability for the irregular expenditure can be attributed to a person, a debt account must be created if such a person is liable in law. Immediate steps must thereafter be taken to recover the amount from the person concerned. If recovery is not possible, the accounting officer or accounting authority may write off the amount as debt impairment and disclose such in the relevant note to the financial statements. The irregular expenditure register must also be updated accordingly. If the irregular expenditure has not been condoned and no person is liable in law, the expenditure related thereto must remain against the relevant programme/expenditure item, be disclosed as such in the note to the financial statements and updated accordingly in the irregular expenditure register.

### 1.13 EFFECT OF NEW GRAP STANDARDS

The following GRAP standards have been approved but are not yet effective:

- GRAP 20: Related party disclosure;
- GRAP 18: Segment reporting;
- GRAP 25: Employee benefits;
- GRAP 104: Financial instruments
- GRAP 105: Transfer of functions between entities under common control;
- GRAP 106: Transfer of functions between entities not under common control;
- GRAP 107: Mergers

The effective date of the above standards is not yet determined. The adoption of these GRAP standards when they become effective is not expected to have a significant impact on the financial statements as the principles are similar to those already applied under the equivalent statements of SA GAAP.

### 1.14 CHANGES IN ESTIMATES

For the period under review the Commission changed the accounting estimates in respect of the depreciation for computer equipment, office equipment and furniture since the previous pattern of depreciation differs from the actual pattern economic benefits from depreciable assets. This resulted in a increase in depreciation for the year by R59 086.

The effect on future periods is increase in depreciation expenses and decrease in accumulated profits of R27 367.

## 5.8 NOTES TO THE ANNUAL FINANCIAL STATEMENTS

## 2. Inventories

	2011 R'000	2010 R'000
Consumable stores	106	147

## 3. Trade and other receivables from exchange transactions

	2011 R'000	2010 R'000
Receivable income (ex-employees debts)	171	175
Sundry debtors	(1)	384
Prepayments	725	69
Impairment	–	(41)
Discounting	(15)	(20)
Provision for bad debts	(155)	(164)
	725	403

## Fair value of trade and other receivables

	2011 R'000	2010 R'000
Trade and other receivables	740	403

The fair value of trade and other receivables is approximating the current values as interest is based on market related rates.

The commission assesses at each reporting date whether there is any indication that a financial asset may be impaired. A financial asset is considered to be impaired if objective evidence indicated that one or more events have had a negative effect on the estimated future cash flows of that asset.

The commission referred all the ex-employee debt to the State Attorney to consider recovery of the debt through legal processes. Should this process fail to recover the outstanding amounts, the debt will be impaired. The impairment relates to staff loans and advances not considered recoverable. The impairment can be reconciled as follows:

Trade and other receivables past due but not impaired  
Trade and other receivables which are less than 30 days past due are not considered to be impaired. The ageing of amounts past due but not impaired is as follows:

	2011 R'000	2010 R'000
1 month past due	1	1
2 months past due	1	–
3 months past due	153	369

Staff loans are in terms of a staff loan policy and are approved as per policy. All amounts are considered recoverable. Receivables not impaired are considered to be that of debtors with high credit quality and management has no reason to doubt recoverability.

## Trade and other receivables impaired

As of 31 March 2011, trade and other receivables of R41 (2010: R22) were impaired and provided for. The amount of the provision was R155 as of 31 March 2011 (2010: R41). The ageing of these loans is as follows:

	2011 R'000	2010 R'000
Past due for longer than one month but for less than one year	155	16
Past due for longer than one year	–	25

## Reconciliation of provision for impairment of receivables from exchange transactions

	2011 R'000	2010 R'000
Opening balance	41	22
Impairment added during the year	155	41
Amounts utilised during the year	(41)	(22)
	155	41

The maximum credit risk was calculated by deducting the allowance from the gross carrying amount. For the period under review, the amount exposed to maximum credit risk is for ex-employee debt of R179 199.49.

#### 4. Cash and cash equivalents

Cash and cash equivalents consist of:

	2011 R'000	2010 R'000
Cash on hand	49	41
Current account	3 266	1 852
Credit card account	22	–
Call account	3 834	1 566
	<b>7 171</b>	<b>3 459</b>

#### 5. Property, plant and equipment

	2011			2010		
	Cost R'000	Accumulated depreciation R'000	Carrying value R'000	Cost R'000	Accumulated depreciation R'000	Carrying value R'000
Furniture and fittings	3 666	(2 427)	1 239	3 522	(2 159)	1 363
Motor vehicles	4 270	(1 177)	3 093	3 432	(1 095)	2 337
Office equipment	3 354	(2 298)	1 056	3 287	(1 990)	1 297
Computer equipment	4 511	(2 803)	1 708	4 436	(2 317)	2 119
Leasehold improvements	855	(795)	60	1 122	(784)	338
Finance lease	1 620	(812)	808	1 020	(641)	379
Library materials	2 911	(1 150)	1 761	2 822	(814)	2 008
<b>Total</b>	<b>21 187</b>	<b>(11 462)</b>	<b>9 725</b>	<b>19 641</b>	<b>(9 800)</b>	<b>9 841</b>

Reconciliation of property, plant and equipment – 2011

	Opening balance R'000	Additions R'000	Disposals R'000	Transfers R'000	Depreciation R'000	Total R'000
Furniture and fittings	1 363	128	(11)	–	(241)	1 239
Motor vehicles	2 337	1 166	(157)	–	(253)	3 093
Office equipment	1 297	97	–	–	(338)	1 056
Computer equipment	2 119	167	(23)	–	(555)	1 708
Leasehold improvements	338	2	(30)	–	(250)	60
Finance lease	379	655	–	38	(264)	808
Library materials	2 008	85	–	–	(332)	1 761
	<b>9 841</b>	<b>2 300</b>	<b>(221)</b>	<b>38</b>	<b>(2 233)</b>	<b>9 725</b>

## Reconciliation of property, plant and equipment – 2010

	Opening balance R'000	Additions R'000	Disposals R'000	Depreciation R'000	Total R'000
Furniture and fittings	1 548	44	–	(229)	1 363
Motor vehicles	2 663	–	(84)	(242)	2 337
Office equipment	1 557	71	(4)	(327)	1 297
Computer equipment	2 234	372	(34)	(453)	2 119
Leasehold improvements	667	6	–	(335)	338
Finance lease	717	–	–	(338)	379
Library materials	2 223	118	(24)	(309)	2 008
	<b>11 609</b>	<b>611</b>	<b>(146)</b>	<b>(2 233)</b>	<b>9 841</b>

## Assets subject to finance lease (net carrying amount)

	2011 R'000	2010 R'000
Leasehold improvements	60	338

## 6. Intangible assets

	2011			2010		
	Cost R'000	Accumulated amortisation R'000	Carrying value R'000	Cost R'000	Accumulated amortisation R'000	Carrying value R'000
Computer software	984	(824)	160	976	(652)	324

## Reconciliation of intangible assets – 2011

	Opening balance R'000	Additions R'000	Amortisation R'000	Total R'000
Computer software	324	7	(171)	160

## Reconciliation of intangible assets – 2010

	Opening balance R'000	Additions R'000	Amortisation R'000	Total R'000
Computer software	511	28	(215)	324

## 7. Trade and other payables from exchange transactions

	2011 R'000	2010 R'000
Trade payables	7 944	1 489
Accrued expense	1 268	2 965
	<b>9 212</b>	<b>4 454</b>

## Fair value of trade and other payables

	2011 R'000	2010 R'000
Trade payables	9 212	4 454

Trade payables are assumed to approximate fair value as market related interest rates were used in calculating the financial liability.

The Commission considered discounting the purchases in order to determine the time value of money in terms of circular 9/2006 using the effective interest rate applicable during the period under review.

## Assumptions used

	2011 R'000	2010 R'000
Interest rate	6.55	6.55

The interest rate as at 31 March was used to discount the purchases.

## 8. Employee benefits due

	2011 R'000	2010 R'000
Leave accrual	659	622
13th cheque	1 322	844
Accrual for unpaid leave	71	–
	<b>2 052</b>	<b>1 466</b>

## 9. Finance lease obligation

	2011 R'000	2010 R'000
Minimum lease payments due		
– within one year	373	272
– in second to fifth year inclusive	359	215
	<b>732</b>	<b>487</b>
Less: future finance charges	(84)	(64)
Present value of minimum lease payments	648	423
Present value of minimum lease payments due		
– within one year	344	224
– in second to fifth year inclusive	304	199
	<b>648</b>	<b>423</b>
Non-current liabilities	304	199
Current liabilities	344	224
	<b>648</b>	<b>423</b>

The South African Human Rights Commission has, during the period under review, made a total contribution of R223 911.74 to finance leases as defined in IAS 17 and National Treasury RT3. These payments are irregular but condoned.

The average lease term was 36 months and the average effective borrowing rate was 7% (2010: 10%).

Interest rates are linked to prime at the contract date. All leases have fixed repayments and no arrangements have been entered into for contingent rent.

The entity's obligations under finance leases are secured by the lessor's charge over the leased assets. Refer note 5.

## Terms and conditions

- i) All the leases are for an agreed period, i.e. 12, 36, 60 months, with an option to renew;
- ii) The unit is installed (and installation fee paid) and then the contract will continue on a monthly basis until the SAHRC decides to terminate the contract with one month's written notice;
- iii) The contract will be renewed for a period of one year if the SAHRC does not give written notice of cancellation of the contract.

## 10. Operating lease commitments

	2011 R'000	2010 R'000
Deferred operating lease expenditure recognised on a straight line basis	(48)	(745)

Operating lease represents the rentals paid by the Commission for the office buildings for Head Office and the province.

	2011 R'000	2010 R'000
Operating lease	(8 359)	(7 820)

Terms and conditions

- i) All the leases are operating for an agreed period, i.e. 12, 36, 60 months, with an option to renew;
- ii) All operating leases excluding Telkom are subject to an escalation ranging between 7% and 10%.

At the reporting date the Commission has outstanding commitments under the operating leases, which fall due as follows:

	2011 R'000	2010 R'000
Due within one year	8 845	8 821
Due within two to five years	14 827	3 475
<b>Total</b>	<b>23 672</b>	<b>12 296</b>

## 11. Deferred revenue

Deferred Revenue relates to unspent amounts from conditional grant as follows:

Unspent conditional grants and receipts comprises of:

	2011 R'000	2010 R'000
Deferred revenue		
Atlantic Philanthropies	12	42
Australian Aid grant	177	177
UHCHR (UN) Donor fund	551	—
	<b>740</b>	<b>219</b>

See note 23 for reconciliation of grants from donor agencies.



## 12. Financial liabilities by category

The accounting policies for financial instruments have been applied to the line items below:

2011	Financial liabilities at amortised cost R'000	Total R'000
Trade and other payables from exchange transactions	8 027	8 027
Employee benefits due	3 252	3 252
Finance lease obligations	648	648
Unspent conditional grants and receipts	740	740
	<b>12 667</b>	<b>12 667</b>

2010	Financial liabilities at amortised cost R'000	Total R'000
Trade and other payables	4 454	4 454
Employee benefits due	1 466	1 466
Finance lease obligation	423	423
Unspent conditional grants and receipts	219	219
	<b>6 562</b>	<b>6 562</b>

## 13. Non-exchange revenue

	2011 R'000	2010 R'000
SA Government grant	74 368	69 536
Other income	87	996
	<b>74 455</b>	<b>70 532</b>

## 14. Exchange revenue

	2011 R'000	2010 R'000
Administrative fees	298	(317)
Interest revenue	259	300
Interest charged on outstanding debts	128	11
	<b>685</b>	<b>628</b>

## 15. Personnel expenditure

	2011 R'000	2010 R'000
Basic salaries	37 118	35 148
Performance bonuses	765	861
Pension fund contribution	3 768	3 506
Travel allowance	1 660	2 287
Medical aid contributions	2 030	1 816
Housing benefits and allowances	1 224	966
Non-pensionable allowance	2 432	1 786
Other short term benefits	1 311	481
	<b>50 308</b>	<b>46 851</b>

## 16. Finance costs

	2011 R'000	2010 R'000
Finance leases	–	102
Fair value adjustments: notional interest	84	85
Other interest paid	4	1
Interest on convertible instruments	–	20
	<b>88</b>	<b>208</b>

## 17. General expenses

	2011 R'000	2010 R'000
Auditors remuneration	880	1 198
Provision for doubtful debts	(9)	147
Cleaning	319	–
Head of parliamentary and monitoring	6	20
Consulting and professional fees	1 592	424
Lease and hire expenses	233	222
IT upgrades licences and maintenance	2	–
Impairments of debtors	(40)	40
Insurance	256	244
Internal audit fees	88	121
Lease rentals on operating lease	8 948	7 820
Motor vehicle expenses	304	388
Other administrative expenditure	353	120
Postage and courier	60	93
Printing and stationery	493	571
Recruitment and placement fees	321	567
Rental municipal services	2 155	1 759
Rental Telkom VPN	356	1 050
Repairs and maintenance	143	254
Security (guarding of municipal property)	563	645
Staff development	197	71
Staff relocation costs	99	–
Subscriptions and membership fees	362	449
3G subscriptions	(6)	36
Telephone and fax	1 206	1 215
Travel – local	85	23
	<b>18 966</b>	<b>17 477</b>

## 18. Operating expenditure

	2011 R'000	2010 R'000
Expense donor-funded projects	87	985
Translation and project cost	4 399	4 297
Strategic planning costs	141	161
Internal and external liaison	146	105
Plenary, bosberaad and meetings	210	129
	<b>4 983</b>	<b>5 677</b>

## 19. Cash generated from operations

	2011 R'000	2010 R'000
Deficit	(1 680)	(1 596)
Adjustments for:		
Depreciation and amortisation	2 404	2 448
Loss on sale of assets and liabilities	71	95
Interest income	(41)	(652)
Finance costs	88	208
Movements in operating lease assets and accruals	(697)	(78)
Provision for doubtful debts	155	147
Other non-cash items	38	–
Impairment of debtors	–	40
Write-off of uncleared accruals	–	458
Interest charged on outstanding debts	(128)	–
Changes in working capital:		
Inventories	41	168
Trade and other receivables from exchange transactions	(322)	278
Trade and other payables from exchange transactions	2 984	2 080
Deferred revenue	521	198
Employee benefits due	586	(568)
	<b>5 794</b>	<b>3 226</b>

## 20. Subsequent events

There have been no facts or circumstances of a material nature that have occurred between the accounting date and the date of this report.

## 21. Risk management

## Capital risk management

The Commission's objectives when managing capital are to safeguard the Commission's ability to continue as a going concern in order to provide returns for owner and benefits for other stakeholders and to maintain an optimal capital structure to reduce the cost of capital.

The capital structure of the Commission consists of debt, which includes the borrowings (excluding derivative financial liabilities) disclosed in notes 9, cash and cash equivalents disclosed in note 4, and equity as disclosed in the statement of financial position.

There are no externally imposed capital requirements. There have been no changes to what the entity manages as capital, the strategy for capital maintenance or externally imposed capital requirements from the previous year.

## Financial risk management

The entity's activities expose it to a variety of financial risks: market risk, credit risk and liquidity risk.

The entity's overall risk management programme focuses on the unpredictability of financial markets and seeks to minimise potential adverse effects on the entity's financial performance. The entity uses derivative financial instruments to hedge certain risk exposures. Risk management is carried out by a central treasury department (entity treasury) under policies approved by the accounting authority. Entity treasury identifies,

evaluates and hedges financial risks in close co-operation with the entity's operating units. The accounting authority provides written principles for overall risk management, as well as written policies covering specific areas, such as foreign exchange risk, interest rate risk, and credit risk, use of derivative financial instruments and non-derivative financial instruments, and investment of excess liquidity.

#### Liquidity risk

The Commission is exposed to liquidity risk as it is dependant on the grant received from the Department of Justice and Constitutional Development. The receipt of grant amounts is necessary for the Commission to be

able to make payments as and when required in terms of its financial liabilities.

The Commission minimises this risk by ensuring that enough cash reserves are available to cover its current liabilities through the analysis of the commitments against the cash available in our current and call accounts.

The table below analyses the entity's financial liabilities into relevant maturity groupings based on the remaining period at the statement of financial position to the contractual maturity date. The amounts disclosed in the table are the contractual undiscounted cash flows. Balances due within 12 months equal their carrying balances as the impact of discounting is not significant.

	Carrying amount R'000	Total contractual cash flows R'000	Not later than one year R'000	Between 2 and 5 years R'000	Over 5 years R'000
<b>At 31 March 2011</b>					
Deferred revenue	740	740	740	–	–
Trade and other payables	9 212	9 212	9 212	–	–
Employee benefit due	3 252	3 252	3 252	–	–
<b>At 31 March 2010</b>					
Deferred revenue	219	219	219	–	–
Trade and other payables	4 454	4 454	4 454	–	–
Finance lease obligations	423	487	272	215	–
Employee benefit due	2 052	2 052	2 052	–	–

#### Interest rate risk

The Commission's exposure to market risk (in the form of interest rate risk) arises as a result of the following:

- Possible interest on late payment by the Commission;
- Interest income linked to rates prescribed by the National Treasury;
- Interest on accounts held at banking institutions; and
- Discounting of financial instruments

The Commission is mainly exposed to interest rate fluctuations. The Commission's financial assets and liabilities are managed in such a way that the fluctuations in

variable rates do not have a material impact on the surplus/(deficit) as the Commission settles its outstanding obligations within 30 days and interest on outstanding debts is charged monthly using the applicable interest rates. Refer to the sensitivity analysis below to illustrate the possible effect of changes in the variable interest rate on the financial assets and liabilities.

The Commission's interest rate risk arises from long-term finance lease obligations and employee debt. Liabilities issued at variable rates expose the entity to cash flow interest rate risk.

Scenarios are run only for liabilities that represent the major interest-bearing positions. Based on the simulations performed, the impact on post-tax surplus of a

1.5% shift would be a maximum increase of R – (2010: R205) or decrease of R – (2010: R 205), respectively.

#### Credit risk

Credit risk consists mainly of cash deposits, cash equivalents and trade debtors. The Commission only deposits cash with major banks with high quality credit standing and limits exposure to any one counterparty.

Credit risk with respect to trade receivables relates to an ex-employee' debt and the outstanding amount owed by the Department of Justice and Constitutional Development.

The relationship with the ex-employees of the Commission is of such a nature that the Commission would raise a debt for employees who damaged the Commission's vehicle due to negligence, and also for all the employees who left the employment of the Commission before the expiry of the period as stated in the relocation

policy. A pro rata portion amount paid by the Commission in respect of the un-expired period is raised as debt.

#### Payment terms

All debtors are requested to settle their accounts within 30 days. Debts are also recovered in instalments at the request of a debtor.

The Commission does not have any significant credit risk exposure to any counterparty or group of parties having similar characteristics.

