

# Supplementary Employment Equity Hearings on Gender Transformation in the Workplace

Limpopo • Karumba Lodge, Polokwane • 13 October 2014



**Commission for Gender Equality**

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**irreversible reality.**

## ABBREVIATIONS AND ACRONYMS

<b>ACI</b>	African, Coloured, Indian
<b>AET</b>	Adult Education and Training
<b>AIDS</b>	Acquired Immune Deficiency Syndrome
<b>B-BBEE</b>	Broad-Based Black Economic Empowerment
<b>BEE</b>	Black Economic Empowerment
<b>BWASA</b>	Business Women's Association of South Africa
<b>CEE</b>	Commission for Employment Equity
<b>CGE</b>	Commission for Gender Equality
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination Against Women
<b>CEO</b>	Chief Executive Officer
<b>DDG</b>	Deputy Director-General
<b>DG</b>	Director-General
<b>DoL</b>	Department of Labour
<b>DPSA</b>	Department of Public Service and Administration
<b>EAP</b>	Employee Assistance Programme
<b>EE</b>	Employment equity
<b>EEA</b>	Employment Equity Act
<b>EAC</b>	Equity Assistance Committee
<b>EPWP</b>	Expanded Public Works Programme
<b>EXCO</b>	Executive Committee
<b>FET</b>	Further Education and Training
<b>FY</b>	Financial year
<b>GEYODI</b>	Gender, Youth and People with Disabilities
<b>GFP</b>	Gender Focal Person/Point
<b>GYDM</b>	Gender Youth and Disability Mainstreaming
<b>HIV</b>	Human Immunodeficiency Virus
<b>HoD</b>	Head of Department
<b>IDP</b>	Integrated development planning
<b>ILO</b>	International Labour Organization
<b>KPA</b>	Key Performance Area

<b>KPI</b>	Key Performance Indicator
<b>KRA</b>	Key Resultant Area
<b>LSEN</b>	Learner with special educational needs
<b>MCLM</b>	Mogale City Local Municipality
<b>MEC</b>	Member of the Executive Council
<b>MM</b>	Municipal Manager
<b>MMC</b>	Member of the Mayoral Committee
<b>NDP</b>	National Development Plan
<b>OHS</b>	Occupational health and safety
<b>OSD</b>	Occupation-specific dispensation
<b>PEPUDA</b>	Promotion of Equality and Prevention of Unfair Discrimination Act
<b>PMDS</b>	Performance management and development system
<b>PMS</b>	Performance management system
<b>POWA</b>	People Opposing Women Abuse
<b>PSC</b>	Public Service Commission
<b>PSBC</b>	Public Service Bargaining Council
<b>PSCBC</b>	Public Service Co-ordinating Bargaining Council
<b>PWD</b>	Persons with disabilities
<b>RSA</b>	Republic of South Africa
<b>SALGA</b>	South African Local Government Association
<b>SALGBC</b>	South African Local Government Bargaining Council
<b>SAPS</b>	South African Police Service
<b>SETA</b>	Sector Education and Training Authority
<b>SGB</b>	School governing body
<b>SMS</b>	Senior management service
<b>SPU</b>	Special Programmes Unit
<b>UIF</b>	Unemployment Insurance Fund
<b>UN</b>	United Nations

This hearing was supplementary to the original Employment Equity (EE) Hearings on Gender Transformation in the Workplace for Limpopo that took place at Bolivia Lodge, Polokwane, on 7-8 February 2013.

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

The initial public investigative hearing intended to:

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

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

- Waterberg District Municipality
- Palabora Copper Pty Ltd (previously Palabora Mining Company)
- Foskor Mining
- Department of Transport (previously Department of Roads and Transport)
- Department of Education
- University of Limpopo
- Department of Health
- Department of Public Works, Roads and Infrastructure (previously Department of Works)
- Department of Co-operative Governance, Human Settlement and Traditional Affairs (failed to appear)
- Polokwane Municipality (failed to appear).

The proceedings were facilitated by Provincial Co-ordinator Tshepang Mokgokong, with Commissioner Mbuyiselo Botha presiding. Also present were Legal Officers Dennis Matotoka, (Limpopo), Kerry Oosthuysen (Eastern Cape) and Veronika Govender (Northern Cape).

## **OVERVIEW**

In the overview of the report for the previous EE hearing in Limpopo, the Commission noted that some respondents had regarded the hearing as an ordinary dialogue, rather than a legal investigation that would have as its outcome a report to Parliament, and potential consequences for those who failed to comply with the law.

The hearings were taking place against the backdrop of international and national obligations with regard to gender equity. South Africa had signed and ratified several international agreements, among them the International Labour Organization Convention No. 100 and 111 and enacted local legislation such as the Labour Relations Act, Basic Conditions of Employment Act and Skills Development Act.

There had been a number of challenges raised by the first round of hearings. These included minimal submissions of reports, as well as parties failing to appear. Consequently, the CGE had had to invoke its statutory powers and issue subpoenas compelling these entities to attend hearings at the CGE's head office in Johannesburg in August 2013.

The report had noted that many of the workplace policies that were submitted had not been through proper approval processes. Some were undated and unsigned. Employers had also not engaged adequate expertise to assist in the drafting of these policies.

An ongoing challenge was the minimal reporting of instances of sexual harassment due to a dearth of effective policies. Employees were not aware of what constituted sexual harassment, and reporting mechanisms were inadequate.

Despite having issued invitations to CEOs and HoDs (Head of Department), many chief executives had delegated their responsibilities to managers at a lower level. Not only did this show a lack of commitment on their part, but it also meant that many of those present were unable to answer questions on sensitive issues, such as sexual harassment, because they were not privy to relevant information.

## **PRESENTATIONS**

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

## **1. WATERBERG DISTRICT MUNICIPALITY**

Representative: Feziwe Nogilana-Raphela, Director: Corporate Support and Shared Services

### **1.1 Findings from original hearing**

The Waterberg District Municipality's main challenges were flagged as being the recruitment of people with disabilities and the lack of a proactive approach to address outstanding representation issues. The municipality had no childcare or flexitime arrangements, its policies did not specifically address women or persons with disabilities, it had not conducted diversity workshops, and it had low reporting numbers for sexual harassment.

