

# Gender Transformation in Higher Education Hearings

Parktonian Hotel, Johannesburg • 23 - 24 November 2015



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



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from gender oppression

and inequality...

The Commission for Gender Equality is

striding boldly

and with **determination**

into this **future.**

Join us.

**Move** with us.

**Work** with US to make this imagining an

**irreversible reality.**

## ABBREVIATIONS AND ACRONYMS

<b>CGE</b>	Commission for Gender Equality
<b>CHR</b>	Centre for Human Rights
<b>CSA&amp;G</b>	Centre for Sexualities, AIDS and Gender
<b>DHET</b>	Department of Higher Education and Training
<b>DPSA</b>	Disabled People South Africa
<b>EE</b>	Employment equity
<b>EEA</b>	Employment Equity Act
<b>FET</b>	Further Education and Training
<b>GR@UP</b>	Gender Research at UP
<b>GFP</b>	Gender Focal Person/Point
<b>HETN</b>	Higher Education Transformation Network
<b>HoD</b>	Head of Department
<b>HR</b>	Human Resources
<b>HRBP</b>	Human Resources Business Partner
<b>IHL</b>	Institution of higher learning
<b>KPA</b>	Key Performance Area
<b>KPI</b>	Key Performance Indicator
<b>LGBTI</b>	Lesbian, gay, bisexual, transgender and intersex
<b>MSM</b>	Men having sex with men
<b>NDP</b>	National Development Plan
<b>NGAP</b>	New Generation of Academics Programme
<b>NWU</b>	North West University
<b>PEPUDA</b>	Promotion of Equality and Prevention of Unfair Discrimination Act
<b>PWD</b>	Person(s) with disabilities
<b>SAHRC</b>	South African Human Rights Commission
<b>SRC</b>	Students Representative Council
<b>STEM</b>	Science, technology, engineering and mathematics
<b>TEED</b>	Transformation, Employment Equity and Diversity
<b>TVET</b>	Technological and Vocational Education and Training
<b>TUT</b>	Tshwane University of Technology
<b>UP</b>	University of Pretoria

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## INTRODUCTION

The Commission for Gender Equality (CGE) has held hearings across the country on the issue of gender transformation in both the public and private sectors.

The CGE's decision to place special focus on institutions of higher learning was precipitated by disturbing media reports, as well as complaints made to the Commission by both employees in the sector and students. These included:

- Media reports of "sex-for-marks" scandals.
- Allegations of sexual harassment at institutions of higher learning (IHLs).
- Slow transformation around lesbian, gay, bisexual, transgender and intersex (LGBTI) issues.
- The need, identified by the Commission during hearings in 2014, for it to engage intensively with IHLs on the placement of women and persons with disabilities (PWDs) in senior management, as well as the adoption of gender policies.

The first round of hearings was held at Constitution Hill on 25-28 November 2014, and involved the Department of Higher Education and Training, the University of South Africa and the University of Venda.

This report deals with the second round of hearings, at the Parktonian Hotel on 23-24 November 2015, at which the University of Pretoria, North West University and the Tshwane University of Technology were called to testify before the Commission.

The Commission noted during introductory proceedings that the hearings came at an interesting juncture, happening at the same time as the #FeesMustFall protests around lack of transformation at universities. However, this was coincidental, as the hearings had been planned three years previously: the Commission had long since identified an array of problems at IHLs, and it would not take a piecemeal approach to addressing them.

## THE MANDATE AND LEGAL POWERS OF THE COMMISSION

The Commission for Gender Equality (CGE) was established in terms of Section 187 of the Constitution of the Republic of South Africa.

By law, the Commission must promote respect for, and ensure the protection of, development and the attainment of gender equality. As such, the Commission has been given legal powers to perform its functions. This includes the power to monitor, investigate, research, educate, lobby, advise and report on issues of gender equality.

Two key powers relate to the evaluation of policies and practices relating to gender and the power to investigate.