Financial assets exposed to credit risk at year end were as follows:

Financial instrument	2011 R'000	2010 R'000
Trade and other receivables from exchange transactions	725	403
Cash and cash equivalents	7 171	3 459

## 22. Members' emoluments

## Executive

2011	Basic salary R'000	Bonus and performance payments R'000	Expense allowances R'000	Pension contributions R'000	Other benefits: termination leave payout R'000	Total amount paid R'000
Accounting authority: Mr AK Ahmed – from August 2010	399	–	237	49	–	685
Deputy CEO: Adv N Mukwevho	556	–	287	62	–	905
Chief financial officer: D Molapo – Aug 2010 to Sep 2010	80	–	40	17	8	145
Chief financial officer: M Nhlungwana: Acting	159	–	–	–	–	159
Head of human resources: S Zulu	403	–	243	50	–	696
Head of research and documentation: Y Ramkisoan: Acting	177	–	–	–	–	177
Head of research and documentation: C Jacobs: Acting	105	–	–	–	–	105
Head of administration: A Price	430	40	246	51	–	767
Head of legal: D Franzman	424	33	208	50	–	715
Head of NACHRET: V Maloka	428	72	214	51	–	765
Head of information and communication: Z Ndela (April 2010 to May 2010)	65	–	125	8	17	215
Head of information and communication: R Khuvhutlu: Acting	59	–	–	–	–	59
Head of parliamentary and monitoring: J Cohen	426	34	167	52	–	679
Head of internal audit: P Makaneta	392	24	206	49	–	671
	<b>4 103</b>	<b>203</b>	<b>1 973</b>	<b>439</b>	<b>25</b>	<b>6 743</b>
2010						
Accounting officer (Dec 2009)	537	47	104	53	38	779
Acting CEO (from Jan 2010)	46	–	–	–	–	46
Deputy CEO	552	–	233	–	–	785
Head of finance: Acting	49	–	–	–	–	49
Head of finance	332	37	108	35	20	532
Head of administration and SCM	437	37	172	47	–	693
Head of human resources	439	–	177	47	–	663
Head of research and documentation	476	–	64	42	10	592
Head of legal	461	31	110	47	–	649
Head of training and education	498	31	90	48	–	667
Head of information and communication: Acting	171	–	–	–	–	171
Head of information and communication	142	–	61	16	–	219
Head of parliamentary and monitoring	471	69	128	47	–	715
Head of internal audit: Acting	168	–	–	–	–	168
	<b>4 779</b>	<b>252</b>	<b>1 247</b>	<b>382</b>	<b>68</b>	<b>6 728</b>

Freedom

## Non-executive

	Basic salary R'000	Bonus and performance payments R'000	Expense allowances R'000	Pension contributions R'000	Other benefits R'000	Total amount paid R'000
<b>2011</b>						
Chairperson: Adv L Mushwana	578	–	–	331	68	977
Deputy Chairperson: P Govender	491	–	40	235	58	824
Commissioner: L Mokate	449	–	37	234	53	773
Commissioner: B J Malatji	449	–	37	207	53	746
Commissioner: S Baai	103	–	–	54	14	171
Part-time Commissioner: J Love	109	–	–	12	–	121
Part-time Commissioner: D Titus	121	–	–	8	–	129
	<b>2 300</b>	<b>–</b>	<b>114</b>	<b>1 081</b>	<b>246</b>	<b>3 741</b>
<b>2010</b>						
Chairperson (from 15 Oct 2009)	283	–	68	28	–	379
Chairperson (30 Sept 2009)	373	33	93	30	45	574
Deputy chairperson (Sept 2009)	319	28	78	26	10	461
Deputy chairperson (Jan 2009 and Deputy from Oct 2009)	638	38	126	–	–	802
Commissioner (Sept 2009)	189	26	85	–	5	305
Commissioner: T Manthata (Sept 2009)	299	26	57	24	29	435
Part-time commissioner (until Sep 2009)	158	–	–	–	–	158
Part-time commissioner (Jan 2010)	38	–	–	–	–	38
Part-time commissioner (Jan 2010)	37	–	–	–	–	37
Commissioner (Jan 2010)	284	9	–	22	–	315
Commissioner (15 Nov 2009)	187	–	37	–	–	224
	<b>2 805</b>	<b>160</b>	<b>544</b>	<b>130</b>	<b>89</b>	<b>3 728</b>

## 23. Projects

Name of project balance 2011	Opening Balance R'000	Grants received during the year R'000	Amount utilised to the donor R'000	Amount returned R'000	Closing balance R'000
UNCHR (UN)	–	608	(57)	–	551
Atlantic Philanthropies	42	–	(30)	–	12
Australian Aid Grant	177	–	–	–	177
<b>Total projects</b>	<b>219</b>	<b>608</b>	<b>(87)</b>	<b>–</b>	<b>740</b>
<b>Name of project balance 2010</b>					
Roal Wallenberg Institute	–	560	(532)	(28)	–
Atlantic Philanthropies	–	497	(455)	–	42
Australian Aid Grant	–	177	–	–	177
OHCHR (Roll Back Xenophobia)	21	–	–	(21)	–
<b>Total projects</b>	<b>21</b>	<b>1 234</b>	<b>(987)</b>	<b>(49)</b>	<b>219</b>

## 24. Irregular, fruitless and wasteful expenditure

	2011 R'000	2010 R'000
Opening balance	352	25
Lease amount condoned/reversed	(352)	–
Finance lease payment	224	327
Irregular payment to supplier	66	–
<b>Closing balance</b>	<b>290</b>	<b>352</b>

## 25. Contingencies

Contingent liabilities of joint ventures

The nature of cases and the estimates of their financial effect are as follows:

Categories of contingent liability 2011	Nature of contingent liability	Estimated amount R'000
Guarantee issued to the bank	Guarantee issued to the bank to serve as a deposit to the rental deposit for office space for Head Office and Eastern Cape office	543
Claims against SAHRC (IDASA)	Work performed during CSAP project run by SAHRC	2 400
Claim against SAHRC (European Union)	Unaccounted expenditure	3 333
North Gauteng High Court	Litigation matter (Roberts)	500
Department of Public Works	Invoiced dating back to 2005/06 financial year in dispute	832
Guarantee issued to the bank on new building	Guarantee issued to the bank to serve as a deposit to the rental deposit for office space for new Head Office	682
<b>Total</b>		<b>8 290</b>

For the contingent liability raised above, as at year-end the Commission was uncertain as to the timing of any out-flow and the possibility of any reimbursement.



## 26. Reconciliation between budget and statement of financial performance

Reconciliation of budget surplus/deficit with the surplus/deficit in the statement of financial performance:

	2011 R'000	2010 R'000
Net surplus/(deficit) per the statement of financial performance	(1 680)	(1 596)
<b>Adjusted for:</b>		
Donor funds liability	(740)	(219)
<b>Non-cash items:</b>		
Depreciation	2 402	2 448
Finance cost	88	208
Profit/(loss) on disposal of assets	139	95
Impairment of doubtful debts	–	147
Impairment of debtors	–	40
Provision of doubtful debts	155	–
Interest on discounting of trade receivables	(134)	(11)
Interest on discounting of trade payables	9	–
Discounting of trade payables	23	–
<b>Net surplus per approved budget</b>	<b>262</b>	<b>1 112</b>

## Budget statement

The Commission's budget is prepared on a cash basis as per policy on the budget management. This budget model is based on zero budgeting.

The material differences in this budget against the actual is due to the restructuring in the Commission in line with the revised vision and mission which necessitated the re-alignment of the financial resources of the organisation.

The receipts have been committed to purchases orders issued but no invoice has been received. These commitments will be realised within 4 months after the financial statements as the prescripts of the National Treasury.

## 27. Deviation from supply chain management regulations

Paragraph 12(1)(d)(i) of Government gazette No. 27636 issued on 30 May 2005 states that a supply chain management policy must provide for the procurement of goods and services by way of a competitive bidding process.

Paragraph 36 of the same gazette states that the accounting officer may dispense with the official procurement process in certain circumstances, provided that he records the reasons for any deviations and reports them to the next meeting of the accounting authority and includes a note to the annual financial statements.

Buses and gym equipment were procured during the financial year under review and the process followed in procuring those goods deviated from the provisions of paragraph 12(1)(d)(i) as stated above. The reasons for these deviations were documented and reported to the accounting authority who considered them and subsequently approved the deviation from the normal supply chain management regulations.

## 5.9 ANNEXURE A TO THE ANNUAL FINANCIAL STATEMENTS

## Commitments schedule as at 31 March 2011

Commitments schedule for the orders issued to the suppliers as at 31 March

Acer Africa (Pty) Ltd	10
Bormide Technologies	20
Colobrash (Pty) Ltd	38
Conflict and Change Unit T/A MPT	120
Emakhosini Publishing	13
Exclusive Chauffering CC	24
Garden Court Milpark	27
Infocure	13
International Coordination Committee	37
Jabatha	86
Juta and Co Ltd	38
Kwela Fleet Management	14
Megallan Consulting	17
Maynard Office Technologies	18
Minolta (Pty) Ltd	43
Miyelani Transport and Tourism	16
Oxy Trading	117
Panasonic Business System	51
Protea Hotel Midrand	15
Siphakelwe Trading	24
Solly Siemma	17
SAA	38
Sunnyside Park Hotel	54
Supercare Cleaning Services	21
Tendai Catering Services	13
Wildfire Trading CC	10
	<b>894</b>

## PART 6

### ANNEXURES

#### ANNEXURE A: LEGAL STATISTICS

Primary Table: Total number of complaints handled for the period 1 April 2010 to 31 March 2011

		H/O	WC	EC	GP	NW	KZN	MP	NC	LP	FS	Total	
Not accepted	Rejected	0	135	29	162	38	123	52	14	24	64	641	
	Referred	0	229	167	273	19	167	51	54	195	73	1 228	
	Subtotal	0	364	196	435	57	290	103	68	219	137	1 869	
Pending	Subtotal	0	295	60	0	0	167	0	0	7	14	543	
Accepted	Current	121	940	237	332	142	47	101	95	134	179	2 328	
	Finalised	Resolved	12	26	6	19	30	38	13	39	9	13	205
		Closed	77	126	1	140	51	16	29	37	184	20	681
		Subtotal	89	152	7	159	81	54	42	76	193	33	886
Subtotal	210	1 092	244	491	223	101	143	171	327	212	3 214		
Grand total		210	1 751	500	926	280	558	246	239	553	363	5 626	

#### TERMINOLOGY

- Current/open complaints:** Refers to complaints that have been accepted but not yet closed or resolved
- Closed complaints:** Refers to complaints that have been accepted and processed but are closed because the complainant does not wish to proceed with the complaint
- Resolved complaints:** Refers to complaints that have been accepted and processed and that have been brought to a conclusion through the active intervention of SAHRC. This intervention may take various forms such as mediation, final legal opinion and/or any other form of redress and/or resolution in terms of the complaints procedure of the SAHRC
- Finalised complaints:** Refers to the sum of the “closed” and “resolved” complaints
- Accepted complaints:** Refers to “Current”, “Closed” and “Resolved” complaints
- Referred complaints:** Refers to complaints that have been referred to an agency or institution that may be better suited to deal with the complaint in question
- Rejected complaints:** Refers to complaints that do not meet the requirements to be regarded as a “human rights violation” that can be dealt with by SAHRC or an associated agency or institution
- Pending complaints:** Refers to complaints that on the face of it will be accepted as a “human rights violation” but requires more information before it can be fully accepted. Pending complaints may become “accepted complaints”, or are referred or rejected.

Primary Table: Head Office for the period 1 April 2010 to 31 March 2011

		>12 months	9–12 months	6–9 months	3–6 months	0–3 months	Total	
Not accepted	Rejected	0	0	0	0	0	0	
	Referred	0	0	0	0	0	0	
	Subtotal	0	0	0	0	0	0	
Pending	Subtotal	0	0	0	0	0	0	
Accepted	Current	102	8	8	0	3	121	
	Finalised	Resolved	12	0	0	0	0	12
		Closed	75	0	1	0	1	77
		Subtotal	87	0	1	0	1	89
Subtotal	189	8	9	0	4	210		
<b>Grand total</b>		<b>189</b>	<b>8</b>	<b>9</b>	<b>0</b>	<b>4</b>	<b>210</b>	

Primary Table: Western Cape for the period 1 April 2010 to 31 March 2011

		>12 months	9–12 months	6–9 months	3–6 months	0–3 months	Total	
Not accepted	Rejected	57	27	42	6	3	135	
	Referred	110	38	40	33	8	229	
	Subtotal	167	65	82	39	11	364	
Pending	Subtotal	204	66	10	5	10	295	
Accepted	Current	472	82	146	150	90	940	
	Finalised	Resolved	23	3	0	0	0	26
		Closed	101	18	6	1	0	126
		Subtotal	124	21	6	1	0	152
Subtotal	596	103	152	151	90	1 092		
<b>Grand total</b>		<b>967</b>	<b>234</b>	<b>244</b>	<b>195</b>	<b>111</b>	<b>1 751</b>	

Primary Table: Northern Cape for the period 1 April 2010 to 31 March 2011

		>12 months	9–12 months	6–9 months	3–6 months	0–3 months	Total	
Not accepted	Rejected	10	1	3	0	0	14	
	Referred	19	13	1	3	18	54	
	Subtotal	29	14	4	3	18	68	
Pending	Subtotal	0	0	0	0	0	0	
Accepted	Current	48	7	16	14	10	95	
	Finalised	Resolved	31	1	4	1	2	39
		Closed	24	3	2	4	4	37
		Subtotal	55	4	6	5	6	76
Subtotal	103	11	22	19	16	171		
<b>Grand total</b>		<b>132</b>	<b>25</b>	<b>26</b>	<b>22</b>	<b>34</b>	<b>239</b>	

Primary Table: Eastern Cape for the period the 1 April 2010 to 31 March 2011

		>12 months	9–12 months	6–9 months	3–6 months	0–3 months	Total	
Not accepted	Rejected	0	6	6	6	11	29	
	Referred	0	36	32	42	57	167	
	Subtotal	0	42	38	48	68	196	
Pending	Subtotal	0	7	19	20	14	60	
Accepted	Current	19	52	78	42	46	237	
	Finalised	Resolved	1	2	3	0	0	6
		Closed	0	0	1	0	0	1
		Subtotal	1	2	4	0	0	7
Subtotal	20	54	82	42	46	244		
<b>Grand total</b>		<b>20</b>	<b>103</b>	<b>139</b>	<b>110</b>	<b>128</b>	<b>500</b>	

Primary Table: Limpopo for the period 1 April 2010 to 31 March 2011

		>12 months	9–12 months	6–9 months	3–6 months	0–3 months	Total	
Not accepted	Rejected	7	5	4	8	0	24	
	Referred	174	4	1	16	0	195	
	Subtotal	181	9	5	24	0	219	
Pending	Subtotal	0	0	4	2	1	7	
Accepted	Current	10	30	42	43	9	134	
	Finalised	Resolved	5	1	1	1	1	9
		Closed	183	0	0	1	0	184
		Subtotal	188	1	1	2	1	193
Subtotal	198	31	43	45	10	327		
<b>Grand total</b>		<b>379</b>	<b>40</b>	<b>52</b>	<b>71</b>	<b>11</b>	<b>553</b>	

Primary Table: KwaZulu-Natal for the period 1 April 2010 to 31 March 2011

		>12 months	9–12 months	6–9 months	3–6 months	0–3 months	Total	
Not accepted	Rejected	36	25	27	19	16	123	
	Referred	33	37	26	24	47	167	
	Subtotal	69	62	53	43	63	290	
Pending	Subtotal	29	27	42	25	44	167	
Accepted	Current	22	3	6	6	10	47	
	Finalised	Resolved	24	7	3	4	0	38
		Closed	14	2	0	0	0	16
		Subtotal	38	9	3	4	0	54
Subtotal	60	12	9	10	10	101		
<b>Grand total</b>		<b>158</b>	<b>101</b>	<b>104</b>	<b>78</b>	<b>117</b>	<b>558</b>	

Primary Table: Gauteng Office for the period 1 April 2010 to 31 March 2011

		>12 months	9–12 months	6–9 months	3–6 months	0–3 months	Total	
Not accepted	Rejected	0	4	19	121	18	162	
	Referred	0	92	65	35	81	273	
	Subtotal	0	96	84	156	99	435	
Pending	Subtotal	0	0	0	0	0	0	
Accepted	Current	180	94	20	33	5	332	
	Finalised	Resolved	0	1	3	7	8	19
		Closed	0	24	78	11	27	140
		Subtotal	0	25	81	18	35	159
Subtotal	180	119	101	51	40	491		
<b>Grand total</b>		<b>180</b>	<b>215</b>	<b>185</b>	<b>207</b>	<b>139</b>	<b>926</b>	

Primary Table: Mpumalanga for the period 1 April 2010 to 31 March 2011

		>12 months	9–12 months	6–9 months	3–6 months	0–3 months	Total	
Not accepted	Rejected	0	11	12	12	17	52	
	Referred	7	10	14	13	7	51	
	Subtotal	7	21	26	25	24	103	
Pending	Subtotal	0	0	0	0	0	0	
Accepted	Current	54	20	9	12	6	101	
	Finalised	Resolved	2	1	8	0	2	13
		Closed	17	4	7	0	1	29
		Subtotal	19	5	15	0	3	42
Subtotal	73	25	24	12	9	143		
<b>Grand total</b>		<b>80</b>	<b>46</b>	<b>50</b>	<b>37</b>	<b>33</b>	<b>246</b>	

Primary Table: North West for the period 1 April 2010 to 31 March 2011

		>12 months	9–12 months	6–9 months	3–6 months	0–3 months	Total	
Not accepted	Rejected	4	5	10	8	11	38	
	Referred	0	2	6	7	4	19	
	Subtotal	4	7	16	15	15	57	
Pending	Subtotal	0	0	0	0	0	0	
Accepted	Current	37	12	27	28	38	142	
	Finalised	Resolved	12	9	4	1	4	30
		Closed	18	9	13	7	4	51
		Subtotal	30	18	17	8	8	81
Subtotal	67	30	44	36	46	223		
<b>Grand total</b>		<b>71</b>	<b>37</b>	<b>60</b>	<b>51</b>	<b>61</b>	<b>280</b>	

Primary Table: Free State for the period 1 April 2010 to 31 March 2011

		>12 months	9–12 months	6–9 months	3–6 months	0–3 months	Total	
Not accepted	Rejected	13	8	39	4	0	64	
	Referred	1	7	45	20	0	73	
	Subtotal	14	15	84	24	0	137	
Pending	Subtotal	0	2	9	3	0	14	
Accepted	Current	18	56	49	56	0	179	
	Finalised	Resolved	0	5	8	0	0	13
		Closed	15	0	4	1	0	20
		Subtotal	15	5	12	1	0	33
Subtotal	33	61	61	57	0	212		
<b>Grand total</b>		<b>47</b>	<b>78</b>	<b>154</b>	<b>84</b>	<b>0</b>	<b>363</b>	



## ANNEXURE B: PROMOTION OF ACCESS TO INFORMATION

Section 184 of the Constitution, amplified by the Human Rights Commission Act 54 of 1994, sets out the broad constitutional mandate of the Commission. The Promotion of Access to Information Act 2 of 2000 (PAIA) confers additional statutory obligations on the Commission relating to the right to access information. This mandate can broadly be said to encompass promotion and education on PAIA, monitoring of compliance with PAIA and the protection of access to information rights.

#### Strategic objectives and targets

The PAIA strategic objective seeks to promote, monitor and accelerate compliance with PAIA in line with the Commission's mandate. Each component of the 'promotion, monitoring and support' objective is realised through broad interrelated targets, measured either statistically or within specific delivery timeframes. The PAIA targets include:

- The management of interventions directed at monitoring compliance with Sections 14, 32 and 51 of PAIA;
- Training, awareness raising and media interventions;
- Law reform interventions, including research and monitoring of legislation and litigation;
- PAIA research and publications;
- Support and legal advice to multiple levels of public bodies, individuals, communities and the private sector;
- The hosting of the National Information Officers Forum;
- Submission of the PAIA report to Parliament; and
- The Commission's own institutional compliance obligations.

The promoting/educating, monitoring and protecting fields are detailed in Sections 10, 14, 32, 51 and 83 of the PAIA legislation. Sections 14, 32 and 51 largely inform the formal monitoring function of the Commission by placing an injunction on the private and public sector to submit reports and manuals to the Commission. In this instance, the Commission's mandatory function is expanded to include compliance monitoring and custodial/repository functions of the reports and manuals submitted to it.