### **1.2 Update**

In the follow-up hearing, the municipality reported that the percentage of women in senior management was currently at 67% (it had previously reported 57%). In middle management, 44% were female incumbents.

According to good practice, the council was sending all female middle managers on a municipal finance course to enable them to develop to the next level. Also, all middle management employment requisition forms were now targeting females.

However, the municipality was cognisant that its various policies had been silent on the subject of women and disabled people. This was in the process of being rectified, but would have to go through various stages of approval before reaching council for final approval.

With regard to disability, the current municipal building was not user-friendly but a budget request had gone to the relevant committee for a lift to be installed.

The municipality acknowledged that a lack of awareness around sexual harassment could be a potential barrier to reporting, hence the fact that it had had no recorded cases to date. The authority had made use of a confidential reporting box, after it had discontinued a reporting line with KPMG due to financial constraints.

### **1.3 Analysis**

The municipality had managed to implement the following recommendations:

- Increased women representation at senior management.

It had not managed to implement the following recommendations:

- To engage organisations dealing with people with disabilities in order to address



poor representation of Persons with Disabilities (PWDs) at senior management level.

- To improve the building in order to be accessible to PWDs.
- Sensitising employees to sexual harassment matters.

The municipality is commended for ensuring that women representivity increases at senior management level. However the lack of representation of PWDs is a great concern, as the municipality has not engaged organisations dealing with PWDs in order to address this. The lack of reasonable accommodation remains a challenge and it is yet to be seen as to whether a budget request would be approved in order to install a lift.

#### **1.4 Questions and comments**

The municipality was commended for having increased the percentage of women in senior management by 10%. It was noted, however, that the invitation to appear had been directed at the municipal manager as the accounting officer.

The time frame for making adjustments to the building to accommodate PWDs was raised as an area of concern, as this had been talked about at the previous hearing without any apparent advances being made.

The Commission questioned the lack of childcare facilities.

The Employment Equity Act (EEA) required companies to have flexitime policies in place, and the municipality's current informal arrangements between manager and employee were inadequate due to possible bias on the part of managers.

There were also several outstanding policies that had been requested (although there was some dispute about whether these had been provided or not). To date, only seven out of 20 policies had been received, and some of these remained unsigned and undated.

A query was raised as to whether the municipality was putting measures in place to rectify its silence on gender and disability, with specific targets to be set.

The Commission also noted that the sexual harassment policy appeared to be ineffective due to the absence of reports. More effort needed to be put into sensitising staff about this policy.

#### **1.5 Response:**

The municipality said there had been a misinterpretation on its part, as the CEO had delegated the responsibility to its representative in terms of the EEA, as the senior manager was dealing with EE matters.

On the lack of childcare facilities, the municipality said it did not have the funds to create such a facility, as it was struggling to meet its core mandate under its current constrained financial circumstances.

The municipality said it would endeavour to rectify all outstanding matters.

## **2. PALABORA COPPER PTY LTD, PREVIOUSLY PALABORA MINING COMPANY**

Representative: Maboko Mahloale, General Manager: Human Resources

### **2.1 Findings from the initial hearing**

This company had failed to meet with the CGE at the stipulated time due to internal miscommunication. It had also failed to appear at the second hearings held in Johannesburg, and had thus been instructed to meet the CGE within a six-month period.

### **2.2 Update**

This presentation was effectively the first this company was making, after failing to attend the initial hearings. It explained that the company was in the process of being sold off by its former owners, Rio Tinto, and the Johannesburg hearings had been set down for the day of the handover to the new Chinese owners.

The company pointed out that the new Chinese CEO, Mr Han, was present in the room but still familiarising himself with the legal environment, and had asked for the presentation to be done on his behalf.

The mine was in the process of transition because its current lifecycle was coming to an end at the end of 2015, with some doubt hanging over its future. The new investors' focus was on developing a second shaft below the current one, to ensure that the mine would survive beyond 2016/2017.

The mine put forward the following EE statistics:

#### **December 2013:**

- Top management: 10% women (1 out of 10 incumbents, including 3 Chinese male executives).
- Senior management: 13% women (6 out of 35, including 8 Chinese male executives).
- Overall employment statistic: 14% women (316 women out of total of 2 340).

#### **September 2014:**

- Top management: 10% women (1 out of 10 incumbents, including 4 foreign male executives).
- Senior management: 17% women (8 out of 37).

- Overall employment statistic: 15% women (336 out of 2 327). There were 176 women working in the core business, and 160 in support services such as HR and finance.

The mine's core business of copper was underground, with a concentrator, copper smelter and refinery, as well as working with by products such as magnetite. Although its underground operations were not as rugged as some other mines, conditions were still challenging for women, with heavy equipment in use and punishingly high temperatures. The copper rod refinery, however, was a much friendlier environment for women and persons with disabilities.

There was no specific focus on persons with disabilities (with only 5 such employees on the records). This was partly due to people being hesitant to come forward. Also, the uneven topography of the mine was not conducive to disabled people.

Turnover in Palabora was almost half of the norm within the mining industry, which made it a challenge to address equity issues. Also, when attracting new skills to the mine, both partners in a marriage would have to be accommodated to make it viable.

Nevertheless, despite these challenges, many of which were common to the mining sector, every opportunity was being earmarked for women, persons with disabilities or historically disadvantaged South Africans. Any appointment outside of these criteria was highly regulated.

The company's 2014 focus was on increasing the numbers of women and people with disabilities, and managers' performance was evaluated against these targets. The company had approached Disabled People South Africa to assist, and was incorporating disability access issues into the budgetary process.

Among the initiatives taken to advance women were the following:

- A Women in Mining structure, run and led by women with a focus on issues affecting women.
- Breastfeeding women were given two hours a day to feed their babies (and are allowed to return home within a 10km range of the mine). Pregnant women were given a year off due to safety issues on the mine.
- Leadership development programmes, such as the Executive Development Programme with Stellenbosch University and a management degree at the University of the Free State, which were offered to women.
- Eighty percent women in apprenticeship training programmes.
- A supplier development programme that supported 30 businesses, 22 of which were owned by women, representing an investment of R13 million. These companies included services in construction, transport and engineering.

All the required policies had been submitted to the Commission, and had gone through a proven, auditable system with electronic sign-offs.