It is also empowered by Section (9)(3) of the Constitution of the Republic of South Africa, which bans discrimination on the grounds of race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language, and birth.

The Commission is bound and guided by international treaties, which grant powers to act as a human rights institution. These include the Convention on the Elimination of All Forms of Discrimination against Women, the Beijing Platform for Action, the African Charter on the Rights of Women in Africa and the SADC Protocol on Gender and Development.

The Commission has additional powers and functions prescribed by national legislation, including:

- The CGE Act No. 39 of 1996 (as amended in 2014), which gives it its mandate to monitor and evaluate legislation, policies and practices of the state, statutory bodies and private businesses, as well as indigenous and customary laws and practices; research and make recommendations to Parliament; receive and investigate complaints of gender discrimination, and conduct public awareness and educate on gender equality. The Commission has the power to subpoena and litigate.
- The Promotion of Equality and Prevention of Unfair Discrimination Act No. 4 of 2000 (PEPUDA), which obliges the CGE to institute proceedings of unfair discrimination on the grounds of gender.
- It is also able to litigate against entities that refuse to comply.

In terms of Section 11 of the CGE Act, the Commission may evaluate policies and practices relating to gender in both the public and private sectors, and has the power to conduct investigations, in which it may ask for reasonable information.

If the information is unsatisfactory, the Commission can serve notice for accounting officers to appear before it and provide the required information. As a last resort it can have people jailed for up to six months for non-compliance, but it stressed that it would rather avoid punitive action; it preferred working with entities to transform society.

## **THE OBJECTIVES OF THE HEARINGS**

The hearings had the following objectives:

- Assess the impact of the Employment Equity Act (EEA).
- Hold the public sector accountable for non-compliance with legislation,
- Raise awareness on national legislation and relevant international commitments.
- Ascertain the vulnerabilities and risks experienced by women across various sectors in the workplace.

- Identify challenges and progress experienced, and share best-practice models from institutions that comply with the EEA and related legislation.
- Assess measures in the workplace to achieve transformation in terms of gender and disability.
- Ascertain general non-compliance by employers with obligations flowing from specific provisions in labour legislation aimed at promoting equality and affirming the rights of women.
- Assess the impact of the institutions on their student population (access to education, sexual harassment policies, etc.)
- Determine the allocation of budget for gender transformation.

## THE COMMISSION

The Commissioners present for the hearings included:

- Chairperson Mfanozelwe Shoji
- Commissioner Nomsisi Bata
- Commissioner Wallace Mgoqi
- Commissioner Lulama Nare
- Commissioner Pinkie Sobahle
- Commissioner Nomasonto Mazibuko.

Note: not all Commissioners were present on all days.

The Commissioners were supported by the Commission's legal team, including:

- Ms Marissa van Niekerk (HoD)
- Mr Dennis Matotoka
- Ms Veronika Pillay
- Ms Linda Nyati
- Ms Eunice Poto
- Mr Mlondolzi Vava.

The facilitator was Mr Masilo Letsoalo. The Commission's CEO, Keketso Maema, was present on the second day of the hearings.

## THE PROCESS FOLLOWED

Information was sought from the three institutions on 1 June 2015, by way of a questionnaire that requested the following:

- Disaggregated data on gender, disability and race in the staff complement of the department, as well as associated institutions.

- Disaggregated data on gender, disability and race in terms of student populations at public institutions of higher learning.
- Policies to eliminate discrimination at all levels of education.
- Policies to ensure women have access to career development, training and scholarships.
- Policies against sexual harassment and other forms of violence against women.

The questionnaire required answers containing statistics, and the methodology used to analyse the data was both qualitative and quantitative. EE legislation was used as a yardstick during the analysis. The Commission then evaluated the submissions, before convening the public investigative hearings.