The awareness, training and education fields are contained in the injunction in PAIA that the Commission undertake interventions to train and promote public officials, and communities nationally. The training and awareness interventions undertaken by the Commission in this regard are detailed below.

Section 83 requires the Commission to provide support to public bodies to enhance implementation of PAIA in the sector. To this end, the Commission employs a range of interventions illustrating the type of support it provides. Compliance auditing of public bodies has been instrumental in testing levels of implementation, supplementing awareness interventions, monitoring and providing

focused support to the sector. A summary of audit findings is included in the report. The summary highlights common trends and barriers to implementation. These findings form the basis for the recommendations issued to public bodies that have been audited.

Together with ongoing monitoring of new legislation, the Commission is actively engaged in scrutinising existing freedom of information models and global trends in freedom of information to advance law reform. The Commission's submissions to the Justice Portfolio Committee of Parliament and its annual recommendation to the Department of Justice and Constitutional Development for reform are detailed later in this report.

Protection of fundamental access rights are engaged through the assistance provided by the Commission to ordinary individuals, communities, civil society organisations and Deputy Information Officers (DIOs) in both the private and public sectors. Assistance provided to the latter two groups usually takes the form of advice on compliance matters, interpretation and application of PAIA in relation to existing legislation and on PAIA in itself.

The range of the Commission's work with regard to PAIA, although separated into key outputs for strategic monitoring and evaluation purposes, are closely inter-related. The sub-Programme ensures that these inter-related interventions are also integrated into the ongoing work of the Commission. To this end the programme has made a number of interventions with visiting international delegations, study tours, public hearings convened by the Commission and research and development projects of the Commission. The sub-Programme also ensures that the Commission's own organisational compliance with PAIA is maintained. These interventions are detailed later in the report.

#### *Advocacy and awareness interventions*

The Commission's critical promotion and awareness raising outputs have been successfully achieved insofar as public sector compliance is concerned. Community interventions and private sector interventions have, however, not been adequately undertaken, due to severe resource constraints. The public sector promotion and awareness interventions have largely taken the form

of training sessions for Deputy Information Officers, (DIOs) seminars, and the hosting of national and provincial indabas.

During the financial year 2010/11 the Commission facilitated 31 workshops across the country. In addition to the workshops, two Provincial Information Officers' Forums (PIOFs) were held, and the National Information Officers Forum. The Commission's training sessions reached 930 DIOs, and a further 200 through the national and provincial forums. The core focus of all interventions held was to heighten awareness on PAIA and enhance compliance by public bodies with PAIA requirements.

Training sessions held during 2010/2011 were provided to both first time and repeat requesters. Institutions that were trained for the first time include, among others: the Department of Government Communications and Information Systems, the National Archives, Midvaal Municipality and City Power. First-time training was also provided to Ward Committee Members, Journalists, Social Workers' Forums, Health Professionals and Workers' Unions.

The variation in groups reached is of significant importance to the Commission as it indicates an increase in awareness of the right to information in various sectors. Providing training to Ward Committee Members offered an opportunity to entrench principles of accountability and transparency at a grassroots level, and further empowered communities to obtain skills and knowledge to facilitate informed participation and scrutiny of the state by the public. Furthermore, the sharing of information with journalists and media heightened awareness and secured increased awareness at a community level. Extending the reach beyond DIOs further allowed the Commission to infiltrate the labour sector as a means of empowering workers with information on rights accorded to them by the Constitution of the Republic of South Africa. Of critical significance to the Commission insofar as the labour sector is concerned, was its intervention with the National Departments of Labour and of Social Development. A presentation at the Department's Executive Committee meeting and compliance audit has enabled the Commission to in-

fluence the department's compliance with PAIA and to influence the development of policy that enhances the principles of accountability and transparency entrenched both in the Constitution and the Access to Information legislation.

Repeat requesters included: the South African Social Security Agency (SASSA), the Gauteng Department of Education, the Frances Baard Municipality and the National Department of Social Development. The repeat requesters have, since their interaction with the Commission, taken strides to enhance their institutions' compliance with PAIA. SASSA has adopted a phased approach of providing training to their Gauteng regional offices and has to date, in partnership with the Commission, provided training to more than six regional offices.

The Gauteng Department of Education has established a PAIA committee to respond to PAIA requests, developed a manual in terms of Section 14, complied with Section 32 and further developed internal promotional material for distribution to its client base. Furthermore, training for this department has been provided to their district offices, members of the PAIA committee and management of the department.

The Frances Baard Municipality has, since working with the Commission, received an award at the Golden Key Award ceremony held by the Open Democracy Advice Centre (ODAC), in partnership with the Commission, for the most improved municipality. Training has been extended to implementers, management and frontline staff. The Municipality has secured compliance and continues to make efforts to enhance its implementation of PAIA. The results demonstrated above show that training has to be sustained and that interventions aimed at awareness-raising amongst senior management of public bodies is key to ensuring that public bodies are able to respond adequately to their PAIA obligations.

The Commission's successes in promoting PAIA have been singularly dependant on the fact that pub-

lic bodies bear the costs associated with training and through collaboration with stakeholders like ODAC.

#### Key training needs

The most commonly recurring training areas of focus are similar within each of the spheres of government. These include the application of confidentiality provisions, institutional design, and compliance and classification of public bodies.

Most practitioners continue to experience difficulty interpreting the confidentiality provisions to less obvious records, including certain types of minutes. Detailed application based training is therefore necessary but difficult to provide, since small request numbers per department do not mitigate costs of two- to three-day training sessions.

#### Material development

The Commission has, in response to recurring areas of special focus needs, developed a toolkit to facilitate learning and application for officials. This includes compliance templates, self-audit questionnaires, presentations on the development of Section 14 manuals and key PAIA provisions, and hard copies of a manual for frontline officials.

One of the objectives of promotion is the reduction of dependency on the Commission for internal training and PAIA awareness. To this end, all material which is developed is widely disseminated to the PAIA database of practitioners. In instances where organisation specific training is requested, organisation-specific training tools are developed and shared.

#### Requests for assistance

The Commission, in terms of Section 83(3)(c) and (d) of PAIA, provided assistance and support to ordinary persons, public officials and private bodies during the financial year. The table below provides a snapshot of the trends, volumes and manner through which requests reach the Commission.

Table One: Requester Trends

Category of requesters	Manner in which request is made	Number per category (Total of 275 requesters assisted)	Nature of request	Trends
Deputy information officers	Telephone and e-mail	91	<ul style="list-style-type: none"> <li>• Compliance</li> <li>• Application and interpretation of the provisions</li> <li>• Opinions on matters</li> <li>• Regulations</li> <li>• Assistance with material development</li> </ul>	<p>An increase in requests from DIOs indicates an increase in the number of requests for information lodged in terms of PAIA.</p> <p>Requests range from simple requests for regulations to complex matters on interpretation and application of PAIA provisions.</p> <p>Requests for assistance with compliance requirements have also increased. Public bodies are therefore demonstrating an increasing commitment to improving compliance and implementation.</p> <p>Compliance requests included assistance with development of policies to implement PAIA within organisations, and to modify existing policies to be in line with PAIA objectives.</p> <p>A small percentage of requests have been for assistance with material development and indicates commitment by some departments to improving implementation and awareness of PAIA within the organisation.</p> <p>Common to the requests forwarded by DIOs is the classification of public bodies and PAIA compliance processes applicable to them.</p> <p>Other common trends relate to the release of tender-related documents, internal departmental reports and investigative findings.</p>
Private sector actors	Telephone and e-mail	96	<ul style="list-style-type: none"> <li>• Compliance with Section 51 Regulations</li> </ul>	<p>Requests from the private sector are predominantly based on assistance with compliance.</p> <p>The moratorium exempting specific private bodies from compiling Section 51 manuals accounts for more than 45 percent of requests from the private sector.</p>
Members of the public	Telephone and walk-in consultation	88 general consultations	<ul style="list-style-type: none"> <li>• Assistance with lodging requests</li> <li>• Complaints on institutions denying access</li> </ul>	<p>An increasing number of requesters are now using PAIA to request information from the private sector; indicating increased awareness and reliance on PAIA.</p> <p>Request to both private and public sectors include requests to private hospitals, tracing of biological parents, housing lists, ballistics reports, subsistence and expenditure reports for municipal officials, body corporate matters, pensions, enquiries on job interviews and requests to NGOs.</p>

## Compliance with Section 14: Information Manual

Table Two: National Departments

	Name of Department	Website	S14 Manual on website	Accessibility	Version/last updated
1	Agriculture, Forestry and Fisheries	NDA manual on website	No (NDA has manual)	Fairly difficult	Manual being revised
2	Arts and Culture	Yes	Yes	Poor	2009
3	Basic Education	Yes	Yes	Fairly difficult	10/07/06
4	Communications	Yes	No	N/A	N/A
5	Cooperative Governance	Yes	Yes	Fairly difficult	11/27/06
6	Correctional Services	Yes	Yes	Good	07/2006
7	Defence	Yes	Yes. Update in progress	Fairly difficult	Unclear
8	Economic Development	Yes	No	N/A	N/A
9	Energy	Yes	No	N/A	N/A
10	Environmental Affairs	Yes	Yes. Update in progress	Difficult	2010
11	Government Communication and Information System (GCIS)	Yes	Yes	Fairly difficult	04/11
12	Health	Yes	No	N/A	N/A
13	Higher Education and Training	Yes	No	N/A	N/A
14	Home Affairs	Website inaccessible	N/A	N/A	N/A
15	Human Settlements	Yes	Yes	Difficult	2006
16	Independent Complaints Directorate	Yes	No	N/A	N/A
17	International Relations and Cooperation	Yes	No	N/A	N/A
18	Justice and Constitutional Development	Yes	Yes	N/A	2010
19	Labour	Yes	No. Manual development in progress	N/A	N/A
20	Mineral Resources	Yes	No	N/A	N/A
21	National Intelligence Agency	Website inaccessible	NA	N/A	N/A
22	National Treasury	Yes	No	N/A	N/A
23	Public Administration Leadership and Management Academy	Yes	No	N/A	N/A
24	Public Enterprises	Yes	Yes	Fairly difficult	Posted 26/11/10. Developed 2008
25	Public Service and Administration	Yes	Yes	Fairly difficult	Unclear
26	Public Service Commission	Yes	Yes	Good	2010
27	Public Works	Yes	Yes	Fairly difficult	Unclear
28	Rural Development and Land Reform	Yes	No	N/A	N/A
29	Science and Technology	Yes	No	N/A	N/A
30	Social Development	Yes	Yes	Fairly difficult	2009
31	SA National Academy of Intelligence	Yes	No	N/A	N/A
32	SA Police Service	Yes	Yes	Fairly difficult	Unclear
33	SA Revenue Service	Yes	Yes	Fairly difficult	15/10/10

	Name of Department	Website	S14 Manual on website	Accessibility	Version/last updated
34	Sport and Recreation South Africa	Yes	Yes	Fairly difficult	2010
35	Statistics South Africa	Yes	Yes	Good	N/A
36	Tourism	Website inaccessible	N/A	N/A	N/A
37	Trade and Industry	Yes	No	N/A	N/A
38	Traditional Affairs	Yes	Yes	N/A	N/A
39	Transport	Yes	No	N/A	N/A
40	Water Affairs	Yes	No	N/A	N/A
41	Women, Children and People with Disabilities	Yes	No	N/A	N/A
42	The Presidency	Yes	Yes	Good	2010
<b>Total 42 (20 compliant)</b>					

### Compliance at national level

A total of 20 national departments have complied with the provisions of Section 14. Amongst these are departments which have demonstrated consistent compliance with PAIA, such as SARS, DOJ&CD, STATSSA and the South African Police Services. Departments such as Human Settlements, Cooperative Governance and Traditional Affairs, Correctional Services, Public Enterprises and Basic Education have manuals in place, but these have not been updated since 2006.

Departments such as Social Development have worked closely with the Commission to enhance implementation and compliance with PAIA. In this regard, the department's Draft Human Rights Framework document, intended to inform the work of the department, was the result of close collaboration between the Commission and the department's PAIA

and Human Rights units. Similarly, the Department of Labour, which had previously not complied with PAIA, is now working towards improved compliance with the legislation. Both the Department of Defence and the Department of Labour are in the final stages of developing their manuals.

Other departments have, however, never complied with Section 14 at all. Non-compliance by these departments is also mirrored in the number of PAIA requests which are refused by them. The Section 32 reports and non-compliance with Section 14 provide a general perception of poor overall compliance by these national departments. These include the Departments of Mineral Resources, International Relations and Cooperation and Transport. The latter was audited during 2008 and has clearly not yet responded to the audit recommendations issued to it by the Commission.

Table Three: Compliance at Provincial Level

Province	Name of Department	Website	S14 Manual on website	Accessibility	Version/last updated
<b>Eastern Cape</b>					
1	Office of the Premier	Yes	Yes	Simple	July 2009
2	Agriculture	Yes	No	N/A	N/A
3	Economic Development	Yes	No	N/A	N/A
4	Education	Yes	No	N/A	N/A
5	Health	Website inaccessible	N/A	N/A	N/A
6	Human Settlements	Yes	No	N/A	N/A
7	Local Government and Housing	Yes	No	N/A	N/A
8	Treasury	Yes	No	N/A	N/A
9	Public Works	Yes	No	N/A	N/A
10	Transport	Yes	No	N/A	N/A
11	Safety and Liaison	Yes	No	N/A	N/A
12	Social Development	Yes	No	N/A	N/A
13	Sports and Recreation	Inaccessible	No	N/A	N/A
<b>Total 13 (1 compliant)</b>					
Free State. Free State Province has a general home page where all manuals of departments can be accessed.					
1	Premier	Yes	Yes.	Simple	2011
2	Agriculture	Yes	Yes	Simple	2011
3	Education	Yes	Yes	Simple	2011
4	Health	Yes	Yes	Simple	2011
5	Cooperative Governance and Traditional Affairs	Yes	Yes	Simple	2011
6	Social Development	Yes	Yes	Simple	2011
7	Sports, Arts and Culture	Yes	Yes	Simple	2011
8	Public Roads and Transport	Yes	Yes	Simple	2011
9	Economic Development and Environmental Affairs	Yes	Yes	Simple	2011
<b>Total 9 (9 compliant)</b>					
<b>Gauteng</b>					
1	Premier	Yes	Not on website. Submitted Feb 2011		2011
2	Roads, Transport and Infrastructure	Under construction	No	N/A	N/A
3	Housing and Local Government	Yes	No	N/A	N/A
4	Education	Yes	Yes	Accessible through links. Not simple	2010
5	Health and Social Development	Yes	No	N/A	N/A
6	Sports, Arts and Culture	Yes	No	N/A	N/A
7	Economic Development	Yes	No	N/A	N/A
8	Community Safety	Inaccessible	Yes	N/A	2010, copy submitted to the Commission

Province	Name of Department	Website	S14 Manual on website	Accessibility	Version/last updated
<b>Gauteng cont.</b>					
9	Finance	Inaccessible	N/A	N/A	N/A
10	Agriculture, Conservation and Environment	Website inaccessible	N/A	N/A	N/A
<b>Total 10 (3 compliant)</b>					
<b>KwaZulu-Natal</b>					
1	Premier	Yes	Yes	Simple	2010 version
2	Arts and Culture	Yes	Yes	Simple	Not specified
3	Agriculture, Environmental Affairs and Rural Development	Yes	Yes	Simple	2010 version
4	Economic Development	Yes	No	N/A	N/A
5	Education	Yes	Yes, but inaccessible	Extremely difficult. Link does not open	N/A
6	Health	Yes	No	N/A	N/A
7	Human Settlements	Yes	No	N/A	N/A
8	Legislature	Yes	No	N/A	N/A
9	Treasury	Yes	No	N/A	N/A
10	Community Safety	Yes	Yes	No	N/A
11	Social Development	Yes	Yes	Simple	Not specified
12	Sports and Recreation	Yes	No	N/A	N/A
13	Cooperative Governance and Traditional Affairs	Yes	Yes	Simple	2011
14	Transport	Yes	No	N/A	N/A
15	Public Works	Yes	No	N/A	N/A
<b>Total 15 (7 compliant)</b>					
<b>Limpopo</b>					
1	Premier	Yes	Yes	Difficult to access	
2	Agriculture	Yes	Yes	Simple	Not specified
3	Education	Yes	No	N/A	N/A
4	Economic Development and Environmental Affairs	Inaccessible	N/A	N/A	N/A
5	Health and Social Development	Yes	Yes	Simple	Not specified
6	Local Government and Housing	Yes	Yes	Difficult	November 2007
7	Treasury	Yes	Yes	Simple	Not specified. Copy submitted in August 2010
8	Public Works	Yes	Yes	Simple	Not specified
9	Roads and Transport	Yes	Yes	Simple	2010
10	Safety and Security Liaison	Yes	No	N/A	N/A
11	Sports, Arts and Culture	Yes	Yes	Simple	Not specified
<b>Total 11 (8 compliant)</b>					



Province	Name of Department	Website	S14 Manual on website	Accessibility	Version/last updated
<b>Mpumalanga</b>					
1	Premier	Yes	No	N/A	N/A
2	Agriculture and Rural Development	Yes	No	N/A	N/A
3	Economic Development and Environmental Affairs	Yes	No	N/A	N/A
4	Cooperative Governance and Traditional Affairs	Yes	No	N/A	N/A
5	Safety and Security Liaison	Yes	Yes	N/A	Manual submitted to the Commission in 2010
6	Culture, Sports and Recreation	Yes	No	N/A	N/A
7	Education	Yes	No	N/A	N/A
8	Finance	Yes	No	N/A	N/A
9	Health	Yes	N/A	N/A	N/A
10	Human Settlements	Yes	No	N/A	N/A
11	Social Development	Inaccessible	N/A	N/A	N/A
12	Public works	Yes	No	N/A	N/A
<b>Total 12 (1 compliant)</b>					
<b>North West</b>					
1	Premier	Yes	No	N/A	N/A
2	Treasury/Finance	Yes	No	N/A	N/A
3	Health	Yes	No	N/A	N/A
4	Sports, Arts and Culture	Yes	No	N/A	N/A
5	Social Development	Yes	No	N/A	N/A
6	Economic Development, Environmental Affairs and Tourism	Yes	No	N/A	N/A
7	Education	Yes	No	N/A	N/A
8	Local Government	Yes	No	N/A	N/A
9	Public Works	Yes	No	N/A	N/A
10	Agriculture, Land and Rural Affairs	Yes	No	N/A	N/A
11	Human Settlements	Yes	No	N/A	N/A
12	Legislature	Yes	No	N/A	N/A
<b>Total 12 (0 compliant)</b>					
<b>Northern Cape</b>					
1	Premier	Yes	No	N/A	N/A
2	Agriculture, Land and Rural Affairs	Yes	No	N/A	N/A
3	Education	Yes	No	N/A	N/A
4	Environmental Affairs	Yes	No	N/A	N/A
5	Economic Development	Yes	No	N/A	N/A

Province	Name of Department	Website	S14 Manual on website	Accessibility	Version/last updated
<b>Northern Cape cont.</b>					
6	Health	Inaccessible	N/A	N/A	N/A
7	Public Works	Yes	No	N/A	N/A
8	Cooperative Governance and Traditional Affairs	Inaccessible	N/A	N/A	N/A
9	Transport	Yes	No	N/A	N/A
10	Sports, Arts and Culture	Yes	No	N/A	N/A
<b>Total 10 (0 compliant)</b>					
<b>Western Cape</b>					
1	Premier	Yes	Yes	Simple	2011
2	Agriculture	Yes	Yes	Simple	2011
3	Community Safety	Yes	Yes	Simple	2011
4	Cultural Affairs and Sports	Yes	Yes	Simple	2011
5	Economic Development and Tourism	Yes	Yes	Simple	2011
6	Environmental Affairs, Development and Planning	Yes	Yes	Simple	2011
7	Health	Yes	Yes	Simple	2011
8	Human Settlements	Yes	Yes	Simple	2011
9	Local Government	Yes	Yes	Simple	2011
10	Social Development	Yes	Yes	Simple	2011
11	Transport and Public Works	Yes	Yes	Simple	2011
12	Education	Yes	Yes	Simple	2011
<b>Total 12 (12 compliant)</b>					
<b>Total number of departments: 104. Total number compliant: 41</b>					

Section 14 compliance rates are lower for provincial departments than at national level. The marginal five percent difference between the compliance rates of the two tiers means that levels of non-compliance remain under 50 percent for both.