## 2.3 Analysis

This was the first submission made by the company and the following were highlighted:

- The company had poor female representation in top management positions.
- There was poor representation of PWDs at senior management positions within the company.
- The company had sensitised employees to sexual harassment within its workplace and consequently there were a few sexual harassment matters before the company.
- The company had good practice over its breastfeeding policy.

Although the company had showed commitment to accommodate pregnant women and to advance women, it becomes imperative for these women be absorbed into leadership positions within the company.

The company has to ensure that PWDs do not take a backseat in its quest for gender transformation. The company has to engage organisations dealing with people with disabilities in order to close the gap in senior management positions.

## 2.4 Questions and comments

The presence of the new Chinese CEO was welcomed, and the company was commended for its breastfeeding policy and for making an effort to offer women jobs “in overalls”.

Questions were raised on the percentage of women represented in top and senior management, with these being described as dismal and insufficient.

The company was asked to elaborate on its sexual harassment policy.

The company responded that it did not think that a figure of 15% overall was dismal within the mining sector.

The company had done a thorough analysis of the workforce and its figures were realistic, with a focus on natural attrition because of the circumstances the mine found itself in (both geographically and economically). It agreed that the top management figure of 10% did not represent a good picture, but the company was continually looking for opportunities to appoint senior women managers.

It conceded that there had not been sufficient attention paid to the issue of persons with disabilities, but said there were many people within the organisation who might qualify. Employees were reluctant to come forward due to the stigma attached to the definition

of disability. Targets had been set for 2014, although these would probably not be achieved.

On the company's sexual harassment policy, this was being implemented at different levels with an anonymous whistleblower system. There had been 5 or 6 reported cases, 2 of which had led to dismissals. In the other instances there had not been sufficient evidence but some form of action was taken.

### **3. FOSKOR MINING**

Representative: Frans Mokhondo, Group Employee Relations Manager

#### **3.1 Findings from the initial hearing**

A challenge faced by Foskor was in the development and training of highly skilled women to be part of gender equalisation initiatives, with metallurgy graduates not wishing to relocate to a town such as Phalaborwa. Retention of skills appeared to be a generic issue confronting gender transformation in mining.

#### **3.2 Update**

Foskor's delegation included Human Capital Managers from Richards Bay and Phalaborwa, as well as the Head of Group Transformation and Corporate Services and the acting CEO, James Morotoba.

This company operates an open-cast phosphate mine in Phalaborwa, as well as a phosphoric acid and fertiliser manufacturing plant in Richards Bay.

It submitted a pack of outstanding policies that had been requested at its Johannesburg hearing, with apologies for not supplying these in advance. This pack included recruitment and selection policy, a combined employee wellness and HIV/AIDS awareness policy, and a remunerations and benefits policy that incorporated a promotions policy. The pack also included minutes of the Employment Equity Forum for a six-month period, as proof of its existence.

The mine reported the following statistics for 2014:

- Females in management – 18% (previously 15%)
- Total number of females on the staff – 15.8% (previously 11%)
- Employees with disabilities – 0.5%.

Out of 9 executives at top level, only 1 was a woman, but the relative youth of this team was cited as an obstacle. The company would look at filling the next vacancy with a woman.

Retention was a challenge partly due to Phalaborwa's location, which had an impact on the EE Plan. However, the company said representivity for women in senior management had moved from 15% to 18%.

Among the initiatives taken to advance women were the following:

- Foskor had set aside R5 million for the enhancement of women over and above the 1% of the payroll required by the Skills Development Act.
- Seven women had been sent on management development programmes (although one had recently resigned). The hope was that the employees who graduated would move through the ranks to the echelons of top management.
- Around 70 women attended external programmes aimed at accelerating women into positions of senior management.
- Thirteen out of 24 artisans were currently female (all of whom were existing employees).
- Recent senior female appointments included an environmental engineer, finance manager and radiation protection officer, all occupying jobs previously done by men.
- Foskor had established an on-site childcare facility that operates around the clock, so women can pop in to see their children at any time.
- A Women in Mining Forum had been established to highlight any concerns that could be passed on to management.
- The company's corporate social responsibility programme empowered women from the greater Uthungulu district in various skills, including beading and agriculture.

### **3.3 Analysis**

The company had managed to implement the following recommendations:

- A number of initiatives had been put in place to attract and retain women in mining.

The company had not managed to implement the following recommendations:

- Meeting the national target with its disability figures.
- Although there has been a slight improvement in female representation at senior management, the representation of women and PWD at senior management remains poor.
- Workshops on sexual harassment that target both women and men have not taken place.

The lack of sexual harassment workshops contributes significantly to the minimal reporting of sexual harassment policies within the company. Although measures had been taken to escalate the movement of women into senior management positions, it should, however, be clear on how 70 women who attended the external programmes and the 6 women who also attended the management programmes are to be absorbed into senior management positions.

The company has to engage robustly with organisations dealing with people with disabilities, which would really improve the disability figures which are below the national target of 2%.

### **3.4 Questions and comments**

The company was commended for having increased women on the workforce from 11% to 15.8%, as well as for providing on-site childcare facilities. The acting CEO was also thanked for being present at the hearing.

Representation at top level was, however, described as dismal, 16 years after the enactment of the EEA in 1998, during which there had been ample time to rectify matters.

The lack of specific numbers and time frames was questioned, including missing points of comparison. The company was asked to make a firm, focused commitment with specific undertakings.

The use of bursaries to encourage girls to go into maths and science was also raised. Of the 23 bursaries provided, only 7 had been allocated to women.

It was also noted that the Women in Mining Forum had raised a question about procedures for the childcare facility and a request was made for a policy governing this.

The company agreed there was a problem at senior management level, but said any vacancies arising there would be filled by women.

It confirmed that the previous EE Plan had expired at the beginning of 2014, and a new five-year plan was currently a work in progress. A copy had been sent to the majority National Union of Mineworkers and to head office for sign-off.

The company conceded that it needed to review its sexual harassment policy, and raise awareness on this issue. This needed to be more structured and done with the help of the Women in Mining Forum. The company also conceded that it did not have a disability plan, but said it was aware of the need to create one.