A graphic illustration displayed at the hearings laid out the full process, which included:

- The request for information
- Analysis of the information
- Investigative hearings
- Possible supplementary hearings
- Production of a report into the hearings' findings and recommendations
- Submission of the report to the National Assembly.

The accounting officers of all three entities were served with a notice to appear before the Commission. They were warned that a failure/neglect to appear could result in a criminal charge being instituted, in terms of the CGE Act.

On both days, the Commission began proceedings by articulating its various constitutional and legal mandates, and the reasons for the hearings.

All institutions were permitted legal representation, and all accounting officers had to take the oath or affirmation before presenting evidence to the Commission. They were further required to formally affirm the accuracy of information provided to the hearings by members of their teams.

After each presentation, the Commissioners were permitted to interrogate the information provided. Accounting officers were also afforded the right to reply to the Commission.

## **PRESENTATIONS BY THE HIGHER EDUCATION TRANSFORMATION NETWORK**

Representative: Mr Reginald Legoabe, Executive Director

The Higher Education Transformation Network (HETN) is a voluntary, non-profit organisation comprising alumni of tertiary institutions, dedicated to the transformation of higher education through research, policy advocacy, participation in conferences and litigation. It made two presentations, on the mornings of 23 and 24 November 2015 respectively.

The first presentation was an overview of joint research it had conducted with the Commission into obstacles standing in the way of gender transformation, including racism and gender discrimination patterns, at the three institutions before the Commission. It also presented analyses of transformation at both the University of Pretoria (UP) and North West University (NWU).

The second presentation focused on its analysis of transformation at the Tshwane University of Technology (TUT).

### **FIRST PRESENTATION: 23 NOVEMBER 2015**

Access to higher education was guaranteed in the Constitution, and education was an underpinning pillar to labour productivity and economic competitiveness, and the country as a developmental state. Higher education was an avenue to eliminating poverty and inequality, and it promoted social mobility, equity and social justice.

A target within the National Development Plan (NDP) was that by 2030, 50 percent of academic and research staff were African and women, including those with doctoral qualifications.

It was internationally recognised that higher education can be linked to greater employment; in South Africa, unemployment was higher in areas where people had not been exposed to higher education. In countries where the state had taken decisive action around higher education, the cycle of poverty had been broken; where such action had not been taken, people of successive generations did not access higher education opportunities and remained mired in poverty. Thus, the HETN believed that free, quality higher education was critical to South Africa's trajectory.

Higher education funded by the State comprised about 48 000 staff, overwhelmingly female. But while they held the numerical advantage, trends emerged when examining information at an institutional level. In light of the NDP's 50 percent target, when one looked at the approximately 2 000 full professors and 1 800 associate professors, it was clear that fewer than 100 were black females; also, many of the black professors overall were not South African.

The HETN referred to a 2013 study that aimed to determine the length of time tertiary institutions would take to transform, based on staffing levels. On that scale, the TUT was ahead of the other two institutions, with an estimated transformation period of 14 years; by comparison, the UP and the NWU were rated at 371 years and -61 years respectively; a negative score was possible, and it meant that NWU was the most untransformed.

Its analysis of UP, using 2014 figures, was as follows:

- It was established in 1908, and only began admitting black students around 1991.
- Many strides had been made since, however; it was the largest research output institution.

- Transformation of the alumni body by the HETN had been politically hijacked by Solidariteit and Afriforum.
- Its Employment Equity (EE) Plan aimed to appoint three black female executive directors. To date, two had been appointed; there was currently only one black incumbent in 11 executive director posts.
- There were skewed demographics across occupational levels. African staff comprised 26.5 percent of staff, and less than three percent Indian and coloured staff; female staff worked in mostly administrative posts, and many were contract workers. Trends included the hiring of white retirees as consultants. As a result, the EE Plan had stalled.
- There were very few African female researchers, despite UP's high research output.
- There were secretive remuneration trends, which were not open to the public. This did not assist in addressing racist workplace practices.
- Eighty percent of the turnover rate among black staff was attributed to frustration, and also better work offers.
- There was a problematic organisational culture at UP, with secretive workplace practices such as opaque remuneration.