While the Western Cape and Free State provincial departments are a 100 percent compliant, other provinces like the North West, Northern Cape and Mpumalanga are at the opposite extreme with zero compliance over the past ten years.

Offices of the Premier in KwaZulu-Natal and Limpopo have worked closely with the Commission to encourage compliance in the respective provinces. Compliance rates for these two provinces have increased but remain low at local government level. The three offices of the Premier in the Northern Cape, North West and Mpumalanga Provinces have remained non-compliant since 2001. As lead departments in the provinces, the Offices of the Premier must be encouraged to secure compliance with urgency.

Table Four: Compliance at Local Government Level

	Municipality	Website	S14 Manual on website	Accessibility	Version/last updated
<b>Gauteng Province</b>					
1	City of Johannesburg	Yes	Yes	Via links	18/10/2010
2	City of Tshwane	Yes	No	N/A	2010 version
3	City of Ekurhuleni	Yes	Yes	Via links	9/2009
4	Sedibeng Municipality	Yes	Yes	Via links	N/A
5	Emfuleni	Yes	No	N/A	N/A
6	Midvaal	Yes	No	N/A	N/A
7	Lesedi	Yes	Yes	N/A	Manual submitted in 2009
8	Metsweding District	Yes	No	N/A	Submitted in 2010
9	Nokeng Tsa Taamane	Yes	No	N/A	N/A
10	West Rand District	Yes	Yes	Via links	N/A
11	Kungwini	Yes	No	N/A	N/A
12	Mogale City	Yes	Yes	Via links	N/A
13	Randfontein	Yes	No	N/A	N/A
14	Westonaria	Yes	No	N/A	N/A
<b>Total 14 (6 compliant)</b>					
<b>Limpopo Province</b>					
1	Mopani District	Yes	Yes	Via link	N/A
2	Greater Giyani	Yes	No	N/A	N/A
3	Tzaneen	Yes	Yes	Via links	N/A
4	Baphalaborwa	Yes	No	N/A	N/A
5	Maruleng	Yes	No	N/A	N/A
6	Vhembe	Yes	No	N/A	N/A
7	Musina	Yes	No	N/A	N/A
8	Mutale	Yes	No	N/A	N/A
9	Thulamela	Yes	No	N/A	N/A
10	Makhado	Yes	No	N/A	N/A
11	Capricorn District	Yes	No	N/A	N/A
12	Blouberg	Yes	Yes	Links	10/2007
13	Aganang	Yes	No	N/A	N/A
14	Molemole	Yes	No	N/A	N/A
15	Polokwane	Yes	No	N/A	N/A
16	Lepelle Nkumpi	Yes	No	N/A	N/A
17	Waterberg	Yes	No	N/A	N/A
18	Thabazimbi	Yes	No	N/A	N/A

	Municipality	Website	S14 Manual on website	Accessibility	Version/last updated
<b>Limopopo Province cont.</b>					
19	Lephalale	Yes	No	N/A	N/A
20	Modimolle	Yes	No	N/A	N/A
21	Belabela	Yes	No	N/A	N/A
22	Mogalakwena	Yes	No (S51 instead)	N/A	N/A
23	Sekhukhune	No	No	N/A	N/A
24	Makhuduthamaga	Yes	No (S51 instead)	N/A	N/A
25	Fetakgomo	Yes	No	N/A	N/A
26	Elias Motswaledi	Yes	No	N/A	N/A
27	Tubatse	No	No	N/A	N/A
<b>Total 27 (3 compliant)</b>					
<b>Western Cape</b>					
1	City of Cape Town	Yes	Yes	Yes	N/A
2	West Coast District	No	No	N/A	N/A
3	Matzikama	Yes	Yes	Via links	N/A
4	Cederberg	Yes	No	N/A	N/A
5	Bergrivier	Yes	No	N/A	N/A
6	Saldanha Bay	Yes	No	N/A	N/A
7	Swartland	Yes	No	N/A	N/A
8	Cape Winelands District	Yes	Yes	Yes	N/A
9	Witzberg	No	No	N/A	N/A
10	Drakenstein	Yes	Yes	Via links	N/A
11	Stellenbosch	Inaccessible. Password required	No	N/A	N/A
12	Breede Valley	Yes	Yes	Via links	N/A
13	Langeberg	No	No	N/A	N/A
14	Overberg District	Yes	No	N/A	N/A
15	Theewaterskloof	Yes	Yes	Via links	2010, copy submitted
16	Overstrand	Yes	Yes	Via links	N/A
17	Cape Agulhas	Yes	No	N/A	N/A
18	Swellendam	Yes	No	N/A	N/A
19	Eden District	Yes	No	N/A	N/A
20	Kannaland	No	No	N/A	N/A
21	Hossequa	Yes	No	N/A	N/A
22	Mossel Bay	Yes	No	N/A	N/A

	Municipality	Website	S14 Manual on website	Accessibility	Version/last updated
<b>Western Cape Province cont.</b>					
23	George	Yes	No	N/A	N/A
24	Oudtshoorn	Yes	No	N/A	N/A
25	Bitou	Yes	No	N/A	N/A
26	Knysna	Yes	No	N/A	N/A
27	Central Karoo District	No	No	N/A	N/A
28	Laingsburg	Yes	No	N/A	N/A
29	Prince Albert	Yes	No	N/A	N/A
<b>Total 29 (7)</b>					
<b>Northern Cape</b>					
1	John Taolo Gaetsewe District	Yes	Yes	Yes	N/A
2	Ga-Segonyana	No	No	N/A	N/A
3	Moshaweng	No	No	N/A	N/A
4	Gamagara	No	No	N/A	N/A
5	Frances Baard District	Yes	Yes	Yes	N/A
6	Sol Plaatje	Yes	No	N/A	N/A
7	Dikgatlong	No	No	N/A	N/A
8	Magareng	No	No	N/A	N/A
9	Namakwa District	Yes	Yes	Yes	N/A
10	Richtersveld	Yes	No	N/A	N/A
11	Nama Khoi	Yes	Yes	Yes	N/A
12	Kamiesberg	No	No	N/A	N/A
13	Hantam	No	No	N/A	N/A
14	Karoo Hoogland	No	No	N/A	N/A
15	Khai-Ma	No	No	N/A	N/A
16	Pixley Ka Seme District	Yes	No	N/A	N/A
17	Ubuntu	No	No	N/A	N/A
18	Umsombomvu	No	No	N/A	N/A
19	Emthanjeni	No	No	N/A	N/A
20	Kareeberg	No	No	N/A	N/A
21	Renosteberg	No	No	N/A	N/A
22	Thembelihle	No	No	N/A	N/A
23	Siyathanda	No	No	N/A	N/A
24	Siyancuma	No	No	N/A	N/A
25	Siyanda District	No	No	N/A	N/A
26	Mier	No	No	N/A	N/A

	Municipality	Website	S14 Manual on website	Accessibility	Version/last updated
<b>Northern Cape cont.</b>					
27	Kai! Garib	Yes	No	N/A	N/A
28	Khara Hais	Yes	No	N/A	N/A
29	!Kheis	No	No	N/A	N/A
30	Tsantsabane	No	No	N/A	N/A
31	Kgatelopele	No	No	N/A	N/A
32	Phokwane	Yes	No	N/A	N/A
<b>Total 32 (4 compliant)</b>					
<b>North West Province</b>					
1	Bojanala Platinum District	Yes	No	N/A	N/A
2	Moretele	No	No	N/A	N/A
3	Madibeng	No	No	N/A	N/A
4	Rustenburg	Yes	No	N/A	N/A
5	Kgetleng Rivier	No	No	N/A	N/A
6	Moses Kotane	Yes	No	N/A	N/A
7	Ngaka Modiri Molema District	No	No	N/A	N/A
8	Ratlou	No	No	N/A	N/A
9	Tswaing	No	No	N/A	N/A
10	Mafikeng	No	No	N/A	N/A
11	Ditsobotla	No	No	N/A	N/A
12	Ramotshere Moila	No	No	N/A	N/A
13	Bophirima	No	No	N/A	N/A
14	KagisaNo	No	No	N/A	N/A
15	Naledi	No	No	N/A	N/A
16	Mamusa	No	No	N/A	N/A
17	Greater Taung	No	No	N/A	N/A
18	Molopo	No	No	N/A	N/A
19	Lekwa-teemane	No	No	N/A	N/A
20	Southern District	No	No	N/A	N/A
21	Ventersdorp	No	No	N/A	N/A
22	Tlokwe	No	No	N/A	N/A
23	City of Matlosana	Password required	No	N/A	N/A
24	Maquassi Hills	No	No	N/A	N/A
25	Merafong City	No	No	N/A	N/A
<b>Total 25 (0 compliant)</b>					

	Municipality	Website	S14 Manual on website	Accessibility	Version/last updated
<b>Eastern Cape Province</b>					
1	Nelson Mandela Bay Metro	Yes	No	N/A	N/A
2	Cacadu District	Yes	No	N/A	N/A
3	Camdeboo	Yes	Yes	N/A	2009 copy submitted
4	Blue Crane Route	Yes	No	N/A	N/A
5	Ikwezi	No	No	N/A	N/A
6	Baviaans	Yes	No	N/A	N/A
7	Kouga	No	No	N/A	N/A
8	Kou-Kamma	No	No	N/A	N/A
9	Makana	No	No	N/A	N/A
10	Ndlambe	No	No	N/A	Draft submitted 2011
11	Sunday's Rivier Valley	No	No	N/A	N/A
12	Amathole District	Yes. Website inaccessible	No	No access	N/A
13	Mbashe	No	No	N/A	N/A
14	Mnquma	No	No	N/A	N/A
15	Greater Kei	No	No	N/A	N/A
16	Amahlathi	No	No	N/A	N/A
17	Buffalo City	Yes	No	N/A	2010, copy submitted to the Commission
18	Ngqushwa	No	No	N/A	N/A
19	Nkonkobe	No	No	N/A	N/A
20	Nxuba	No	No	N/A	N/A
21	Chris Hani District	Yes	Yes	Yes	05/04/2011
22	Inxuba Yethemba	No	No	N/A	N/A
23	Tsolwana	No	No	N/A	N/A
24	Inkwanca	No	No	N/A	N/A
25	Lukhanji	Yes	Yes	Via links	N/A
26	Intsika Yethu	No	No	N/A	N/A
27	Emalahleni	No	No	N/A	N/A
28	Engcobo	No	No	N/A	N/A
29	Sakhisizwe	No	No	N/A	N/A
30	Ukhahlamba District	No	No	N/A	N/A
31	Elundini	No	No	N/A	N/A
32	Senqu	Yes	Yes	Via links	N/A
33	Maletswai	No	No	N/A	N/A
34	Gariep	No	No	N/A	N/A

	Municipality	Website	S14 Manual on website	Accessibility	Version/last updated
<b>Eastern Cape Province</b>					
35	Mbizana	No	No	N/A	N/A
36	Ntabankulu	No	No	N/A	N/A
37	Qaukeni	No	No	N/A	N/A
38	Port St John's	No	No	N/A	N/A
39	Nyandeni	No	No	N/A	N/A
40	Mhlontlo	No	No	N/A	N/A
41	King Sabatha Dalindyebo	No	No	N/A	N/A
42	Alfred Nzo District	No	No	N/A	N/A
43	Umzimvubu	No	No	N/A	N/A
44	Matatiele	No	No	N/A	N/A
<b>Total 44 (4 compliant)</b>					
<b>KwaZulu-Natal Province</b>					
1	Ethekwini Metropolitan	No	No	N/A	N/A
2	Ugu District	No	No	N/A	N/A
3	Vulamehlo	No	No	N/A	N/A
4	Umdoni	No	No	N/A	N/A
5	Umzumbe	No	No	N/A	N/A
6	Umuziwabantu	No	No	N/A	N/A
7	Ezingoleni	No	No	N/A	N/A
8	Hibiscus Coast	No	No	N/A	N/A
9	Umgungundlovu District	No	No	N/A	N/A
10	Umshwathi	No	No	N/A	N/A
11	Umgeni	No	No	N/A	N/A
12	Mpofana	No	No	N/A	N/A
13	Impendle	No	No	N/A	N/A
14	Msunduzi	No	No	N/A	N/A
15	Mkhambathini	No	No	N/A	N/A
16	Richmond	No	No	N/A	N/A
17	Uthukela District	No	No	N/A	N/A
18	Emnambithi-Ladysmith	No	No	N/A	N/A
19	Indaka	No	No	N/A	N/A
20	Umtshezi	No	No	N/A	N/A
21	Okhahlamba	No	No	N/A	N/A
22	Imbabazane	No	No	N/A	N/A
23	Umzinyathi	No	No	N/A	N/A
24	Endumeni	No	No	N/A	N/A



	Municipality	Website	S14 Manual on website	Accessibility	Version/last updated
<b>KwaZulu-Natal Province</b>					
25	Nquthu	No	No	N/A	N/A
26	Msinga	No	No	N/A	N/A
27	Umvoti	No	No	N/A	N/A
28	Amajuba District	No	No	N/A	N/A
29	Newcastle	No	No	N/A	N/A
30	Emadlangeni	No	No	N/A	N/A
31	Dannhauser	No	No	N/A	N/A
32	Zululand District	No	No	N/A	N/A
33	Edumbe	No	No	N/A	N/A
34	Uphongolo	No	No	N/A	N/A
35	Abaqulusi	No	No	N/A	N/A
36	Nongoma	No	No	N/A	N/A
37	Ulundi	No	No	N/A	N/A
38	Umkhanyakude District	No	No	N/A	N/A
39	Umhlabuyalingana	No	No	N/A	N/A
40	Jozini	No	No	N/A	N/A
41	The Big Five False Bay	No	No	N/A	N/A
42	Hlabisa/Impala	No	No	N/A	N/A
43	Mtubatuba	No	No	N/A	N/A
44	Uthungulu District	No	No	N/A	N/A
45	Mbonambi	No	No	N/A	N/A
46	Umhlatuze	No	No	N/A	N/A
47	Ntambanana	No	No	N/A	N/A
48	Umlalazi	No	No	N/A	N/A
49	Mthonjaneni	No	No	N/A	N/A
50	Nkandla	No	No	N/A	N/A
51	Ilembe District	No	No	N/A	N/A
52	Endondakusuka	No	No	N/A	N/A
53	Kwadukuza	No	No	N/A	N/A
54	Ndwedwe	No	No	N/A	N/A
55	Maphumulo	No	No	N/A	N/A
56	Sisonke District	No	No	N/A	N/A
57	Ingwe	No	No	N/A	N/A
58	Kwa Sani	No	No	N/A	N/A
59	Greater Kokstad	No	No	N/A	N/A

	Municipality	Website	S14 Manual on website	Accessibility	Version/last updated
<b>KwaZulu-Natal Province</b>					
60	Ubuhlebezwe	No	No	N/A	N/A
61	Umzimkhulu	No	No	N/A	N/A
<b>Total 61 (0 compliant)</b>					
<b>Free State Province</b>					
1	Xhariep District	Yes. No access	No	N/A	N/A
2	Letsemeng	No	No	N/A	N/A
3	Kopanong	No	No	N/A	N/A
4	Mohokare	No	No	N/A	N/A
5	Motheo District	Yes	Yes	Yes	Submitted 2010
6	Naledi	No	No	N/A	N/A
7	Mangaung	Yes	Yes	Via links	N/A
8	Mantsopa	No	No	N/A	N/A
9	Lejweleputswa District	No	No	N/A	N/A
10	Masilonyana	No	No	N/A	N/A
11	Tokologo	No	No	N/A	N/A
12	Tswelopele	Yes. No access	No	N/A	N/A
13	Matjhabeng	No	No	N/A	N/A
14	Nala	No	No	N/A	N/A
15	Thabo Mofutsanyana District	No	No	N/A	N/A
16	Setsoto	Yes	Yes	Via links	Submitted 2010
17	Dihlabeng	No	No	N/A	N/A
18	Nketoana	No	No	N/A	N/A
19	Maluti a Phofung	No	No	N/A	N/A
20	Phumelela	No	No	N/A	N/A
21	Fezile Dabi District	No	No	N/A	N/A
22	Moqhaka	No	No	N/A	N/A
23	Ngwathe	No	No	N/A	N/A
24	Metsimaholo	No	No	N/A	N/A
25	Mafube	No	No	N/A	N/A
<b>Total 25 (3 compliant)</b>					
<b>Mpumalanga Province</b>					
1	Albert Luthuli	No	No	N/A	N/A
2	Victor Khanye	No	No	N/A	N/A
3	Dipaleseng	No	No	N/A	N/A
4	Ehlanzeni	No	No. Privacy statement and reference to PAIA only	N/A	N/A

	Municipality	Website	S14 Manual on website	Accessibility	Version/last updated
<b>Mpumalanga Province</b>					
5	Emakhazeni	No. Under construction	No	N/A	N/A
6	Emalahleni	No	No	N/A	N/A
7	Gert Sibande	No	No	N/A	N/A
8	Govan Mbeki	No	No	N/A	N/A
9	Dr J. S Moroka	No	No	N/A	N/A
10	Lekwa	No	No	N/A	N/A
11	Mbombela	Yes	Yes	N/A	N/A
12	Mkhondo	No	No	N/A	N/A
13	Msukaligwa Govt	No	No	N/A	N/A
14	Nkangala District	No	No	N/A	N/A
15	Nkomazi	No	No	N/A	N/A
16	Pixley Ka Seme	No	No	N/A	N/A
17	Steve Tshwete	Yes	Yes	N/A	Manual submitted in 2010
18	Thembisile	Yes	No	N/A	N/A
19	Umjindi	No	No	N/A	N/A
20	Mkhondo	Yes	No access	N/A	N/A
21	Delmas	No	No	N/A	N/A
22	Thaba Chweu	No	No	N/A	N/A
23	Bushbuckridge	No	No	N/A	N/A
24	Govan Mbeki	No	No	N/A	N/A
<b>Total 24 (2 compliant)</b>					
<b>Total number of local government departments: 282. Total compliant: 29</b>					

Total number of public bodies not compliant: 338

Total number of public bodies compliant: 90 (21%)

### Compliance at local government level

Local government compliance rates with Section 14 as with Section 32 are the lowest of the three tiers of government. A total of 29 of the 282 local government bodies have complied with Section 14. Compliance rates are poor across all provinces; provinces with high poverty indices indicate the least compliance, evidenced particularly in the North West, KwaZulu-Natal, Limpopo and Northern Cape. It should be noted that a number of municipalities in these provinces do not have websites.

The Commission has, over a period of time, moni-

tored compliance with Section 14. While compliance in general has formed one of the key issues raised by the Commission with public bodies, Section 14 has remained one of the areas which has presented the most serious compliance challenge.