## **4. DEPARTMENT OF TRANSPORT (PREVIOUSLY ROADS AND TRANSPORT)**

Representative: Hanli du Plessis, HoD: Transport

### **4.1 Findings from the initial hearing**

Although the Department of Roads and Transport had attained full 50/50 gender and 2% disability representation in top management, at senior management, women constituted

only 18%. Only senior management had gender included as a Key Performance Area (KPA), and the policy framework did not include recruitment and selection criteria. There were no childcare or flexitime arrangements in place.

## **4.2 Update**

Since its last submission, there had been a restructuring process. It was therefore reporting only as the Department of Transport (its counterpart is now the Department of Public Works, Roads and Infrastructure). The Department also now had an EE Plan in place.

The restructuring had had positive implications for employment equity in the Department of Transport, in that the top management had been reduced to 6 (with 1 man leaving), and senior management had been reduced from 30 to 23 (with all the transferees being men).

The Department's top management now had a female HoD, answering to a female Member of the Executive Council (MEC) and 57% women in senior management. Also, 2 senior women had resigned but their replacements were earmarked for women, in line with the EE Plan. The Department was also compliant with regard to disability at 3%.

In terms of bursaries and appointment of new trainees in the traffic training college, it now insisted on 50/50 representation. This also applied to the employment of interns and contract workers.

The Transformation and Service Delivery Directorate was to be unbundled, but due to restructuring the organisational structure had had to be revised. About 40% of employees had moved to the new department, which impacted on numbers of people and levels of posts.

The implementation of gender transformation measures that should form part of the performance agreement of senior management would be implemented in the 2014/2015 financial year. These performance tools were the same as those used by the Department of Public Service and Administration (DPSA).

The directorate had been allocated a budget of R1.6 million for special programmes that supported gender transformation. Currently there was a senior manager responsible for transformation and service delivery improvement, a deputy manager and an administrative officer for special programmes.

The EE status report was able to track the movement of women and women with disabilities to senior management or top management positions. Monthly reports were also submitted, including the eight-point principle on Gender Equality and the Beijing Report.

Although the Department had not yet met the EE targets, all advertisements indicated that it was an affirmative action employer, and women and people with disabilities were encouraged to apply.



A problem was that some posts, especially within the traffic police, were technical and so there were sometimes no female candidates. In these instances, service delivery became the overriding factor and to avoid extended vacancies, a male appointment would be made.

Mentorship programmes were being developed for 2014/2015: all women senior managers were sent on an executive development programme (1 attending this financial year), an advanced management development programme (25 attendees) and a monitoring and evaluation programme (7 attendees).

As far as childcare and flexitime was concerned, the Department still fell short by its own admission. However, women were accommodated in shift arrangements.

The seven-storey rental building where the Department was housed did not have the right space for a childcare facility, but space in other buildings was being looked into.

The Department had flagged the effective use of gender/sexual harassment policies, with follow-ups to find out why cases were withdrawn. For instance, there had been two sexual harassment cases reported but both complainants withdrew. Since then, the Department had developed a plan to empower women employees on the sexual harassment policy, and the roles managers and women employees should play in dealing with cases.

The only policy outstanding was the uniform and effective clothing policy (as this was covered by occupational health and safety).

The department's HR plan covered succession planning, but this was not always easy to initiate and implement. All chiefs of staff were, for instance, appointed by MECs (but stayed on after an election even if there was a new incumbent). This factor had skewed matters, particularly as all these chiefs of staff had been male appointees.

Minutes of the HR Forum were submitted (in lieu of minutes from the Employment Equity Forum).

### **4.3 Analysis**

The Department had managed to implement the following recommendations:

- There is now an EE Plan in place.
- A budget of R1.6 million had been allocated for special programmes that supported gender transformation.
- The Department now has a female HoD and a female MEC.
- The Department made follow-ups on the reasons why sexual harassment matters were withdrawn. It was found that the complainant withdrew the matter voluntarily.
- Clear measures through the EE status report had been put in place to track the movement of women into senior management positions.

The Department had not managed to implement the following recommendations:

- The childcare facilities have not yet been introduced.
- The buildings are not reasonably accommodating to PWDs.

Most of the Commission's recommendations have been implemented. However the withdrawal of the sexual harassment cases is a concern as it may be construed that the Department lacks clear measures to protect the victims hence they resolve by withdrawing the cases.

In addition, the Department has to engage the Department of Public Works in order to ensure that the buildings can accommodate PWDs. The failure to address this gap may be construed to undermine the challenges faced by PWDs in the workplace.

#### **4.4 Questions and comments**

The Department was commended for having the HoD present and that both she and the MEC were women. It was also thanked for the depth of its account of what had been done in terms of the Commission's recommendations. Another positive point was the fact that the HoD chaired monthly meetings focusing on gender.

A question was asked about how many induction programmes had been held with regard to the sexual harassment policy.

The inclusion of gender EE in performance agreements was raised and the Department confirmed that it had reverted to prescribed forms of the Department of Public Service and Administration (DPSA) which would take care of this.

It was suggested there needed to be more effort put into childcare facilities as this problem was first noted 19 months ago.

#### **4.5 Response:**

The Department conceded that information about induction programmes around the sexual harassment policy was not readily available.

It also conceded that the matter of childcare facilities had not been pursued yet, but would be taken up.

In answer to a question on the ring-fencing of posts, the Department said it had had a few instances where male appointments were made for a variety of reasons (in cases of technical expertise, for instance), but there had also been female appointments. The Department was stable and so there were few resignations.

As far as gender mainstreaming was concerned, the Department was under severe financial constraints and had been told not to expect any additional funds. However, it would see if there were funds and where it could make savings (something which it had previously done with regard to occupational health and safety).

It had kept to its 50% female intake requirements for trainees at the traffic college (a special intake of 250 employees, half women), but most of the intake was from other provinces and it could not prescribe to them. The provincial head of transport regulation (Head of Traffic Police) was also a woman.

## **5. DEPARTMENT OF EDUCATION**

Representative: Acting HoD Maylene Broderick (also DDG for Corporate Services)

### **5.1 Findings from the initial hearing**

Education and training opportunities in the Department were largely dominated by male beneficiaries, and childcare and flexitime arrangements were lacking. Austerity measures and a moratorium on filling posts were cited as hindering gender transformation. Some policy documents were outstanding.