Its analysis of NWU was as follows:

- It was the most untransformed institution.
- There had, however, been many changes since the arrival of the new Vice-Chancellor, Dr Dan Kgwadi.
- It operated as three separate entities, although the HETN expected NWU to testify on efforts to address this.
- Again, there was a high turnover rate in the university's senate.
- The institution had been hijacked by Afriforum for its own ends.
- The HETN still saw initiation practices at NWU, which had to some extent been addressed.
- Legal attempts had been made to keep the HETN from speaking out about issues regarding NWU.
- It had noted trends in the summary termination of employees.
- Of the total staff complement of approximately 7 000 across the three campuses, 36 percent were black.
- While it took time to produce black female doctorates, at present there had not been tangible results, despite high research output.
- If there had to be state intervention at an Institution of Higher Learning (IHL) it had to be at NWU.

The HETN had called on the NWU Council to disband, because it had noted systematic governance lapses, including its refusal to release a R10 million forensic audit report, which showed that the previous vice-chancellor had tried to illegally transfer funds to a private institution, outside of Public Finance Management Act prescripts.

Its analysis of TUT was that it had partially transformed in terms of race; it was halfway there. But it was a black male-dominated workplace, and analysis of its leadership showed that it, too, was dominated by black males. Racial transformation did not equate to gender transformation. Of 8 000 staff, almost 66 percent were on contract; most female employees were lecturing support or administrative staff.

With the NDP's targets in mind, among its recommendations were the following:

- IHLs should indicate what efforts they were making to promote black female doctoral graduates.
- As the most untransformed sector in the country, IHLs should account for why their EE Plans remained the same and were not complied with.
- Lack of childcare facilities for female staff throughout the higher education sector was a challenge, and critical to their professional development.

## **SECOND PRESENTATION: 24 NOVEMBER 2015**

The HETN began with a synopsis of its joint study with the Commission of the three institutions called to the hearings, including its study objectives, methodology, research questions, data collection methods, sampling and response rate, and data analysis methods.

It said it had been unable to conduct focus groups because of the #FeesMustFall protests happening at that time. It noted that UP had declined outright to participate in the study, NWU agreed to participate but failed to provide required data in terms of deadlines. The study results, therefore, showed only TUT data.

Respondents were selected through random response sampling. A five percent response rate had been anticipated. The HETN had been satisfied, given current events, to obtain five percent of the Pretoria campus only, a total of 294 respondents. However, it was thwarted by the protests, and only achieved a 1.3 percent response rate among staff and only 0.4 percent of students. The low response rate could affect overall validity, but based on the situation in the higher education sector at the time, the HETN believed there was no other way.

Results from the TUT staff survey included the following:

- Most respondents were female (56.9 percent, or 45 of 79); the majority were lecturing and administrative staff.
- A breakdown of staff respondents by length of service showed the majority had worked there in five-, 12-, 19- and 24-year clusters, with the longest length of service at 34 years.
- There were two clear staff categories: full-time staff, in the long-service clusters, and contract workers in the one- to five-year service bracket
- Most respondents (76) understood the meaning of sexual harassment. More than half (45) said they had either not received or not attended any training on sexual harassment, but 32 said that they had done so.

- Sixty respondents said they knew there was a sexual harassment policy in place; four did not know. Of the 15 who had not answered the question, some said they were unsure.
- Most respondents (57) said there was a conducive environment for victims to report cases without fear of victimisation.
- Thirty respondents strongly agreed and moderately agreed that there could be potential workplace challenges impeding women; 19 disagreed, and six strongly disagreed.
- Most respondents (70) said they had no access to childcare facilities at TUT, and two said they had such access.
- Most respondents (40) thought gender transformation was a priority at TUT, but 30 disagreed.
- Most respondents (58) felt that male and female academics were offered similar academic opportunities, but seven disagreed.
- Seventeen respondents agreed and 14 strongly agreed that women's domestic roles impeded their representation in academia.
- Most respondents (75) agreed that equal pay for equal work was needed in the workplace.
- Forty-seven of them believed there was equal pay for equal work in the workplace.