Auditing compliance, workshops and training sessions and general requests for assistance from practitioners in the public sector have provided some insight for systemic non-compliance. It would appear that non-compliance is influenced primarily by factors which include:

- Poor records management and the inability of public bodies to develop and implement records management and archiving practices to the large volume of records they hold
- Insufficient human resources capacity
- Poor internal coordination between registries, archives and PAIA personnel
- Lack of budgetary planning and
- Perceived complexity of the legislation

### Conclusion

Compliance with PAIA in general, and Section 14 in particular, is essential to good governance and community participation. The current low compliance rates ten years after the passing of the legislation is of serious concern. These concerns are elevated when viewed within the context of prevailing service delivery dissatisfaction and high levels of corruption within the public sector.

Community participation ranks as one of the five benchmarks informing the strategic agenda for local government. The key performance areas with regard to good governance and community participation are listed as: functional community participation mechanisms and ward committees; established feedback mechanisms in order to ensure responsiveness to communities; continuous and special attention to historically marginalised and excluded communities and effective inter-governmental relations.

While these benchmarks are commendable in their articulation, they require realistic implementation. Realistic implementation must be defined in this sense to include communication to facilitate public participation as a key component. Compliance with Section 14 of PAIA can play a significant role in facilitating information-sharing and community participation, contributing to informed participation and enriching rights realisation at community level. The Commission's monitoring has, however, revealed that public bodies in general have simply not accorded compliance with PAIA sufficient priority. Apart from formal mandatory compliance with the injunctions of the legislation, it appears that frequent, accurate information-sharing is not being adequately integrated into the mainstream activities of public bodies.

In essence, research has revealed that municipalities are largely unaware of the promotion of access to information legislation. Most do not have systems or processes to implement the legislation. Operationally, requests for access to information are processed by untrained staff on an ad hoc basis. But perhaps most significantly, many municipalities revealed that the promotion of access to information does not feature on their priority agendas and no resources were allocated in their budgets for its implementation.

Arguably, PAIA is not the exclusive tool for informed public participation. It is, however, one of the key components in a matrix of mechanisms necessary for public participation to occur. Apart from the institutionalising of a culture of information-sharing within the public sector, a great deal more needs to be implemented to enhance existing delivery based frameworks and public participation. Amongst the implementation needs must be the integrating of PAIA into all community outreach and information-sharing interventions, through realistic frameworks to facilitate this.

Information-sharing as a tool plays a pivotal role in community participation and sustainable development. Implementation of PAIA therefore must be measurable, monitored and implemented as a key priority agenda by service delivery agents. A commitment to political will and resources remains necessary for informed participation and enhanced service delivery in the country.

### Compliance Audits

Compliance with PAIA is of critical importance and is monitored broadly through two main interventions. The first occurs through the mandatory submission of Section 32 reports by, public bodies, to the Commission at the end of every financial year; and the other is the compliance audits conducted by the Commission.

The Section 32 report, though significant, does not fully represent the quality and levels of implementation of PAIA as it reflects only statistical data of formal requests received by institutions. Voluntary release of information, the institutions policies, systems adopted for the implementation of PAIA and operational readiness of institutions to deliver on the PAIA mandate are not provided for in the Section 32 report. Compliance or non-

compliance of public bodies with Section 32 is, however, often the basis for an audit of a particular public body.

The audit process was piloted in 2007 in response to low levels of compliance with PAIA within the public sector. Apart from serving as a monitoring tool, they provide a comprehensive platform for engagement on institutions' delivery as well. Through the audits, engagement occurs with implementers and executive managers of institutions. A questionnaire completed by officials of institutions tests a broad spectrum of factors and provides a global overview of gaps and challenges in implementation.

The audit focuses on the following key areas:

- Human resources and accountability of DIOs
- PAIA budgetary allocations
- Formal compliance with Sections 14, 15, 16 and 32
- Awareness levels and proficiency of personnel
- Proactive disclosure levels
- Integration of PAIA in IDPs
- Systems and policies supporting PAIA implementation
- Challenges and identified needs for support
- Records management.

#### Process

The audit process is initiated on the basis of prior monitoring of compliance with mandatory reporting obligations, face to face consultations with implementers and complaints to the Commission. Audited public bodies complete a questionnaire prior to the actual face to face audit meeting. Audit recommendations based on findings are thereafter submitted to the public body.

Since the pilot of the audits, the Commission has met with a range of institutions at local, national, provincial level within the Gauteng region. Audits have been limited to the Gauteng region to mitigate costs; however findings of these audits provide clear trends indicating a lack in awareness and a failure by institutions to properly implement PAIA across the board. These findings have been confirmed through other interventions of the Commission, discussed later in this chapter.

Some of the significant findings emerging from the audits are summarised below:

#### Overview of the focus areas

The audit focused largely on quality of implementation within each of the three tiers of government. In focusing on specific areas, the audit sought to establish whether institutions had dedicated human and capital resources for PAIA implementation, whether PAIA had been integrated into the work of the institutions, and whether policies had been developed and aligned to compliment proper implementation of PAIA. The audit sought further to establish whether soft laws and guidelines had been developed within institutions to enable implementers to deliver on PAIA and to hold them accountable for delivery or non-delivery on PAIA duties.

Other common barriers identified through the audits conducted during this reporting cycle are systemic, and are attributable to psychological and historical factors.

#### a) Resources

The overwhelming finding with regard to human resources and budgetary allocations was that the majority of public bodies do not have dedicated Deputy Information Officers (DIOs), as prescribed by Section 17 of PAIA, in place. Most DIOs are given PAIA duties over and above their existing functions.

The allocation of budgets for PAIA implementation formed a critical part of the audit. 99 percent of the audited institutions had no budget allocations for PAIA implementation. The lack of dedicated resources largely impacts on departments' ability to comply with Section 14 and other obligations, i.e. the development and publishing of manuals, availability of PAIA forms and resources necessary to fulfill other compliance obligations.

The lack of resources within institutions is a challenge that cuts across all sectors and continues to impede on their ability to deliver on PAIA.

Some of the reasons attributed to the lack of budgets and resources is that senior managers within the public sector do not regard PAIA as being of a priority when compared to the provision of basic services. The result is that implementers and practitioners are unable to persuade senior managers to motivate for PAIA budgets.

#### b) Personnel and accountability mechanisms

In instances where DIOs were identified, no written delegation of duties were in place, duties of the DIOs were not reflected in performance agreements and the identity of DIOs were unknown to general staff of the public body. Accountability and assessment of performance is placed at serious risk as a result. Furthermore the audit revealed that institutions often appointed personnel as DIOs who were at junior level and were therefore unable to exercise discretion when responding to PAIA requests. This has resulted in internal referrals, usually to the legal divisions of the body, hampering timely and accurate responses to requests for information.

The audit further revealed that DIOs were not specifically carrying out PAIA duties. PAIA was viewed as an ad hoc function, and as a result no specific commitment insofar as alignment of PAIA duties with relevant portfolios within the institution had been undertaken. The lack of alignment results in DIOs duties being carried out by records personnel, administrators and in a number of instances by personnel within legal services.

Most implementers displayed low morale, which was attributed to additional workloads, non-recognition of performance, inability to influence policy and practical decisions around PAIA, and the inability to question incorrect decisions by senior management. A number also cited poor demand levels as justification for organisational responses to the need for improved PAIA implementation.

In addition to the findings on operations and internal readiness, the audit revealed that most officials, including senior personnel within institutions, were not trained on PAIA. The lack of awareness or training often caused many DIOs to ignore requests for information for the fear of making their institutions vulnerable. The lack of knowledge further impacted on their ability to meet compliance obligations. Most perceived PAIA as too complex to be adequately implemented by them.

The audits further reveal that high staff mobility in the public sector continues to be a barrier that dampens existing efforts in implementation. The effects of staff mobility are seen in the degeneration of compliance

in institutions that have been complying, but cease to comply on the resignation of an official who undertook PAIA responsibilities. A lack of continuity is a primary symptom of staff mobility.

Audits also revealed that no training plans or training material designed by the institutions were in place. Continuous training and the development of in house training in institutions is often recommended to ensure that the effects of staff mobility are mitigated. The Commission has recommended that its training tools be adapted by institutions to ensure relevancy and ongoing training of personnel, reducing dependency and strain on its own resources. The Commission has further recommended that training be included as part of the initial induction of all new staff on boarding.

#### c) Mandatory compliance

An important aspect that informs the basis of the audits, is the compliance history of institutions. Research conducted prior to the consultations and statistics held by the Commission consistently reveal low levels of compliance by institutions. These low levels are influenced by numerous factors such as low awareness, which is a major cause of non-compliance.

Most audited institutions were non-compliant with Section 32 over a period of three consecutive years. Audited institutions were also not compliant with Section 14 – a mandatory compliance obligation.

Compliance with Sections 15 and 16 was also extremely low. Reasons provided by officials included a lack of clarity about responsibility for completion and submission of the Section 32 report, the absence of tracking and monitoring systems to ensure statistics of requests were accurate, and lengthy chains of accountability for signing off on reports.

With regards to Section 15, many felt the need for replicating lists of automatically available information already within the Section 14 manual were unnecessary. Most did not know that Section 15 lists were to be submitted to the Department of Justice and Constitutional Development.

None of the public bodies surveyed had submitted the names and contact details of their DIOs and Information Officers to GCIS.

#### d) Records management

PAIA is closely linked to records management. Audits were conducted to create awareness of this linkage and the need for proper records management for the implementation of PAIA. Emphasis is placed on the role of proper records management practices to improve response times and compliance. Furthermore, institutions are encouraged to ensure that their policies on records management compliment the implementation of PAIA and that a close working relationship is developed between the DIO and the records personnel.

Most DIOs and records personnel indicated that challenges were being experienced with electronic records management software and systems. High volumes of inherited records and records being generated through daily activities were also cited as reasons for poor records management within institutions.

#### e) Mainstreaming

Other critical areas covered in the audit included the integration of PAIA into the broader work of the institution, the creation of policies and enabling regulations, and the development of systems for the implementation of PAIA. This aspect is crucial, particularly at local government level, noting that IDP processes are a valuable mode of sharing information. PAIA integration in these processes will significantly enhance information-sharing and allow members of the public to make informed contributions to municipal policies.

None of the public bodies sampled had integrated information-sharing into their core projects and activities, or aligned it with PAIA. The predominant perspective was that PAIA was exclusively a request-based process for records, and not a law which impacted on other areas of work.

The Commission's recommendations in this regard have included the need to accelerate information-sharing through accessible means, including in billing notifications and newsletters. Other recommendations have been for a full review of existing policies and practices to facilitate an alignment of these with PAIA.

A frequent demand in this regard has been the need by employees of organisation for information from the employer. Public officials are excluded from the ambit

of PAIA and institutions, particularly HR departments, need to develop policies which permit information-sharing internally.

#### Conclusion

Overall findings of audits undertaken demonstrate similar patterns as those of previous years. These include: widespread lack of awareness and understanding, limited resources, poor planning, an absence of PAIA policies and low levels of compliance.

Whilst a majority of the audits reveal markedly similar challenges, they continue to provide a platform to raise awareness, and for the provision of support to public bodies for improved responses to implementation challenges. The Commission has found the audit process valuable in strengthening the support it can provide public bodies and improve engagement between itself and public bodies. This is evidenced by the higher compliance rates and improved implementation by the majority of public bodies audited.

#### Case law monitoring

Jurisprudence on PAIA has not been voluminous but shows signs of increasing as public awareness increases. There have been a number of high profile and significant judgements on PAIA, which are indicative of the emerging trends laying the foundations for future PAIA litigation. Recent successes in these matters create some measure of confidence that, although protracted, complex and expensive, some measure of rights assertion can be achieved.

Case law monitoring has revealed that trends in litigant profiles have not changed significantly in the past eight years. Trends in litigation also reveal that government procurement based on a system of tenders to non-state actors continue to present the highest PAIA incidence of litigation in recent matters. These matters are usually litigated by private business through well-heeled firms of attorneys at a premium not available to most South Africans.

Media houses have also raised PAIA in a number of cases. These matters have consistently engaged freedom of expression, privacy and the principles of open justice in their substance.

Litigant profiles have not changed. They are predominantly sophisticated requestors and interest groups largely comprised of media houses. With regard to interest groups like NGOs, litigation has resulted in them banding together to meet the costs of litigation.

These trends lend force to the theory that ordinary individuals remain reluctant to take on the might of information holders through litigation before the courts.

### An overview of PAIA enforcement and litigation

President of the Republic of South Africa and Others v Mail and Guardian Media Limited

In this matter, the Mail and Guardian, a national newspaper, requested and was refused access to what has been dubbed the Khampepe-Moseneke report from the Presidency. The report covered election issues in Zimbabwe prior to its elections. In contesting the refusal, the requestor argued that the report was of public interest, given the widespread view that the 2002 Zimbabwe election, culminating in a victory for President Mugabe, was marred by vote rigging, intimidation, violence and fraud.

The findings of the report were never made public and requests for access to it was refused on more than one occasion. The refusal was then challenged before the High Court, which found that in terms of PAIA, an order compelling the disclosure of the report was appropriate. Interestingly, the Presidency immediately appealed against this finding.

#### Judgement

On appeal, the Supreme Court (SCA) upheld the finding of the High Court. It stressed the significance of information-sharing in a democracy, stating that: 'An open and transparent government and free flow of information on matters of the state is the lifeblood of democracy.' The appeal judges criticised the manner in which the request was handled in the Presidency and its bald reliance on the exemptions clauses of PAIA both to the requestor and before the courts.

The SCA judgement found the affidavits on which the presidency based its case 'established by inference' that the judges were commissioned to report on con-

stitutional and legal issues pertaining to the election. 'By itself that does not bring the report within the terms of the sections that were relied upon.' The unanimous decision of the court was therefore premised on the supremacy and necessity to disclose information held by organs of the state, including the Presidency, where substantive reasons for disclosure are not sufficiently persuasive and fully articulated.

Mail and Guardian v FIFA Local Organising Committee

The Mail and Guardian once more applied to the courts for access to records it had been refused through PAIA. In this instance, the newspaper had requested all records relating to tenders the World Cup Local Organising Committee had awarded. The LOC refused access on the basis that it was not a public body and did not have to comply with public procurement legislation. Subsequent to that, a private body request for tender-related records was lodged by the newspaper, but access was again refused.

In its judgement, the court considered a range of factors to support its conclusion that the LOC was executing a public function both on the basis of the degree of involvement of heads of organs of state, and the objectives of the entity. The court also stated emphatically that the public would have no way of knowing if there was corruption in the World Cup tendering process if was not afforded access to the documents. On this basis, release of the requested information within 30 days was endorsed.

Brummer v Minister of Social Development and Others (SA History Archives Trust and SAHRC as amicus curiae) 2009(6) SA 323 (CC)

In the Brummer matter, an initial application to the high court by a journalist seven months after a request for tender related records, was dismissed by the court a full year-and-a-half after the request was submitted.

The respondent Department of Social Development, raised a provision of the access to information legislation as a bar to the matter being heard. In terms of Section 78(2) of PAIA, recourse to the courts must be sought within 30 days of an internal appeal to the public entity concerned being refused. In instances where the request-



tor has not been able to reach the courts in the 30 days provided, PAIA allows for condonation to be sought.

The Constitutional Court was obliged to consider the constitutionality of the 30 day provision of PAIA. In doing so, it focussed intently on the experience potential litigants in the country must endure to successfully approach the courts. In accepting submissions by the applicant on the unrealistic burden imposed by the provision on ordinary requesters, it also considered the short time frames within which applicants must reach courts, the difficulties concomitant with seeking legal assistance, and adequately preparing for litigation within the prescribed time frames. The court's reasoning in this matter was also influenced by the fact that the increased time frame within which to access the courts would impose no significant burden on respondent public bodies.

Based on these considerations, the court declared Section 78(1)(d) unconstitutional, and ordered that it be amended to a period of 180 days instead. The matter was referred back to the High Court for a decision on the merits.

Interestingly, these submissions were supported by a slew of amicae in the matter. The SAHRC, as one of the amicus, provided the court with statistical data which detailed the high levels of non-compliance with the legislation and the impact non-disclosure would have on related human rights, such as freedom of expression.

The Brummer matter also brought into sharp relief the reality individuals face when having to resort to the courts for access to information, as prescribed in the PAIA framework. Issues such as the costs of litigation and other barriers like geographical location, mean that most applicants would be unable to access the courts as prescribed by PAIA. This matter, although attempting to reform PAIA, endorses the call for an intermediary body with the power to resolve PAIA disputes more quickly, simply and cheaply.

International case law monitoring: Inter-American Court of Human Rights

Over the years, there have been substantial developments in international human rights law which have generally made it possible to discern important lessons

on advancing implementation of cases. The decision of the highest regional human rights authority represented the culmination of intense advocacy by the Chilean Transparency Movement.<sup>1</sup>

In this matter the Inter-American Commission on Human Rights lodged an application against the state for right of access to information. The court held that the state's refusal to provide the applicant with all the information they requested from the Foreign Investment Committee on the forestry company Trillium and the Rio Condor Project, was unjustifiable.

#### Judgement

This seminal judgement referred to the regional consensus among member states of the Organisation of American States on the importance of access to public information, and emphasised the need to protect such consensus. It urged members of the Organisation of American States to 'respect and promote the right to access to public information and to promote the adoption of any necessary legislative or other types of provisions to ensure its recognition and effective application.'

Drawing on Article 6 of the Inter-American Democratic Charter, which emphasises the importance of transparency in government activities, honesty, integrity and responsible public administration on the part of governments, the court noted that, subsequent to the facts of the case, Chile had made significant progress with regard to establishing a legal framework for the right of access to state-held information. The judgement was an emphatic reminder to the collection of states that both access to information and freedom of expression are indispensable for the formation of public opinion, and constitute a vital pillar of what is understood to be a democracy.

#### Media

The media remains a key vehicle through which PAIA awareness can be accelerated. The Commission has placed significant reliance on traditional media – television, print and radio – to disseminate PAIA news. 17 media interventions were undertaken during the course of the year. These occurred primarily during the hosting of the National Information Officers Forum (NIOF)

<sup>1</sup> Marcel Claude Reyes et al. v. Chile

and engagements on the Protection of State Information Bill.

As part of its strategy to accelerate compliance and its support to the Eastern Cape, the Commission embarked on a number of interventions with the Department of Traditional and Local Government, The Office of the Premier and the Daily Dispatch newspaper (the newspaper has a readership base of 150 000 people). The latter published a double spread on PAIA after its training through the Commission, free of charge. This type of partnership generated a great deal of interest amongst both communities and public offices in the area.

### The NIOF and Provincial Information Officers Forums (PIOF)

#### NIOF and Golden Key Awards (GKA)

Since 2003, the Commission has hosted the National Information Officers Forum (NIOF) and the Golden Key Awards (GKA) on the International Right to Know Day. The NIOF has grown since, its inception, to become a forum through which information officers, civil society and government bodies are able to engage and express their concerns, engage in peer learning, keep abreast of recent legal developments and share best practice. The 2010 NIOF was also a celebration of a decade of the access to information legislation and a culmination of eight essential meetings beginning in 2003, supported in ever-increasing numbers and media attention in 2010.

Attended by PAIA champions and thought leaders, the forum was honoured through the participation of advisor to the deputy president and member of national parliament, the Honourable J Jefferies and legal experts like Professor Dario Milo.