### **5.2 Update**

The Department reported that its current HoD was under suspension, hence the acting HoD's presence. Ms Broderick had joined the Department in April 2014 in an acting capacity.

Policy documents that had previously been provided were still in place, but these had not been before a policy clearing committee.

Employment Equity Forum minutes were also in hand.

The Department's entire budget was R25 billion, with R23 billion going to salaries – with only R2 billion left to deliver education programmes for the provinces. It was therefore operating under severe budgetary constraints, and transformation issues had not enjoyed priority status.

In terms of the EE Plan, at SMS level, the gender representation remained unchanged: 62.9% male and 37% female. Of the four Deputy Director-Generals, three were women and the HoD was male. At the General Manager level the status quo remained, and therefore there had not been much change.

There was a moratorium on the advertising of posts in the Department, but due to a change in political leadership there had been a decision to advertise 7 SMS posts: 5 senior managers

and 2 General Managers. These were being shortlisted. All advertisements encouraged persons with disabilities and women to apply, but the Department did not always have control over these appointments.

The Department had 5 district senior managers, 2 of whom were female. It also had 136 circuits, and had recently advertised six circuit manager posts, all of which were prioritised for women (it was able to fill four out of six of these positions with female candidates).

Overall, the department had 62 000 staff members, 58% of whom were female. At the manager and lower levels, the Department had met the 2% target in terms of disability, but at the SMS level it was doing extremely poorly, not having met the target of 0.2%.

The Department also reported the following:

- The current EE Plan was under review and was being aligned to the Education Strategy towards 2019 and the National Development Plan.
- The acting HoD now headed the EE Committee, previously headed by the Senior Manager of Organisational Development. It was to meet in October to look specifically at what it could do in relation to disability.
- An area of challenge was in the appointment of women principals. At the time of this submission, there were 170 male and 109 women principals, with 226 acting posts of which 86% were occupied by males.
- The Department had recently published an open vacancy list for principals for these 226 positions as Limpopo had not advertised for principals for two years. This process was set to close on 14 November. However, in terms of the Employee Educator Act, School Governing Bodies (SGBs) were still involved in that process and extremely resistant to female appointments. There had been litigation in two instances when the SGBs had only shortlisted male candidates – and the matters were still pending. The SGBs were up for re-election in 2015, and the Department needed to be more zealous in capacitating SGBs about leadership roles in schools and gender mainstreaming.
- The Transformation Chief Directorate, which ought to be the custodian of transformation and employee wellness, was also responsible for donor funding and integrated planning. Because of budget challenges, donor funding had enjoyed priority. The HoD was working zealously to change this.
- With regard to childcare facilities, the demographic for women managers was 50 or older, which made this possibly not the best application of resources at head office. A similar demographic applied to educators.
- At district level there were very high vacancy rates and resource challenges. The Department would have to look seriously at what measures could be put in place to improve conditions of service for women and people with disabilities.
- With regard to additional budget for transformation, gender mainstreaming and employee wellness, the Department had yet to allocate its 1% skills levy to training. This was a legal requirement that had not been met since 2009 due to the ongoing budgetary challenges.

- The Employee Wellness and Transformation Divisions had had their budgets cut. What budget remained was spent on reducing absenteeism, largely due to alcoholism, and less frequently to HIV/AIDS.
- In Quarter 1, workshops focused on performance. In Quarter 2, they had looked at remunerated work outside the public service as departmental staff had done R68 million worth of outsourced work, which was against the law. In Quarter 3, testing and exams took precedence.
- In Quarter 4, the Department would try to close gaps at its October meeting to see what measures could be taken outside of the budget constraints. With 55 000 educators, and the trade union insisting that workshops should be held in commercial venues and not at departmental facilities (which was against departmental policies), this was an ongoing challenge.
- As far as Public Service Act employees were concerned, there had been a decrease in sexual harassment cases. In 2012 there were 12 cases, in 2013 there were 7 cases and in 2014 this number had dropped to 5.
- However, in schools there was an increase in sexual harassment cases, predominantly between educators and students. These were often exploitative relationships – with payments as low as R50 or promises of passing tests as examples. Learners were not reporting these cases, nor did they make themselves available as witnesses, which meant the Department could not always follow through. The statistics therefore did not reflect what was happening on the ground
- Under the Funza Lushaka scheme, several bursaries were made available, predominantly in maths, science and technology (with shortages across the country), as well as economics and accounting. Of these, 228 bursaries went to women and 94 to men. As of 2013, 30 female and 12 male educators were placed in schools, and of the 42 student teachers, 2 had declared themselves as having disabilities.
- The HoD was holding focus groups to look at the serious morale issues within the Department. However, these were not well attended.

### 5.3 Analysis

The Department had managed to implement the following policies:

- Overall it reached and exceeded its 50/50 national targets with women being at 58%.

The Department had not managed to implement the following policies:

- Gender representation at SMS level remains unchanged.
- There is no political buy-in in the appointment of PWDs despite adverts clearly setting out that PWDs are encouraged to apply.
- Childcare facilities have not been introduced in the institution.
- There has been no workshop on sexual harassment within the workplace where both males and female staff engage.

There has been a slow progress in implementing the recommendations of the Commission.

It remains a great concern that sexual harassment workshops have not been conducted and it is a red alert that sexual harassment cases have declined since 2012. The lack of political buy-in also impedes on progress to appoint females and PWDs at senior management positions.

#### **5.4 Questions and comments**

The Commission thanked the Department for its input and said there was a need to create a paradigm shift with regard to SGBs that were resistant to the appointment of women principals. It was important to work out how to assist the Department in its efforts.

The unethical relationship between teachers and learners was alarming, and a question was raised as to what the Department was doing about this.

With 55 000 educators and 1.4 million learners, reporting was where the challenge lay because learners were sometimes participants in these abusive relationships because of poverty issues.

The Department was asked what it was doing to address the drop in gender representivity at SMS level.

#### **5.5 Response:**

The Department said it would be very pertinent to design suitable training for the election of new SGBs next year, and the Commission might be able to assist. The issue was not about finding women to recruit, but about the SGBs refusing to shortlist female candidates.