Results from the TUT student survey included the following:

- Most student respondents were female (51 percent, or 53 of 105).
- All but one of the respondents said they knew what sexual harassment was.
- Asked whether they had ever experienced a "sex-for-marks" situation, 102 respondents said they had not.
- Most respondents (86) knew where to report sexual harassment.
- Most respondents (65) believed there was a conducive environment to reporting sexual harassment without fear of victimisation.
- The great majority of respondents (100) said they had not attended sexual harassment awareness training; it was unclear how often such training took place.
- Seventy-two respondents were aware of TUT's sexual harassment policy.
- A small majority (59) agreed that females and males were fairly represented in the Students Representative Council (SRC) leadership.
- Most respondents (48) agreed and nine strongly agreed that there was safe residential accommodation; 11 disagreed and eight strongly disagreed, and 29 (perhaps non-residential students) did not respond.
- The majority of respondents were aware of TUT's health and safety policy.
- Most respondents (78) said they did not know what the Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) community was, indicating an urgent requirement for awareness/education.
- Most respondents (60) did not understand the term "corrective rape", again indicating inadequate awareness.
- Most respondents (72) agreed that TUT management held students responsible for transgressions; 25 disagreed.

- However, 48 agreed and 43 disagreed with the statement that TUT punished transgressions consistently.

Its overall findings from its staff survey included that TUT management was overwhelmingly African male, both in its executive management and operational structure. Also, there was awareness of the sexual harassment policy and an environment conducive to reporting cases, but scepticism about whether that policy was implemented. Staff also believed the TUT buildings were disability friendly, but not all in terms of total disability.

Male and female staff had differing perceptions of the underlying reasons for the slow advancement of women at TUT; women felt more should be done to support their development, and men felt enough was being done. But female respondents felt managers had not been trained to deal with issues of women empowerment. A refrain was that the majority black male leadership at TUT had allowed cultural and traditional values to interfere with the appointments of black female leaders. Female staff increasingly felt that their work experience was being disregarded in favour of African males being brought into the workplace, and cited a patriarchal organisational culture with a lack of commitment to gender equality. There was a major chasm between the views of male and female staff regarding gender transformation, the HETN said; some of the views of male staff bordered on chauvinism.

The HETN's overall findings on the student survey included that students had a more favourable view of TUT's institutional gender transformation. There was a serious lack of awareness of LGBTI issues and abusive practices such as corrective rape. There was limited social integration across racial lines, indicating that race relations within the student body required attention.

There was acknowledgement that the role of the SRC (Students Representative Council) in sexual harassment issues was lacking. Students did not report sexual harassment cases to it, and it did not play a meaningful role in counselling students. There was a feeling that this was beyond the SRC; some felt that it was beyond the capacity of student leadership.

Mind-mapping of the survey responses to determine trends showed that male staff felt qualifications were most important, and should determine employment; female staff felt the operating environment was adverse to female empowerment, and experience was being disregarded in favour of qualifications.

Among its recommendations, the HETN highlighted a clear need for a succession plan with clear numerical targets to track the development of internal female staff, particularly staff with doctorates; the monitoring of progress on attaining EE plans, and reasons why revised targets were submitted to the Department of Labour; the ring-fencing of certain posts; the provision of childcare facilities, the lack of which came through clearly as a major constraint; regular, compulsory institutional analysis and hearings by the Transformation Oversight Committee on Higher Education; and amendments to regulatory oversight to ensure ministerial intervention in cases of non-compliance with gender transformation at IHLs.