#### Rationale and objectives of the NIOF

The NIOF is primarily convened to bring together implementers to engage on issues of access to information, challenges on implementation, and crafting of strategies to respond to the identified challenges. The objectives of the NIOF are as follows:

- To provide a platform for the sharing of information on issues and challenges relating to PAIA;
- To raise awareness on PAIA;

- To provide capacity-building tools for IOs and DIOs in the implementation of PAIA;
- To assist IOs and DIOs keep abreast of developments in PAIA and international trends in access to information;
- To create networking opportunities for DIOs and members of the information community;
- To provide academics and policy makers with practical insights on impediments to implementation;
- To provide DIOs the time and space necessary to organise themselves through their Coordinating Committee;
- To share in the advantages of best practice showcased;
- To reward and honour best practice; and
- To accelerate the implementation of PAIA nationally.

The Golden Key Awards ceremony follows immediately after the NIOF. The awards seek to incentivise best practice in the implementation of PAIA, and to acknowledge entities and organisations which model openness, responsiveness and information-sharing in the country. The awards give recognition to those organisations and journalists which have been outstanding in meeting the requirements of access to information.

#### Assessment categories

##### 1. Category A: Roadmap

A roadmap describes the process for submitting a request for information; it provides details of the office that handles requests and indicates what categories of information are held by an institution.

We asked for:

- The PAIA manual according to Section 14 of PAIA; and
- The 2008/09 report submitted to the Commission according to Section 32 of PAIA

##### 2. Category B: Records management

This category focuses on the manner in which records are generated, organised and stored. Our guidelines on

‘what constitutes a record’ and how institutional correspondence, discussions and material are documented is informed by the targeted information reflected below.

For example, we required:

- The Records Management Policy;
- The job description and KPAs of the Records Manager; or
- The description of Records Managers’ responsibilities in terms of PAIA.

### 3. Category C: Internal mechanisms

Internal mechanisms reveal how well an institution operationalises the provisions set out in PAIA to facilitate access to information. These mechanisms include procedures for documenting requests, processing requests on time, assisting requestors and voluntary publishing of records.

In this section we asked for:

- The internal procedures, guidelines, policy documents or plans for implementation of PAIA;
- Any document detailing the system used for recording and reporting on both the number of requests received and how they were responded to;
- All documentary evidence that frontline staff (e.g. receptionists and building access personnel) have been instructed or trained on how to handle requests and where to refer them, or
- A copy of any internal instruction or policy document that encourages regular publication of records, among others.

### 4. Category D: Resources

This refers to the human and financial resources allocated to PAIA implementation as well as an institution’s commitment towards enabling staff to promote the right to know.

Here we asked for:

- Budget information for implementation of PAIA or an explanation of how PAIA related activities are financed;
- A list of all members of staff who are tasked with handling requests for information in terms of PAIA; or

- Any document containing information on the PAIA unit, or equivalent structure, established to monitor and coordinate the implementation of the Act.
- A description of incentives in place to reward staff compliance with PAIA and sanctions that are applied for non-compliance (e.g. monetary and other incentives/rewards, compulsory training, code of conduct etc).

### The research sample

Twenty-three national departments were sampled, 25 provincial departments (three from each province except the Eastern Cape and Western Cape) and 34 local governments (a minimum of three from each province). The City of Cape Town and the Departments of Agriculture and Education in Limpopo were not part of the research samples, but were nominated for awards for their outstanding achievement in PAIA implementation.

The GKAs are awarded in the following categories:

- The Openness and Responsiveness Award by institution;
- Deputy Information Officer of the Year Award;
- Requester Award;
- The Best Media Usage/Engagement with PAIA.

Table Five: GKA Award Recipients

Category	Department/Institution	Recipient
Best Overall Institution	Limpopo Department of Education	
Best National Institution	Department of Social Development	
Best Provincial Department	Limpopo Department of Education	
Best Municipality	The City of Cape Town	
Best DIO	Limpopo Department of Agriculture City of Cape Town	Mr Netshifhire Adv Jill Fabing
Best Media Engagement	The Daily Dispatch	
Best User of PAIA	The Legal Resources Centre	

### Provincial Information Officers Forums (PIOF)

Launched in March 2010 with the hosting of the KwaZulu-Natal Provincial Information Officers Forum, the Commission, together with ODAC and the Coordinating Committee, held PIOFs in the North West and Eastern Cape provinces respectively. Provincial Forums hosted during the financial year are a part of the Commission's Strategic Plan for enhanced compliance at provincial level and community level.

The provinces were identified on the basis of their compliance history and overall response to PAIA. KwaZulu-Natal and the Eastern Cape have since these interventions demonstrated increased improvement in compliance with PAIA. Spearheaded through each of the offices of the respective Premiers, there have been notable increases in Section 32 compliance this year. Each of province now has a steering committee in place to facilitate and sustain compliance within the provinces.

This approach has further allowed the Commission to surmount resource constraints and extend its reach to DIOs. Whilst the Commission's intervention in the North West has not yielded the desired results, both KwaZulu-Natal and the Eastern Cape have shown a marked improvement in PAIA compliance.

Feedback from implementers and practitioners indicate that regional structures for support and networking are welcomed platforms. These structures will be engaged with more closely over time, to ensure they are able to respond more effectively to common challenges experienced by practitioners in the region.

Resource constraints, however, continue to inform the reach of the Commission's work. This factor has undoubtedly affected the degree of its engagements with other necessary PAIA targets like the private sector and community groups. It is envisaged that, through partnerships with civil society, more community oriented work will be undertaken in the coming year.

### Law reform

In keeping with Section 83(3) of PAIA, the Commission made a number of submissions to the portfolio committees of Parliament and the Department of Justice and Constitutional Development.

Written and oral submissions were made to the Portfolio Committee on Justice and Constitutional Development. These submissions focused on the Protection of Personal Information Bill and its impact on PAIA. The Commission's submissions addressed both its concerns over a proposed change to its PAIA legislative mandate and substantive provisions of the proposed legislation.

The Protection of State Information Bill was also addressed both orally and through written submissions to the Portfolio Committee on Intelligence. Based on the ambiguity and general overbreadth of the Bill's provisions, the Commission was of the view that the Bill would severely and unjustifiably restrict the basic right of persons to access information.

Recommendations for reform of PAIA itself were submitted, at the end of the financial year, to the administrative authority of PAIA. These included calls for finalisation of a decision exempting specific private bodies from PAIA compliance, directives on the enforcing of Section 90 penalties, revision of regulations governing fee exemptions, penalties for non-compliance with Section 32 and responses on other specific provisions.

The submissions and recommendations detailed above are available on the Commission's website ([www.sahrc.org.za](http://www.sahrc.org.za)).

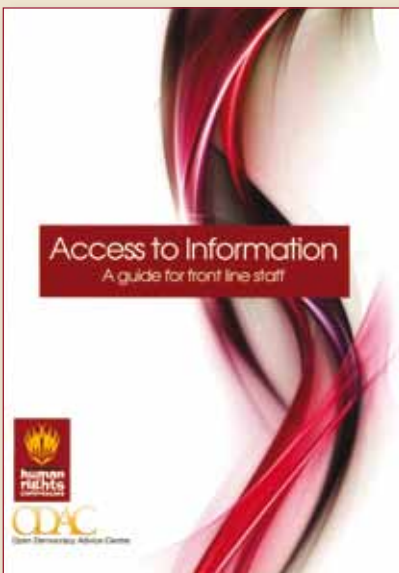
### Research and publications

The Commission produced two key publications based on its mandated activities with regard to PAIA. One of these is the annual Human Rights Development Report. The publication contains a snapshot of the PAIA landscape for the year and has previously been well received by academics and civil society organisations.

The Commission also produces and distributes a quarterly newsletter, PAIA Info Share, directed at the information community. Info Share distribution has grown and the topical issues covered have provided a valuable resource to both personnel working with information in organisations and PAIA implementers.

Research beyond that generally undertaken by the sub-Programme, has included a chapter submitted to ODAC for its ten-year review of PAIA, the rights of the media and access to information, the Key Installations Act and Banking Policies in South Africa.

A significant focus of the unit has been dedicated to the development of a model access to information legislation to be adopted by the African Union heads of state. The model, which was commissioned by the Special Rapporteur on Freedom of Expression and Access to Information to the African Commission, provides a framework of best practice for African States to consider in the drafting of their own access to information legislation.



## Section 32 Compliance

### Limitations and challenges

The PAIA provisions create a mandatory obligation for both the public and private sector to submit manuals and reports to the Commission. Public bodies must submit annual returns to the Commission in terms of Section 32 of PAIA. These Section 32 reports provide a largely statistical snapshot of how public bodies respond to requests submitted to them during a reporting cycle. The data from these reports are in turn submitted to Parliament permitting it to exercise its powers over errant public bodies.

Compliance rates with Section 32 have consistently been low over a period of nine years. Reporting is plagued by a number of challenges. Some of the reasons for non-compliance rest with the fact that the Commission itself has been allocated meagre resources to adequately drive compliance by public bodies. At present, the Commission advertises due dates for submission in a national newspaper and issues electronic notifications to public bodies as well. Other reasons include the low priority public bodies' accord PAIA compliance, levels of awareness and generally poor readiness and implementation of the legislation.

It may be argued that the mandatory compliance requirement with Section 32 should provide adequate impetus for the sector to comply with legal obligations imposed by the legislation. But this obligation has by and large been disregarded. Furthermore, neither the administrative authority of the Act, nor Parliament have assumed any particularly firm approach to repeated non-compliance with reporting obligations by the multiple levels of public bodies since the implementation of the Act, despite reports to this effect to them. This has meant that the Commission has had to shift its focus to securing submission for the purposes of Section 32, as opposed to dedicating resources for substantive monitoring and evaluation of the content of these reports.

At present, the Commission does not have the resources required to test the veracity of every report submitted to it, and has undertaken testing only through the audit process. Despite audit findings referred to earlier in this report, there is no alternative means of establishing whether all public bodies are indeed capturing

and recording statistical data required for the reports, except to test each individually. The audits have shown simply, on the Gauteng samples, that public bodies do not have dedicated tracking and monitoring systems, nor is the receipt and processing of requests centralised.<sup>2</sup> Many provide access to information on an ad hoc basis, from whichever of their departments receive a request. Poor information management in general and PAIA monitoring specifically makes recorded information additionally vulnerable.

These problems are exacerbated by the fact that, in as much as PAIA requires public bodies to submit Section 32 reports to the Commission, the Act imposes no sanction on public bodies that do not submit reports. Submissions are therefore based largely on cooperation between the public body or entity and the Commission.

Some public bodies, particularly at local government level, simply comply with the reporting obligation by filing zero returns. Such returns permit a number of inferences to be drawn, including those that go to the degree of gravity such public bodies accord PAIA. The inability to test accuracy of reports means that many public bodies submit reports reflecting zero returns with impunity, despite evidence from civil society organisations to the contrary. Such limitations entirely defeat the objectives of the legislation and the monitoring of compliance.

Despite its potential as a tool for monitoring and evaluation, Section 32 reports carry other serious substantive limitations. Some of these vulnerabilities are evidenced in the potential for inaccurate or deliberately misleading information. The report is also limited to the extent that it does not reflect requests processed telephonically. In as much as these types of requests are not formal requests, they do account for a number of requests for access to information.

The provisions of Section 32, for instance, do not require public bodies to disaggregate requests to show volumes of requests for personal information, nor does it require public bodies to provide specific information about requests which are processed in the public

<sup>2</sup> At least 43% of the public service departments of the sample in the survey conducted by the Public Service Commission (PSC) had no kind of system to manage requests. Public Services Commission: *Implementation of the Promotion of Access to Information Act (Act 2 of 2000) in the public service* (2007).

interest, or steps they have taken to discipline officials who may have unreasonably refused access or remained non-responsive to a request. The absence of such provisions seriously limits substantive value of the reports for the purposes of monitoring.

It may therefore be necessary that a review of the Section 32 reporting is undertaken. It is recommended that such a review consider an expansion of the Section 32 reporting obligations to include substantive reporting, disaggregation of request type, an extension of the Commission's powers to penalise non-compliance and a duty on heads of public bodies to include Section 32 reports in their reports to Parliament, over and above the reports submitted by the Commission. A further recommended amendment would be the imposition of an obligation on public bodies to bear the costs incurred by the Commission in the instance it chooses to audit the veracity of reports submitted to it by the public body in question.

General monitoring has, over time, consistently yielded data which provides a barometer on the levels of formal adherence to PAIA in the public sector. The Commission emphasises that Section 32 reports in themselves provide only limited insights into the levels of compliance and responses of public bodies to requests processed by them. Its value as a monitoring tool can only be realised if public bodies begin to implement and commit to PAIA more substantively.

Compliance with Sections 14, 32 and audits remain, however, an integral framework through which monitoring and evaluation of the right can occur in the formal sense. Analysis of reports submitted provides clear evidence of a stasis with access to information in the public sector on a very elementary level. Most public bodies have been hounded into compliance with Section 32 and some ultimately do so well after deadlines for submission have passed. This type of response provides clear evidence of the lack of awareness and commitment within the sector to deliver on access rights and begs questions of service delivery, transparency and commitment to the laudable Batho Pele principles, nine years after the enactment of the PAIA legislation.

### National departments – submission rates

National department submission rates, plotted from 2002 to 2011, are detailed in Graph 1 and Table Six below. Submission rates increased during the 2007 reporting cycle, when only 50 percent of national departments complied with reporting obligations to around the 62 percentile during 2008, 2009, and 2010. A 10 percent drop in compliance rates is noted for the current reporting period. This may be attributable to the increase in the number of national departments from 29 in the past to 42 at present. The total number of national departments complying with reporting obligations remains at 18, the same number reported in 2010.

While compliance rates for national departments have dropped minimally relative to the increase in the number of national departments obliged to report in terms of Section 32, repeated non-compliance by key service delivery national departments remains cause for concern. National departments which have repeatedly not complied with PAIA include the Departments of Basic and Higher Education and Training, and the Department of Energy and Home Affairs. A comprehensive list of non-complying national departments is included in on page 164 of this report.

Graph 1

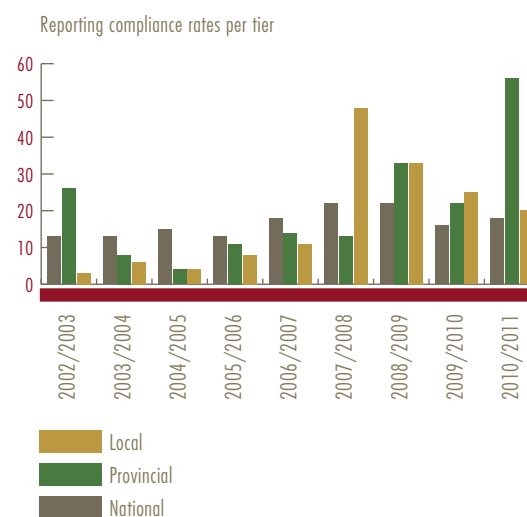
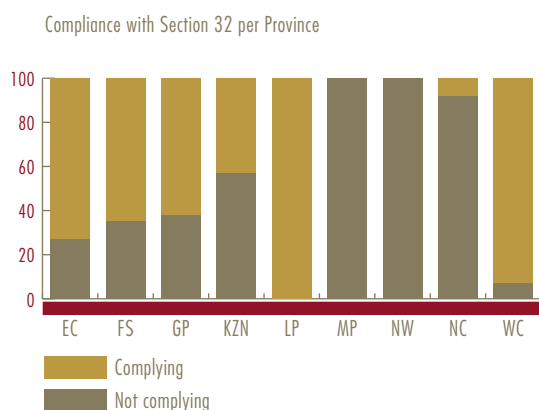


Table Six: Submission Rates

	National	Provincial	Local
2002/2003	13	26	3
2003/2004	13	8	6
2004/2005	15	4	4
2005/2006	13	11	8
2006/2007	18	14	11
2007/2008	22	13	48
2008/2009	22	33	33
2009/2010	16	22	25
2010/2011	18	56	20

Graph 2



### Provincial departments

Provincial departments' reporting rates have remained under the 50 percentile range since 2007. However the number of provincial departments complying with reporting almost doubled in 2009 from 15 percent compliance to 31 percent. Compliance rates at provincial level have again shown healthy growth this year, with approximately 51 percent of all provincial departments complying with reporting obligations. Non-compliance by entire provincial blocks was noted from the 2007 period onward. Entire provincial blocks which did not comply during this period were the Eastern Cape, which had been non-compliant for five years up until and including 2010, and the North West Province which had been non-compliant for three consecutive years. Mpumalanga has been non-compliant for the past two years.

### Most improved

The Eastern Cape and KwaZulu-Natal, which were non-compliant during 2010, have this year shown marked improvement. Both provinces have improved compliance rates by more than 70 percent and 50 percent respectively. These improvements are attributable to the efforts of the Commission and the commitment of both offices of the Premiers in these provinces. The respective Offices of the Premiers joined with the Commission in hosting Provincial Information Officers Forums (PIOFs) in the provinces during 2010. These forums were attended by personnel who then assumed the responsibility of ensuring formal compliance with reporting obligations. The Commission notes that the efforts of the steering committees of practitioners elected during the PIOFs have been instrumental in encouraging their peers to submit Section 32 reports. It also notes, however, that many of the provincial departments have not yet formally designated deputy information officers, in terms of PAIA, who can be held accountable for compliance based reporting.

The Limpopo Province has consistently been 100 percent compliant with PAIA reporting obligations. The province has now undertaken to work more closely with local government to accelerate poor compliance rates at this level as well. The province's consistent high compliance rate continues to set the bar for the performance of other provinces. Successful compliance from this province was attributed largely to the degree of political leadership and support to access to information by the Premier of the province and personnel tasked with PAIA implementation within the various provincial departments. Driven through an organised structure from the Office of the Premier, all PAIA and records management personnel are regularly trained and accorded supportive internal environments through which to deliver on PAIA. This model has evidenced the success that may be attained through commitment by leadership and executive management in the public sector.

Close to a hundred percent compliance has been reached by the Western Cape Province in this cycle. High compliance rates in this province are attributable to the commitment by the Western Cape legislature, Office of the Premier and the City of Cape Town. The



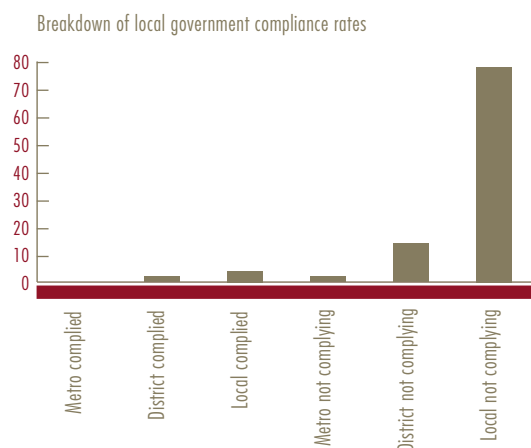
latter has shown strong commitment to best practice in relation to implementation and has been acknowledged for same through the receipt of the Golden Key Awards.

### Challenges at the provincial level

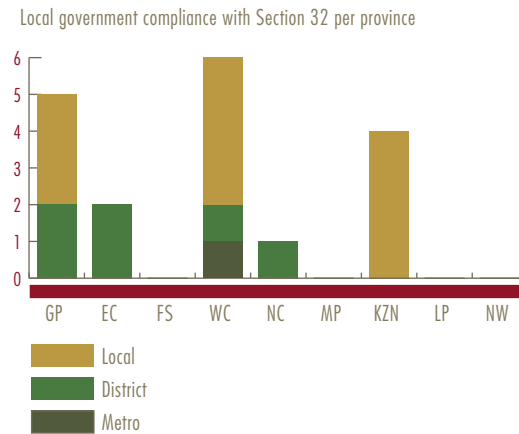
Some of the challenges faced by provincial departments in complying with Section 32 include the ambiguity within PAIA, which permits for an interpretation requiring only one report in terms of Section 32, signed by the Director General of the province to be submitted. Others find that the process of preparing the Section 32 report and then processing these for authorisation burdensome and time consuming. Coupled with the absence of formally designated deputy information officers and the high mobility of trained personnel, most provincial departments experience difficulties in complying. These challenges are in part being overcome through the creation of regional structures like PIOF steering committees and increased commitments from the Offices of the Premiers.