This issue had been discussed at the Council of Education Ministers level as being in need of a legislative change. The Eastern Cape and Limpopo, which scored the lowest in terms of indicators, found the SGBs challenged the departments every step of the way in terms of policy. Even acting principal positions were subject to SGB approval, and if the Department tried to force their hand, they would close the school.

The Department said it was working with the Department of Social Development to establish ways of reducing drop-out rates. For instance, there were 87 000 enrolled in Grade 9 but by the time it came round to matric, the numbers had dropped to 73 000. The question was what interventions could be put in place to stop teenage pregnancies and other factors contributing to drop-out rates.

Regarding teacher-learner sexual harassment, the Department conceded that the focus had not been on learners, but primarily on staff.

Circulars were issued every year about policy and what was a dismissible offence, but this was only dealt with on a case-by-case basis and there was no monitoring system in place.

Asked as to what the Department was doing to address the drop in gender representivity at SMS level, it conceded there had been several female resignations. Two new senior female managers were starting: a Senior Manager of Legal Services had returned and a new female appointment in Communications was imminent.

On a final point, the Department said its entry point should be the learners as its mandate was to educate. In terms of budget, there were issues, and it was critical that this should be looked at.

## **6. UNIVERSITY OF LIMPOPO**

Representative: James Madula, Director: Organisational Development and Talent Management

Mr Madula indicated that he was not the Vice-Chancellor and that he had only been told to appear before the Commission some time after 10pm the previous night. Nonetheless, he had decided to make himself available.

### **6.1 Findings from the initial hearing**

The university had been given leave to attend a second hearing as it had no equity policy in place. An audit in August 2013 showed that the executive management consisted of 11 people, only 1 of whom was a woman. People with disabilities made up only 0.2% of the total staff complement. The university said that 90% of all applicants to academic posts were male.

### **6.2 Update**

The university sketched its history, which came out of the merger between the University of the North and the Medical University of Southern Africa, two institutions that had been put in place to train black African students. He said they had both been greatly disadvantaged as higher education institutions. The University of Limpopo had inherited these legacies, from infrastructure through to resourcing.

Previously the university had indicated it had 11 staff on its Executive Management Committee, 1 of whom was a woman. Currently there were only 6 incumbents due to resignations, namely the Vice-Chancellor, one Deputy Vice-Chancellor, two Executive Deans, the Executive Director: Human Resources and the Dean of Students (the only woman). Six positions were vacant but had all been earmarked for female candidates. There was a total of 39 women at senior management level, of whom only 14% were at senior management level.

A new development was that due to the failed merger of Medunsa and the University of the North, the establishment of the Sefako Makgatho Health Sciences University was

imminent. The Executive Dean of this new medical school was also earmarked for a female appointment.

The university said the figures sometimes reflected dual appointments in a medical context (with both provincial hospital posts occupied along with their academic positions). As far as disability went, the university's figures were extremely low (around 0.2%). The forced unbundling meant that there were now two councils in place (both chaired by women).

There was currently a moratorium on new appointments until the unbundling came into effect in January next year. Consequently there had not been much progress.

In the previous presentation, the university had indicated that its infrastructure dated back to 1959 (at Turfloop) and 1976 (at Medunsa) respectively, so these were not friendly for persons with disabilities. Consequently, it was not able to use funds at this stage to remedy the facilities or to set targets.

The EE policy was under discussion in 2013 and had since been approved, and an EE Forum had been established. However, levels of uncertainty within the executive management made it difficult to do forward planning.

Some recommendations related to sexual harassment. At the University of Limpopo it occurred between staff and staff, and staff and students. Recently there had been rioting at Medunsa campus which it was attempting to deal with.

On the recruitment front, it had had a policy to earmark positions for women, but was struggling to attract skilled academics to its rural-based campus near Mankwe, as well as the Ga-Rankuwe campus. Pay levels on offer were also not competitive with institutions such as the Universities of Pretoria, Cape Town, Stellenbosch and Rhodes. Its income was dependent on government grants, student fees and donor funding, with 90% of students coming from previous and currently disadvantaged backgrounds.

Research and donor funding was a challenge in itself, as the university was historically a teaching rather than research institution. However, the university required 70% of its female academics to have PhDs by 2020, so that they could supervise postgraduate studies. Currently, most supervisors were male.

It also offered training opportunities for all staff members, and encouraged them to upgrade their qualifications. There was a University of Limpopo Women's Staff Association (Luwasa), which identified training needs so that they could be given the necessary support.

During 2013, several positions were advertised for heads of department and 90% of applicants were men. This trend had continued. Almost 99% of applicants still came from



men, something regarded as a worrying trend. Women were being forced to undergo training because they indicated they did not have the confidence to manage academic departments.

On transformation issues the university had adopted a “sector approach”, where all 23 public-funded universities had established a Transformation Strategy Group and a Transformation Managers’ Forum. This group was looking at sexual harassment policies and social inclusion policies at a sector level, with the view to tailor-making policies at a later stage. It was also establishing a transformation barometer to measure progress for reporting to the Minister of Higher Education.

### **6.3 Analysis**

The university had managed to implement the following recommendations:

- An EE forum had been established.

The university had not managed to implement the following recommendations:

- The University does not have an EE Plan.
- Women representations in senior management positions remain poor.
- Disability figures of 2% in senior management positions have not been attained.
- The university has not held any campaigns or workshops on sexual harassment.

The university had not implemented the critical recommendations of the Commission. The lack of an EE Plan and lack of female representation in senior management positions remain unchanged and thus disappointing. The university has further not taken any steps in absorbing its students with disabilities to meet the national target. The lack of progress in this regard is concerning.

### **6.4 Questions and comments**

The Commission expressed its deep disappointment in that there was no substantive evidence to back up the submission. Also, it believed the fact that the presenter was only told to appear late the night before was a manifestation of the university's scant regard for gender equality. It was also said that sexual violence at the institution was rampant.

Also, there were serious issues surrounding the treatment of the only female dean, Dr Mkhonza.

The Commission sensed there had been no movement whatsoever in terms of the university, with the Vice-Chancellor showing no seriousness or any respect towards the CGE. It said the merger should not have any bearing on what the Commission's expectations were. The Commission was greatly and gravely disappointed.