The Commission intends on hosting a further two PIOFs in the coming year in the Northern Cape and Free State provinces respectively. It is envisaged that these interventions will accelerate compliance in the fashion it has within the KwaZulu-Natal and Eastern Cape provinces during 2010.

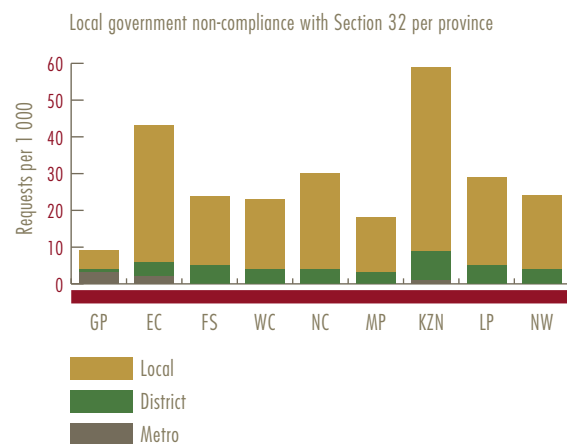
Graph 3



Graph 4



Graph 5



### Local government compliance

Local government bodies maintained a compliance rate within the 10 to 20 percentile ranges from 2007 to 2010. The compliance rates for local government have however dropped to its lowest in the past four years, with 210 municipalities throughout the country failing to comply.

KwaZulu-Natal, with the highest number of municipalities, was also most non-compliant. The compliance rates for the province have remained consistently low since 2008. The Eastern Cape, Limpopo, North West and the Free State provinces have posted zero returns, while the Northern Cape submitted only one local government report.

### Metros

In general, the highest rates of non-compliance are located within local municipalities. Metros however also fared extremely poorly in this reporting cycle. Of the seven metros only the City of Cape Town submitted its Section 32 report. Ethekeweni and the City of Johannesburg, previously compliant failed to comply in this cycle. The City of Tshwane and the Ekurhuleni Metro have not complied for the past two reporting cycles, despite their undertakings to comply and improve implementation during the audits undertaken by the Commission of them during 2008/2009. Previous high compliance by Metros was attributed to the higher resource availability they enjoy, but the current reporting cycle may disprove this theory.

### Challenges at local government level

Some of the reasons attributable to poor compliance rates at the local government level include:

- Insufficient resources and personnel capacity;
- Lack of awareness;
- According low priority to PAIA;
- Inability to sufficiently connect the PAIA objectives to delivery;
- Inability to mainstream PAIA in daily operations; and
- The absence of visible PAIA champions at the local level.

The local government elections conducted during May of the reporting cycle impacted significantly on the attention local government accorded PAIA reporting obligations. It appears therefore, that due to the lack of clear policies, practices and embedding of PAIA within local government structures, compliance with the PAIA is secondary to changing and competing needs.

Given the critical role local government plays in service delivery, the need for PAIA compliance and implementation at this level is of particular importance. A number of matters have gone before our courts, emphasising the significant role consultation and public participation plays in the realisation of socio-economic rights within communities. In many of these instances courts have found municipalities errant in undertaking

adequate consultation with the communities in question. Meeting the consultation criteria requires a commitment to information-sharing at the local government level in particular. A lack of compliance with reporting obligations and what appears to be a patent disregard for legislation of national application places the injunctions to consult and encourage public participation in serious jeopardy at municipal level – this unfortunately has dire consequences for the communities these municipalities serve.

### Addressing systemic non-compliance

The Commission plans to address these challenges through formal engagements with the Departments of Cooperative Governance and Traditional Affairs during the course of the current year. The inclusion of municipalities within the Provincial Information Officers Forums in the respective provinces will also be encouraged by the Commission to increase awareness, support and commitment to PAIA at a regional level.

Table Seven

	GP	EC	FS	WC	NC	MP	KZN	LP	NW
Metro	0	0	0	1	0	0	0	0	0
District	2	1	0	1	1	0	0	0	0
Local	3	1	1	5	0	0	4	0	0

### Conclusion

More than 80 percent of the local government structures remain non-compliant with PAIA. More significantly, reports from local government also reveal worrying trends of reports indicating zero requests. There are a number of conclusions to be drawn from such returns at local government level. The most obvious is that members of the public are not using the legislation enough and that local government is not contributing to increasing community awareness through its integrated development planning initiatives, especially designed with this objective in mind, or that zero returns are simply a form of malicious compliance. Both of these conclusions warrant concern, particularly because local government remains the first interface between communities and government.

The key tenets of participatory democracy require active communities and mutually constructive relationships between key service delivery agencies, structures and government. If local government is not able to fully embrace the objectives of PAIA, service delivery which is its mainstay will continue to be critically impeded.

Key areas for accelerating compliance and implementation of PAIA at local government, which merit urgent attention, include measures to sustain fully capacitated personnel, including frontline staff and staff at customer care service centres, improved records and document management systems, adequate budgetary allocations, reporting and accountability on PAIA delivery, improved systems and processes to administer requests and monitoring and evaluation of specific requirements to address impediments to delivery, increased commitment from senior management contextualising PAIA within service delivery priorities and standards, and the integration of PAIA into the IDP process and community structures within each geographical area. These changes address both operational and orientation needs to enhance PAIA compliance and implementation, but need to be addressed urgently to overcome entrenched patterns of behaviour within local government structures.

### Request trends

Graph Six below reflects the total number of requests received by each sphere of public body over a period of nine years. Trends for the past four years have been quite consistent with national departments posting the highest volume of requests and local government the lowest.

National department trends have consistently exceeded 15 000 requests per annum over the past four years. However the bulk of these requests are being processed by three departments. The South African Police Services has consistently posted request volumes in excess of 10 000 for each of the past four years consecutively. High request volumes are also noted for the Department of Justice and Constitutional Development (DOJ&CD) and the Department of Mineral Resources. The latter is also the department which has refused the highest number of requests in full. The department re-

ceived 607 requests and refused more than 95 percent (593) of its requests in full. The DOJ&CD is also the department requesting the highest average number of extensions on the PAIA 30 day response timeframes.

### Refusals

Given the volume of requests processed at national level, it may be anticipated that the highest refusal rate would be within this sphere as well. Analysis of comparative refusal rates against the total volume of requests received per sphere, however, reveals that the highest refusal rate occurs within the local government sphere. National government has a two percent refusal rate, followed by provincial government which has a nine percent refusal rate and local government which has a 16 percent refusal rate – 8 times the refusal rates evidenced at national level.

### Concerns with local government reports

Reports from local government reveal a number of anomalies which in turn reflect on the degree of awareness at this level. Some of the reports are cited herein although anecdotal are a worrying indicator of the levels of compliance, implementation and commitment to PAIA at local government level.

One municipality defended its failure to submit a report in terms of Section 32 to the Commission on the basis that it does not undertake any service delivery and therefore does not have to comply with PAIA! Other concerns emerging from compliance obligations within local government are the resubmission of old reports. During this reporting cycle two municipalities respectively submitted their 2005 and 2006 reports.

Many reporting municipalities submitted zero returns. This trend has been consistent throughout the past four years, and has been discussed in previous reports of the Commission.

### Appeals

The highest appeal volumes are located within the national sphere of government. During this reporting cycle both provincial and national appeal rates showed a marginal difference.

Appeals against deemed refusals, although not high,

are worrying. There has been a drop for the number of appeals against deemed refusals at the national level, but an increase in provincial appeals against deemed refusals are apparent. Deemed refusals are one of the indicators which reflect on the levels of responsiveness of public bodies. In instances where a requestor has received no response to the request lodged within the stipulated time frame, a deemed refusal occurs.

Reports reflecting significant increases with regard to deemed refusals are a good indicator that requests have been neglected or disregarded and is perhaps more adverse than instances where a request has been refused. The deemed refusal reporting requirement is, however, perhaps not the best measure of how responsive a public body has been since it presupposes that public bodies are aware of and are recording all requests for information received. In most instances, civil society and private individuals can demonstrate that their requests have been refused on the basis of deemed refusals far in excess of the numbers reported on by public bodies.

### Court applications

Applications to court in terms of PAIA requests have significantly increased at the provincial level during this reporting cycle. The Eastern Cape provincial Department of Health has reported 34 court applications against its decisions this year.

Reports on applications to court during the reporting cycle are, however, not always accurate. The office of the President is an example of inaccurate reporting on this subsection. The Presidency submitted a nil report on court applications, despite national interest in the judgements handed down by the courts in the matter where a request for access to the Kampepe report had been adjudicated.

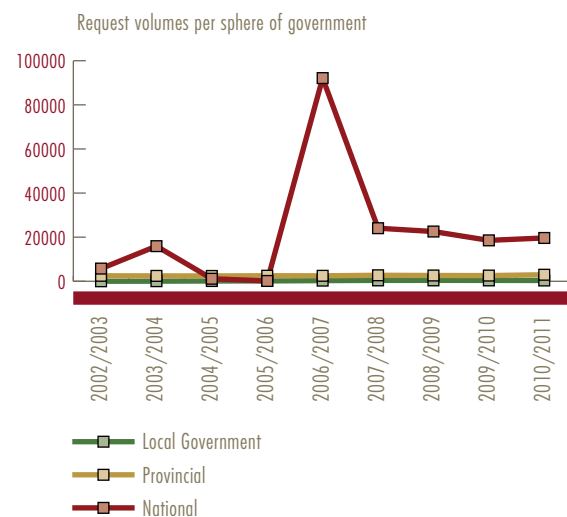
Apart from the inherent weakness in the current reporting system prescribed within Section 32, access and litigation to the courts continue to pose a barrier to domestic enforcement for most South Africans. Previous reports of the Commission, various recommendations to Parliament and the DOJ&CD, as well as the discussion on litigation within the current report expand further on these concerns.

### Public interest

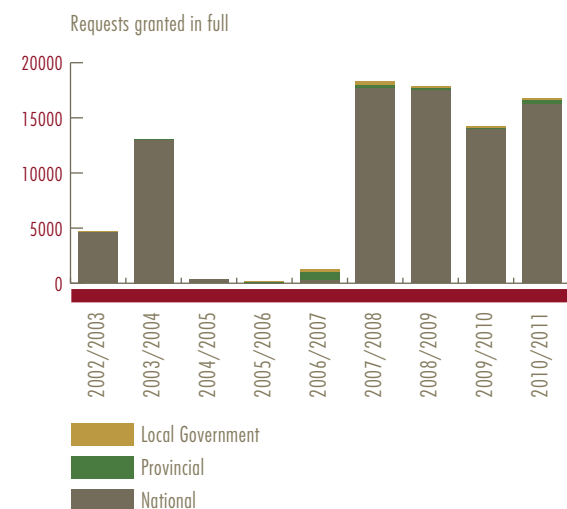
National departments have consistently posted high volumes of requests where access has been granted in the public interest. Local government has also posted marginal grants in the public interest. Provincial departments have posted the fewest grants of access to information based on the public interest.

The South African Police Service has posted the highest return on public interest grants, followed by four requests granted by the Department of Environmental Affairs and Tourism and one request by the Department of Agriculture, Forestry and Fisheries. No other national departments granted information in the public interest.

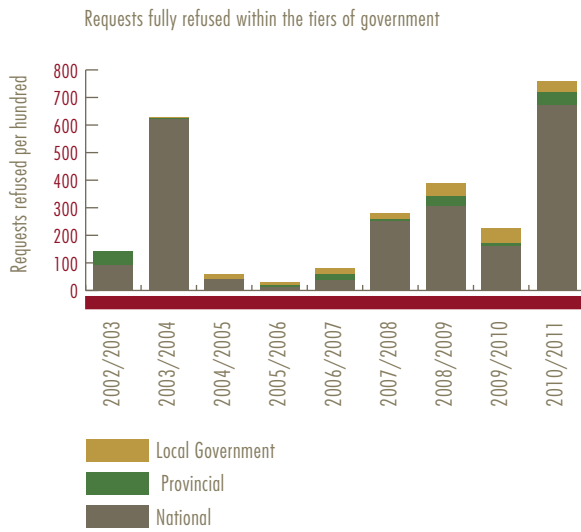
Graph 6



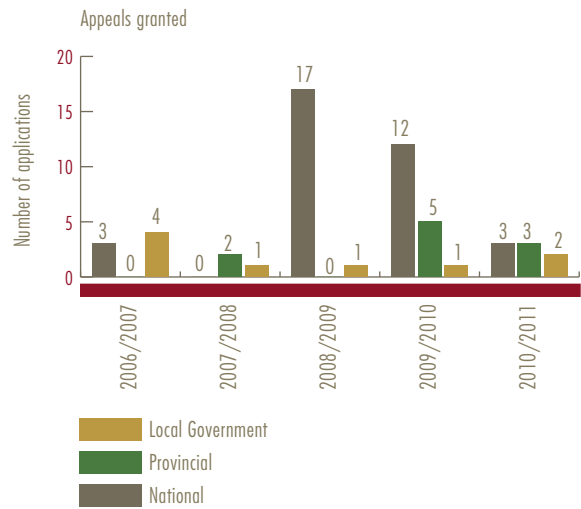
Graph 7



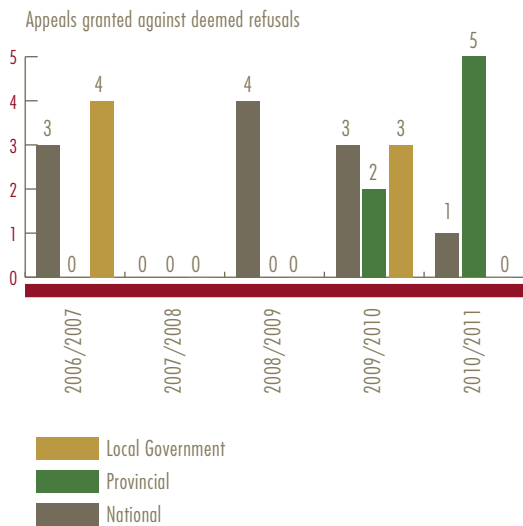
Graph 8



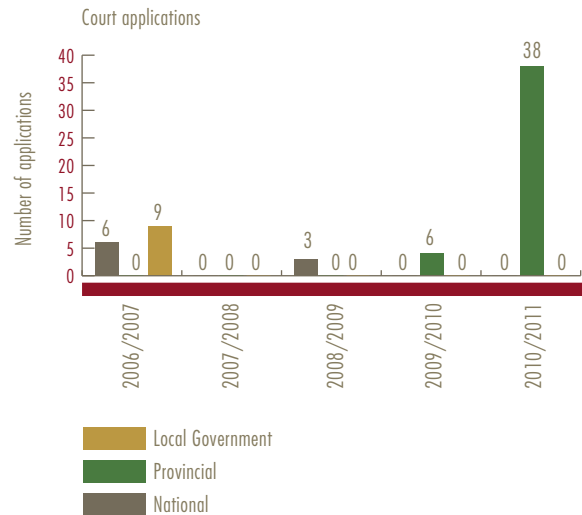
Graph 10



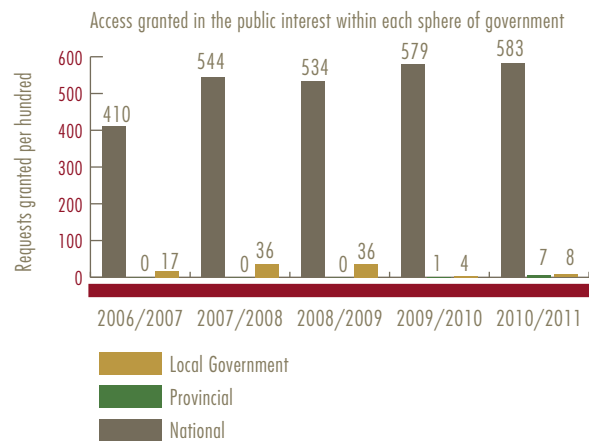
Graph 9



Graph 11



Graph 12



Section 32 Reports\*

National Government

Department	Number of requests for access received S32(a)	Number of requests for access granted in full S32(b)	Number of requests granted in terms of S46 S32(c)	Number of requests for access: (a) refused in full; (b) refused partially; (c) number of times each provision of this Act was relied on to refuse access in full or partially S32(d)			Number of cases in which the periods stipulated in S25(1) were extended in terms of S26(1) S32(e)	Number of internal appeals (a) lodged with the relevant authority (b) number of cases in which, as a result of an internal appeal, access was given S32(f)		Number of internal appeals which were lodged on the grounds that a request for access was regarded as having been refused in terms of S27 S32(g)	Number of applications to a court which were lodged on the grounds that internal appeal was regarded as having been dismissed in terms of S77(7) S32(h)	Other information
				A	B	C		A	B			
Justice and Constitutional Development	385	152	0	7	0	7	75	3	0	0		
Public Service and Administration	3	2	0	0	0	0	0	0	0	0		Transferred requests: Two
Rural Development and Land Reform	3	1	0	0	1	1	1	1	1	1	0	Pending: One
Mineral Resources	607	14	0	593	-	593	0	4	1	0	0	
International Relations and Cooperation	3	2	0	0	0	0	1	0	0	0	0	
Government Communications (GCIS)	4	1	0	0	0	0	0	0	0	0	0	
National Treasury	11	1	0	6	1	7	5	1	0	1	0	
South African Police Services	18 346	15 859	578	50	43	93	270	3	0	1	0	
Sport and Recreation	3	2	0	1	0	1		0	0	0	0	
Labour	7	6	0	1	0	1	1	0	0	0	0	
Cooperative Governance	0	0	0	0	0	0	0	0	0	0	0	
Agriculture, Fisheries and Forestry	77	48	1	3	0	0	0	1	0	0	0	20 requests pending. Five withdrawn
Environmental Affairs	30	15	4	4	4	4	2	0	0	0	0	
Arts and Culture	28	1	0	0	21	21	2	0	0	0	0	
Correctional services	31	26	0	1	0	1	2	1	0	0	0	Four requests withdrawn
Defence	52	33	0	1	5	6	46	0	0	0	0	0
Presidency	10	3	0	3	0	3	0	3	1	3	0	0

\* Section 32 reports submitted after 30 April 2011 are not included in this Annual Report