It was also noted that there had been minimal activity with regard to the Commission's initial report. The question raised was what the next step ought to be. The initial report had

left much to be desired. Its EE policy was still outstanding. There was no sign of mainstreaming of transformation into contracts. There were no targets for recruitment. There was no mention of how to actively attract and recruit women or persons with disabilities.

### **6.5 Response:**

In reply, the university said it was aware of the only female executive's situation and that, due to student strikes, she had been forced to take leave for her own safety. It invited the CGE to visit the university to see what was happening on the ground there.

The university was advised that this would not be the Commission's final engagement with them, and a follow-up subpoena for further explanations was likely.

## **7. DEPARTMENT OF HEALTH**

Representative: Lucas Shipalana, Director: Human Resource Planning and Research; Tebogo Makgolane, General Manager for Human Resources; Sibongile Ncongwane, The Head of Gender Unit.

### **7.1 Findings from the initial hearing**

At top level (salary grade 16), posts were 100% filled by women, 33% at level 15 and 23% at level 14. Women occupied 46% of senior management posts, and 2.8% of senior managers were persons with disabilities. Most policies were in place, outside of a mentoring and coaching strategy that was only submitted in draft form. Childcare and flexitime were not present, although a preliminary needs assessment had been done as a pilot project.

### **7.2 Update**

The Department's General Manager for Human Resources and the Head of the Gender Unit were present.

The Department said it had presented a number of policies based on a template, but some had not been compliant with regard to signatures and dates. These included recruitment and selection, the HIV/AIDS and the sexual harassment policies, none of which had dates and signatures. Due to its sensitivity, the latter policy was first circulated through all its 40 hospitals to ensure there was sufficient input into it.

When it first presented to the CGE in 2013, it had had no reported cases of sexual harassment but since then there had been three cases, two of which had been finalised.

A salary and benefits policy was now in place and was available for submission. In terms of public service rules, the promotion policy was now known as a salary and benefits policy. Employment Equity minutes were also submitted for quarterly meetings.

The Department reported:

- On gender mainstreaming, it was educating all employees and had held an institutional capacity programme on gender-based violence. It also held several meetings in August to underscore this.
- At senior management level, the department had 41% women (the target is 50% in terms of the EE Plan). With regard to people with disability the figure was 1.2%, with a target of 2%.
- The overall picture was a staff establishment of 34 970, with 71% female and 29% male (this is because women dominate the nursing profession).
- The Department had set targets and needed to develop employees in terms of the Skills Development Act.
- It had a Human Development Resource Strategy that targeted women at levels 9 to 12. This was to create a pool of managers, and equip them with managerial courses such as the Emerging Development Leadership Course.
- It had also put monitoring and evaluation measures in place, with report-backs from the Employment Equity Unit on a monthly basis.
- EE transformation needed to appear on the performance instruments of managers, so that they could take responsibility for meeting targets. There were quarterly and annual progress reports to ensure accountability.
- It was revisiting the EE Plan, which was being treated as a strategic document.

### **7.3 Analysis**

The Department had managed to implement the following recommendations:

- The attainment of its 2% national target of PWDs in the workplace.
- The Department had considered the movement of women into senior management positions. Although female representation is at 46% this shows some improvements.
- Workshops on sexual harassment and gender-based violence have been held in the workplace and thus saw a few cases being reported.
- A salary and benefits policy was now in place.
- Recruitment and selection, the HIV/AIDS and the sexual harassment policies have been signed and dated.

The Department had not managed to implement the following recommendation:

- Childcare facilities in the institutions have not been introduced.

Tremendous progress has been made in implementing the recommendations of the Commission. It is, however, concerning that the childcare facilities have not been adopted within the Department. This is very critical in advancing the needs of female staff members.

### **7.4 Questions and comments**

The CGE commended the Department for having brought to light and expediting several sexual harassment cases. This had been achieved through a series of workshops.

A question was raised about childcare facilities, particularly in the light of this Department's majority women employees as well as the night shifts that nurses have to work.

Also, it was noted that the number of women in senior management had dropped from 46% to 41%. The disability statistics had also not achieved the 2% target.

### **7.5 Response:**

The Department said there was a pilot project in Polokwane but this needed to be extended to other hospitals.

It pointed out that government departments in Limpopo were under administration, so there were many outstanding positions, which had an impact on EE. The department had once had 37 000 employees, and was now down to 34 000.

## **8. DEPARTMENT OF PUBLIC WORKS**

Representative: Linda Kaseke, Acting General Manager: Corporate Services

Ms Kaseke explained that the HoD and the General Manager: Corporate Services were both placed under precautionary suspension in April 2014. She had been appointed to act in the latter position only a week prior to this hearing.

### **8.1 Findings from the initial hearing**

At senior management level, the Department had 46% women but only 33% in middle management and 39% in junior management. Its sexual harassment policy was only in draft form, and it had had only one case reported out of 2 700 employees. It acknowledged that intranet communication of policies was inadequate.

### **8.2 Update**

In terms of EE, in 2013 the Department had reported 54% males and 46% females. This year, the situation had turned around to 54% female and 46% male. Disability figures were now at 2.4%, up from 1.6% in 2013. In terms of SMS disability status, it was at 4.2%, which was above the national target.

In response to a query about the make-up of the EE Committee, the Department said it had representatives of employees from levels 9 to 13.

It also pointed out the following:

- For the first time in the history of the Department, three traditionally male positions were now occupied by women: General Manager: Construction, Senior Manager: Maintenance and Senior Manager: Financial Management.

- The target for women in the Expanded Public Works Programme was 55%. It was happy to report it had 64% women, 43% youth and 0.864% persons with disabilities in these projects. Project visits were conducted at random to check these percentages.
- The Department advertised internally and externally, with occasional headhunting, to find suitable female candidates.
- The Department had not approved its sexual harassment policy at the previous hearing, because there had been a need for vigorous consultation. It had since been completed and awaited final approval. In the interim, the Department of Public Service and Administration issued its own policy, with which it needed to align itself
- The Department had a Gender and Disability Forum, which was established in December 2013, and which organised Women's Day celebrations in 2014.
- Public Service Women in Management meetings took place twice a year to track progress on gender, especially women in management.
- The Department had an annual budget for day-to-day employee wellness projects. The budget for gender was mainstreamed into other functions in the department
- Human Resource Development, which was implementing the Contractor Development Programme, had appointed 10 contractors on grades 6 to 7. Of the 10, 7 were women. They were being taken through the process of enterprise development. It was also appointing 35 contractors on GB two to five, with most of those eligible for appointment being women, including one with a disability.
- The Department had a mentoring initiative with 11 interns, 7 of whom were women. It also had 46 females and 44 males on an internship programme for the built environment. An apprenticeship programme had 330 learners, of whom 162 were women and 171 males in areas that were previously dominated by men. It was confident it could achieve 50/50 representation
- The Department was engaging with the services of Disabled People of South Africa pending the acquisition of a new Braille machine. It also aimed to train frontline staff in sign language.