Department	Number of requests for access received S32(a)	Number of requests for access granted in full S32(b)	Number of requests for access granted in terms of S46 S32(c)	Number of requests for access: (a) refused in full (b) refused partially (c) number of times each provision of this Act was relied on to refuse access in full or partially S32(d)	Number of cases in which the periods stipulated in S25(1) were extended in terms of S26(1) S32(e)	Number of internal appeals (a) lodged with the relevant authority (b) number of cases in which, as a result of an internal appeal, access was given S32(f)	Number of internal appeals which were lodged on the grounds that a request for access was regarded as having been refused in terms of S27 S32(g)	Number of applications to a court, which were lodged on the grounds that internal appeal was regarded as having been dismissed in terms of S77(7) S32(h)	Other information
Provincial Treasury	1	0	0	1	0	0	0	0	
Environmental Affairs and Development Planning	58	43	0	0	12	0	0	0	
Human Settlements	6	3	0	3	0	0	0	0	
Local Government	0	0	0	0	0	0	0	0	
Health and Social Development	21	19	0	1	0	0	0	0	
Transport and Public Works	4	4	0	0	4	0	0	0	
<b>Free State</b>									
Office of the Premier	82	64	0	0	1	0	0	0	18 requests referred
Health and Social Development	4	4	0	0	0	0	0	0	Referral to relevant entities: One
Agriculture	2	2	0	0	0	0	0	2	0
Provincial Treasury	0	0	0	0	0	0	0	0	0
Health and Social Development	4	4	0	0	0	0	0	0	0
Public Works and Rural Development	0	0	0	0	0	0	0	0	0
Police, Roads and Transport	4	0	2	2	0	0	0	0	0
<b>KwaZulu-Natal</b>									
Office of the Premier	0	0	0	0	0	0	0	0	0
Public Works	0	0	0	0	0	0	0	0	0
Sports and Recreation	0	0	0	0	0	0	0	0	0
Cooperative Governance and Traditional Affairs	0	0	0	0	0	0	0	0	0
Arts and Culture	1	0	0	1	0	0	0	0	0
Human Settlements	6	4	4	1	0	0	0	0	0



Department	Number of requests for access received S32(a)	Number of requests for access granted in full S32(b)	Number of requests for access granted in terms of S46 S32(c)	Number of requests for access: (a) refused in full (b) refused partially (c) number of times each provision of this Act was relied on to refuse access in full or partially S32(d)	Number of cases in which the periods stipulated in S25(1) were extended in terms of S26(1) S32(e)	Number of internal appeals lodged with the relevant authority (b) number of cases in which, as a result of an internal appeal, access was given S32(f)	Number of internal appeals lodged on the grounds that a request for access was regarded as having been refused in terms of S27 S32(g)	Number of applications to a court, which were lodged on the grounds that internal appeal was regarded as having been dismissed in terms of S77(7) S32(h)	Other information
<b>Gauteng</b>									
Office of the Premier	3	0	0	3	0	0	0	0	
Health and Social Development	6	1	0	2	1	2	0	0	0
Agriculture and Rural Development	45	28	0	15	5	3	2	0	0
Local Government and Housing	30	28	0	2	5	0	0	0	
Finance	6	2	0	2	0	0	0	0	Two requests pending
Roads and Public Transport	7	7	0	0	0	1	0	0	
Community Safety	0	0	0	0	0	0	0	0	
Education	5	4	0	1	2	0	0	0	
<b>Eastern Cape</b>									
Agriculture	0	0	0	0	0	0	0	0	0
Health	1	0	0	1	0	0	0	34	
Social Development and Special Programmes	4	1	0	0	0	0	0	0	
Transport	2	1	1	0	0	0	0	0	
Roads and Public Works	1	0	0	0	0	0	1	1	
Office of the Premier	3	0	0	2	0	0	0	0	
Safety and Liaison	0	0	0	0	0	0	0	0	
Economic Development & Environmental Affairs	1	1	0	0	0	0	0	0	
Sports, Recreation, Arts and Culture	0	0	0	0	0	0	0	0	
Treasury	1	0	0	1	0	0	0	1	
Local Government and Traditional Affairs	3	0	0	3	0	0	0	0	

## Local Government

Municipality	Number of requests for access received S32(a)	Number of requests for access granted in full S32(b)	Number of requests for access granted in full or partially S32(d)	Number of requests for access: (a) refused in full (b) refused partially (c) number of times each provision of the Act was relied on to refuse access in full or partially S32(d)			Number of cases in which the period stipulated in S25(1) was extended in terms of S26 (1) S32(e)	Number of internal appeals lodged with the relevant authority	(b) number of cases in which as a result of an internal appeal access was given S32(f)	Number of internal appeals which were lodged on the grounds that a request for access was regarded as having been refused in terms of S27 (Section 32(g))	Number of applications to a court, which were lodged on the ground that internal appeal was regarded as having been dismissed, in terms of Sections 77 (7) S32(h)	Other information
				A	B	C						
<b>Eastern Cape District</b>												
Cacadu District Municipality	-	-	-	-	-	-	-	-	-	-	-	The municipality did not capture any statistics. Reasons provided: it does not deal directly with the public, and its business model does permit for the receipt of requests for information
Chris Hani	1	1	0	0	0	0	0	0	0	0	0	
<b>Free State Local</b>												
Tswelopele	0	0	0	0	0	0	0	0	0	0	0	Municipality states that numerous requests are received but it cannot determine numbers
<b>Gauteng District</b>												
Metsweding	52	52	0	0	0	0	0	0	0	0	0	
Sediberg	5	5	0	0	1	1	0	0	0	0	0	
<b>Gauteng Local</b>												
Kungwini	7	6	0	0	0	0	1	0	0	0	0	
Mogale City	7	7	1	0	0	0	0	0	0	0	0	
Midvaal	13	13	0	0	0	0	0	0	0	0	0	



Municipality	Number of requests for access received S32(a)	Number of requests for access granted in full S32(b)	Number of requests for access granted in terms of S46 S32(b)	Number of requests for access: (a) refused in full (b) refused partially (c) number of times each provision of the Act was relied on to refuse access in full or partially S32(d)	Number of cases in which the period stipulated in S25(1) was extended in terms of S26 (1) S32(e)	Number of internal appeals lodged with the relevant authority	(b) number of cases in which as a result of an internal appeal access was given S32(f)	Number of internal appeals which were lodged on the grounds that a request for access was regarded as having been refused in terms of S27 (Section 32(g))	Number of applications to a court, which were lodged on the ground that internal appeal was regarded as having been dismissed in terms of Sections 77 (7) S32(h)	Other information	
Metro											
City of Cape Town	209	77	1	22	5	27	5	2	0	0	Eight requests withdrawn, 26 abandoned requests, three transferred, three requests where the requester was not deemed a requester per the PAIA definition, nine requests classified as other, 56 pending



	Number of requests for access received S32(a)	Number of requests for access granted in full S32(b)	Number of requests for access granted in terms of S46 S32(b)	Number of requests for access: (a) refused in full (b) refused partially (c) number of times each provision of the Act was relied on to refuse access in full or partially S32(d)	Number of cases in which the periods stipulated in S25(1) were extended in terms of S26(1) S32(e)	Number of internal appeals lodged with the relevant authority	(b) number of cases in which as a result of an internal appeal access was given S2(f)	Number of internal appeals lodged on the grounds that a request for access was regarded as having been refused in terms of S27 S32(g)	Number of applications to a court, which were lodged on the grounds that internal appeal was regarded as having been dismissed in terms of Sections 77(7) and 32(h)	Other information
South African Revenue Services	13	6	0	5	2	7	1	0	0	
South African Social Security Agency	212	121	85	6	5	1	0	0	0	
Insurance Sector Education and Training Authority	0	0	0	0	0	0	0	0	0	
Trans-Caledon Tunnel Authority	0	0	0	0	0	0	0	0	0	
Free State Gambling and Liquor Authority	0	0	0	0	0	0	0	0	0	
South African National Parks	2	0	0	2	0	1	1	0	0	
Legal Aid Board	2	1	0	0	1	0	0	0	0	The report provided by the Legal Aid Board included names of requesters
Joburg City Power	1	1	0	0	0	0	0	0	0	
CSIR	0	0	0	0	0	0	0	0	0	
University of the Witwatersrand	2	0	0	0	0	0	0	0	0	
Public Service Commission	5	3	1	0	1	1	0	0	0	
Council for Medical Schemes	18	15	0	2	1	3	1	0	0	
Land Bank and Agriculture Bank of South Africa	17	8	0	9	0	0	0	0	0	
National Nuclear Regulator	3	1	0	1	0	1	0	0	0	
<b>Chapter 9 Institutions</b>										
South African Human Rights Commission	0	0	0	0	0	0	0	0	0	

## Non-compliant public bodies

### National departments not submitting Section 32 reports

Department
Basic Education
Civilian Secretariat of the Police
Communications
Economic Development
Energy
Health
Higher Education and Training
Home Affairs
Human Settlements
Independent Complaints Directorate
Military Veterans
PALAMA
Parliament
Public enterprises
Public Works
Science and Technology
Social Development
State Security
Statistics South Africa
Tourism
Trade and Industry
Traditional Affairs
Transport
Water Affairs
Women, Children, and People with Disabilities

### Provincial departments not submitting Section 32 reports

Province	Department
Eastern Cape	Education
	Finance
	Human Settlements
	Provincial Legislature
Free State	Cooperative Governance and Traditional Affairs
	Economic Development, Tourism and Environmental Affairs
	Education
	Human Settlements
	Provincial Legislature
Gauteng	Social Development
	Sport, Arts, Culture Recreation
	Economic Development
	Housing
	Infrastructure Development
KwaZulu-Natal	Provincial Legislature
	Sport, Arts, Culture and Recreation
	Agriculture, Environmental Affairs and Rural Development
	Economic Development, Environment and Tourism
	Health
Mpumalanga	Provincial Legislature
	Provincial Treasury
	Social Development
	Transport
	Agriculture, Rural Development and Land Administration
	Community Safety, Security and Liaison
	Cooperative Governance and Traditional Affairs
	Culture, Sport and Recreation
	Economic Development, Environment and Tourism
	Education
Finance	
Northern Cape	Health and Social Development
	Human Settlements
	Premier

## Provincial departments not submitting Section 32 reports

Province	Department
	Public Works, Roads and Transport
	Social Development
North West	Agriculture and Rural Development
	Economic Development, Environment and Tourism
	Finance
	Health
	Human Settlements, Public Safety and Liaison
	Local Government and Traditional Affairs
	Premier
	Provincial Legislature
	Public Works, Roads and Transport
	Sports, Arts and Culture
Northern Cape	Agriculture, Land Reform and Rural Development
	Cooperative Governance, Human Settlements and Traditional Affairs
	Economic Affairs
	Education
	Environment and Nature Conservation
	Health Services
	Premier
	Provincial Treasury
	Provincial Legislature
	Roads and Public Works
	Social Development
	Sport, Arts and Culture
	Transport, Safety and Liaison
Western Cape	Provincial Legislature

## Local government not submitting Section 32 Reports

Type	Province	Name of Municipality
District	Eastern Cape	Alfred Nzo District Municipality
District		Amathole District Municipality
District		OR Tambo District Municipality
District		Ukhahlamba District Municipality
Local		Amahlathi Local Municipality
Local		Baviaans Local Municipality
Local		Blue Crane Route Local Municipality
Local		Buffalo City Local Municipality
Local		Camdeboo Local Municipality
Local		Elundini Local Municipality
Local		Emalahleni Local Municipality
Local		Engcobo Local Municipality
Local		Gariep Local Municipality
Local		Greater Kei Local Municipality
Local		Ikwezi Local Municipality
Local		Inkwanca Local Municipality
Local		Intsika Yethu Local Municipality
Local		Inxuba Yethemba Local Municipality
Local		King Sabatha Dalindyebo Local Municipality
Local		Kouga Local Municipality
Local		Kou-Kamma Local Municipality
Local		Lukhanji Local Municipality
Local		Makana Local Municipality
Local		Maletswai Local Municipality
Local		Matatiele Local Municipality
Local		Mbhashe Local Municipality
Local		Mbizana Local Municipality
Local		Mhlontlo Local Municipality
Local		Mnquma Local Municipality
Local		Ndlambe Local Municipality
Local		Ngqushwa Local Municipality
Local		Nkonkobe Local Municipality
Local		Ntabankulu Local Municipality
Local		Nxuba Local Municipality



## Local government not submitting Section 32 Reports

Type	Province	Name of Municipality
Local		Nyandeni Local Municipality
Local		Port St Johns Local Municipality
Local		Qaukeni Local Municipality
Local		Sakhisizwe Local Municipality
Local		Senqu Local Municipality
Local		Sunday's River Valley Local Municipality
Local		Tsolwana Local Municipality
Local		Umkhumbi Local Municipality
Metro		Nelson Mandela Bay Metropolitan Municipality
District	Free State	Fezile Dabi District Municipality
District		Lejweleputswa District Municipality
District		Motheo District Municipality
District		Thabo Mofutsanyana District Municipality
District		Xhariep District Municipality
Local		Dihlabeng Local Municipality
Local		Kopanong Local Municipality
Local		Letsemeng Local Municipality
Local		Mafube Local Municipality
Local		Maluti a Phofong Local Municipality
Local		Mangaung Local Municipality
Local		Mantsopa Local Municipality
Local		Masilonyana Local Municipality
Local		Matjhabeng Local Municipality
Local		Metsimaholo Local Municipality
Local		Mohokare Local Municipality
Local		Moqhaka Local Municipality
Local		Nala Local Municipality
Local		Naledi Local Municipality
Local		Ngwathe Local Municipality
Local		Nketoana Local Municipality
Local		Phumelela Local Municipality
Local		Setsoto Local Municipality
Local		Tokologo Local Municipality
District	Gauteng	West Rand District Municipality
Local		Emfuleni Local Municipality

## Local government not submitting Section 32 Reports

Type	Province	Name of Municipality
Local		Lesedi Local Municipality
Local		Nokeng tsa Taemane Local Municipality
Local		Randfontein Local Municipality
Local		Westonaria Local Municipality
Metro		City of Johannesburg Metropolitan Municipality
Metro		City of Tshwane Metropolitan Municipality
Metro		Ekurhuleni Metropolitan Municipality
District	KwaZulu-Natal	Amajuba District Municipality
District		Ilembe District Municipality
District		Sisonke District Municipality
District		Ugu District Municipality
District		Umgungundlovu District Municipality
District		Umzinyathi District Municipality
District		Uthungulu District Municipality
District		Zululand District Municipality
Local		Abaqulusi Local Municipality
Local		Big Five False Bay Local Municipality (The)
Local		Dannhauser Local Municipality
Local		Edumbe Local Municipality
Local		Emadlangeni Local Municipality
Local		Emnambithi – Ladysmith Local Municipality
Local		Endumeni Local Municipality
Local		Hibiscus Coast Local Municipality
Local		Hlabisa Local Municipality
Local		Imbabazane Local Municipality
Local		Impendle Local Municipality
Local		Indaka Local Municipality
Local		Ingwe Local Municipality
Local		Izingolweni Local Municipality
Local		Jozini Local Municipality
Local		KwaDukuza Local Municipality
Local		KwaSani Local Municipality
Local		Mandeni Local Municipality
Local		Maphumulo Local Municipality
Local		Mbonambi Local Municipality



## Local government not submitting Section 32 Reports

Type	Province	Name of Municipality
Local		Nkomazi Local Municipality
Local		Pixley Ka Seme Local Municipality
Local		Steve Tshwete Local Municipality
Local		Thaba Chweu Local Municipality
Local		Thembisile Local Municipality
Local		Umjindi Local Municipality
District	North West	Bojanala Platinum District Municipality
District		Bophirima District Municipality
District		Dr Kenneth Kaunda District Municipality
District		Ngaka Modiri Molema District Municipality
Local		City of Matlosana Local Municipality
Local		Ditsobotla Local Municipality
Local		Greater Taung Local Municipality
Local		Kagisano Local Municipality
Local		Kgetleng Rivier Local Municipality
Local		Lekwa-teemane Local Municipality
Local		Madibeng Local Municipality
Local		Mafikeng Local Municipality
Local		Mamusa Local Municipality
Local		Maquassi Hills Local Municipality
Local		Merafong Local Municipality
Local		Molopo Local Municipality
Local		Moretele Local Municipality
Local		Moses Kotane Local Municipality
Local		Naledi Local Municipality
Local		Ramotshere Moiloa Local Municipality
Local		Ratlou Local Municipality
Local		Rustenburg Local Municipality
Local		Tlokwe Local Municipality
Local		Tswaing Local Municipality
Local		Ventersdorp Local Municipality
District	Northern Cape	John Taolo Gaetsewe District Municipality
District		Namakwa District Municipality
District		Pixley Ka Seme District Municipality
District		Siyanda District Municipality
Local		Dikgatlong Local Municipality
Local		Emthanjeni Local Municipality
Local		Gamagara Local Municipality

## Local government not submitting Section 32 Reports

Type	Province	Name of Municipality
Local		Ga-segonyana Local Municipality
Local		Hantam Local Municipality
Local		Joe Morolong Local Municipality
Local		Kai Garib Local Municipality
Local		Kamiesberg Local Municipality
Local		Kareeberg Local Municipality
Local		Karoo Hoogland Local Municipality
Local		Kgatelopele Local Municipality
Local		Khai Ma Local Municipality
Local		Khara Hais Local Municipality
Local		Kheis Local Municipality
Local		Magareng Local Municipality
Local		Mier Local Municipality
Local		Nama-khoi Local Municipality
Local		Phokwane Local Municipality
Local		Renosterburg Local Municipality
Local		Richtersveld Local Municipality
Local		Siyancuma Local Municipality
Local		Siyathemba Local Municipality
Local		Sol Plaatje Local Municipality
Local		Thembelihle Local Municipality
Local		Tsantsabane Local Municipality
Local		Ubuntu Local Municipality
Local		Umsobomvu Local Municipality
District	Western Cape	Central Karoo District Municipality

## ANNEXURE C: ACRONYMS

ACHPR	African Commission on Human and People's Rights
ACRWC	African Charter on the Rights and Welfare of the Child
ANHRI	African National Human Rights Institution
APT	Association for the Prevention of Torture
AU	African Union
CBO	Community Based Organisations
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CGE	Commission for Gender Equality
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CRPD	Convention on Rights of Persons with Disability
CSIR	Council for Scientific and Industrial Research
CSO	Civil Society Organisations
C9s	Chapter 9 Institution
DIO	Deputy Information Officers
DoJCD	Department of Justice and Constitutional Development
ENE	Estimates of National Expenditure
ETP	Education and Training Programme
ESR	Economic and Social Rights
GCIS	Government Communication and Information System
GKA	Golden Key Awards
GRAP	Generally Recognised Accounting Practices
HOA	Homeowners' Allowance
HRM	Human Rights Month
HURISA	Human Rights Institute of South Africa
KPA	Key Performance Area
IA	Internal Audit
ICAS	Independent Counselling and Advisory Services
ICC	International Coordinating Committee
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic Social and Cultural Rights
ICEPED	International Convention for the Protection of all Persons from Enforced Disappearance
ICP	International Covenant on Economic Social and Cultural Rights
IDP	Integrated Development Plan
IDP	Internally Displaced Persons
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families
ICWG	International Coordination Working Group
LGBT	Lesbian, Gay, Bisexual and Transgender
LSP	Legal Services Programme
MDGs	Millenium Development Goals
MISS	Minimum Information Security Standards
MoU	Memorandum of Understanding

MTEF	Medium Term Expenditure Framework
NGO	Non Governmental Organisation
NHRI	National Human Rights Institutions
NANHRI	Network of African National Human Rights Institutions
NDA	National Department of Agriculture
NGO	Non Government Organisation
NIOF	National Information Officers Forum
NPM	National Preventative Mechanism
ODAC	Open Democracy Advice Centre
OHCHR	United Nations Office of the High Commissioner for Human Rights
OPCAT	Optional Protocol to the Convention Against Torture
OISD	Office for the Institutions Supporting Democracy
PAIA	Promotion of Access to Information Act
PALAMA	Public Administration Leadership and Management Academy
PEPUDA	Promotion of Equality and Prevention of Unfair Discrimination
PIAP	Parliament and International Affairs
PIOF	Provincial Information Officers Forums
POI	Protection of Information
PFMA	Public Finance Management Act
POPIA	Protection of Personal Information
PSCBC	Public Service Commission
RBA	Royal Bafokeng Administration
SASCO	South African Students Congress
SCM	Supply Chain Management
STATSA	Statistics South Africa
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
UPR	Universal Periodic Review