### 8.3 Analysis

The Department had managed to implement the following recommendations:

- The disability figures have reached the national targets at 2.4%.
- There are now more women than men in the Department.

The Department had not implemented the following recommendations:

- Childcare facilities had not been introduced.
- The sexual harassment policy has not been approved.
- An EE Plan was not in place.

It is concerning that the Department does not have an EE Plan, childcare facilities and sexual harassment policy in place. This is critical in addressing gender transformation.

#### **8.4 Questions and comments**

The Department was commended for the number of disabled people it had employed, well above the 2% target and at a level not achieved by many others.

The delay in the approval of the sexual harassment policy was noted and time frames were called for. The same applied to the final EE Plan.

A question was raised as to what proportion of the employee health and wellness budget would be given to gender.

The Commission noted that it was unacceptable for such a large department not to have an EE plan in place, and this matter would be flagged.

#### **8.5 Response:**

The Department said sensitivity around the sexual harassment policy required careful and thorough consultation, especially at the lower levels. The draft EE Plan was to be finalised at the end of October 2014, and it would hopefully be approved by February 2015 (but no agreement had been reached).

After initial approval the Department would embark on a programme to highlight policies over and above them being posted on the Internet, because there were some without access to computers.

With regard to Gender Focal Points, the current structure had officials taking care of gender at a lower level. The budget for employee health and wellness was not to hand.

Flexitime remained a matter for negotiation, but there was a Department of Public Service and Administration (PSA) directive on leave that allowed for time off.

There was also no childcare facility available – but it was an issue that had been discussed, with a task team being set up. The Department had a head office and 24 district offices. With the Roads function coming on board with 2 000 people, any recommendation would have to be inclusive, she said.

### **9. DEPARTMENT OF CO-OPERATIVE GOVERNANCE, HUMAN SETTLEMENT AND TRADITIONAL AFFAIRS**

Failed to send representative.

## **10. POLOKWANE MUNICIPALITY**

Failed to send representative.

## **11. CONCLUDING REMARKS**

The Commission noted with concern that it was not accorded the same status as other Chapter 9 institutions (those institutions established in terms of Chapter 9 of the Constitution to guard democracy).

It said the CGE was frequently relegated to an institution that dealt with women, with a consequent lack of respect for its authority. This was a reflection of how society dealt with situations adversely affecting women. It appeared that generally gender was dealt with as an afterthought, and issues of the economy and the bottom line took precedence.

The Commission thanked those who had attended for making an effort in their reporting, and underscored that gender equity was not a nice-to-have but an imperative. This was also true of disability.

It also noted the lack of attendance by two of the institutions that had been called to account. From the Commission's perspective there would have to be visible, practical consequences, in the form of subpoenas.

From the submission made by all the entities in the Limpopo Province, there appears to be commitment on the part of the institutions to implement the recommendations made by the Commission. In this regard progress has been made, which may be deduced from the adoption of policies, EE plans and meeting national targets on 50/50 representation and 2% on PWDs. The sensitisation of sexual harassment in the workplace remains a challenge; however institutions that conduct such workshops had cases reported afterwards. There are best practices also from the province, such as the breastfeeding policy.

It became clear, however, that the public sector is still struggling with the implementation of childcare facilities and flexi hours. On the other hand, the private sector appears to have progressed in this regard.



## Commission for Gender Equality

A society free from gender oppression and inequality

### **GAUTENG : JOHANNESBURG (HEAD OFFICE)**

2 Kotze Street,  
Women's Jail, East Wing  
Constitution Hill,  
Braamfontein 2017,  
South Africa  
Tel: +27 11 403 7182  
Fax: +27 11 403 7188

### **EASTERN CAPE (EAST LONDON)**

33 Phillip Frame Road  
Waverly Park  
Chilselrust  
East London, 5200  
Tel: +27 43 722 3489  
Fax: +27 43 722 3474

### **FREE STATE (BLOEMFONTEIN)**

49 Charlotte Maxeke Street,  
2nd Floor,  
Fedsure Building,  
Bloemfontein 9300  
Tel: +27 51 430 9348  
Fax: +27 51 430 7372

### **GAUTENG (PRETORIA)**

267 Lillian Ngoyi Street,  
Pretor Forum  
Pretoria 0002  
Tel: +27 12 341 6090  
Fax: +27 12 341 4689

### **KWAZULU-NATAL (DURBAN)**

40 Dr. A.B Xuma Road, Suite 313,  
Commercial City Durban 4001  
Tel: +27 31 305 2105  
Fax: +27 31 307 7435

### **LIMPOPO (POLOKWANE)**

Cnr. Grobler & Schoeman Streets,  
1st Floor, Library Gardens Square,  
Polokwane 0700  
Tel: +27 15 291 3070  
Fax: +27 15 291 5797

### **MPUMALANGA (NELSPRUIT)**

32 Belle Street, Office 212-230,  
Nelspruit 1200  
Tel: +27 13 755 2428  
Fax: +27 13 755 2991

### **NORTHERN CAPE (KIMBERLEY)**

143 Du Toitspan Road,  
Kimberley 8301  
Tel: +27 53 832 0477  
Fax: +27 53 832 1278

### **NORTH WEST (MAFIKENG)**

38 Molopo Road, Mafikeng 2745  
Tel: +27 18 381 1505  
Fax: +27 18 381 1377

### **WESTERN CAPE (CAPE TOWN)**

132 Adderly Street 5th Floor,  
ABSA Building, Cape Town 8001  
Tel: +27 21 426 4080  
Fax: +27 21 424 0549

**TOLL FREE: 0800 007 709**

**cgeinfo@cge.org.za | www.cge.org.za**