## PRESENTATIONS – 23 NOVEMBER 2015

### 1. UNIVERSITY OF PRETORIA

Representatives: Professor Cheryl de la Rey, Vice-Chancellor, Ms Patience Mushungwa, Executive Director: Human Capital and Transformation, and Professor Nick Grové, Registrar

#### **1.1 The Commission's findings**

Upon analysis of the information provided to the Commission by UP on 30 June 2015, the Commission made the following findings:

- There is poor representation of African women at the professorship and associate professorship levels; most professors are white. Persons with disabilities (PWDs) are also poorly represented.
- A total of 62 percent of non-academic staff are female, mostly white women, with poor representation of other race groups.
- While UP participated in the HERS-SA programme, which advances gender equity in the higher education sector, it was vague about how many women had undergone training and how many of them had been promoted into senior management.
- It was unclear whether UP had a dedicated Gender Focal Person (GFP), saying that all line managers and the executive director: capital and transformation were responsible for gender transformation. However, if it did have a dedicated GFP, that person's role must be revisited and clarified.
- Regarding resources allocated to gender transformation, UP had highlighted its Re-a-bua dialogues, which provided a platform where issues could be engaged, but the issues discussed and the extent of female participation were unclear.
- UP relied on its EE Forum to track the movement of women and PWDs within top and senior management, but the forum was not properly addressing gender imbalances, which raised questions about UP's oversight.
- UP had no recruitment policies to specifically target women.
- It also had no childcare facilities, nor plans to introduce such facilities.
- Its sexual harassment policy was broad and covered staff, students and any other persons linked to the institution, which was commendable.
- There had been nine sexual harassment cases reported since 2012. But the Commission was alarmed that some cases had been withdrawn, and in one case a student had deregistered. The Commission was particularly concerned that mediation was used to try and resolve some cases.
- It had been found in a 2014 report that LGBTI issues were a challenge, but it was unclear how UP would address them.
- The majority of 2014 graduates were women, and the numbers of women students and students with disabilities had grown between 2012 and 2014; what was not clear was why the university was not recruiting such graduates to balance their representation.

- The university advocates all policies, such as sexual harassment policies, electronically and verbally, but it provided no information on how it was educating employees in the lower administrative positions, such as cleaners and gardeners.
- UP has made progress in retaining women staff, but the majority of retained staff are white females.

In conclusion, the Commission said that based on its findings there was a need for intensive engagement with UP, in order to ensure compliance with EE legislation.

## **1.2 The University of Pretoria's appearance before the Commission**

UP made a long and detailed presentation. It began by saying that it would be providing more up-to-date information and additional documentation in its submission, and it thanked the Commission for the helpful preparatory meeting they had had, where it had been made clear that the Commission was there to assist institutions to improve.

By way of introduction to its submission, it said that in 2012 it had launched a long-term strategic plan – UP 2025 – to effect change at the institution by 2025, with transformation at its core. Diversity was a foundation principle, and a driver of excellence in education. The plan had been submitted to the Department of Higher Education and Training (DHET) and formed part of the enrolment plans that the DHET signed off.

UP said it was committed to achieving a diverse and inclusive learning and working environment by welcoming students from all communities and promoting diversity in academic, support and technical staff. Its strategic objectives were aligned with national priorities and legislation pertaining to equity, access and empowerment.

In terms of disaggregated race and gender statistics for the university's Council, 20 of the 30 posts were held by males (12 white, eight black); four of the ten females were white, and six black. There were no declared disabilities.

At the executive level, five of the nine posts were held by males (three white and two black), although one of the white males was retiring on 1 December 2015 and he would in the interim not be replaced. Of the four female executives, two were white and two black. There were no declared disabilities at the executive level.

At senior management level, 15 of the 24 managers were male (nine white and six black); of nine females, five were white and four black. There were no declared disabilities at this level either.

Several senior leaders were women, including the chairperson of council, the vice-chancellor and principal, the executive director: human capital and transformation, the finance director, and the deputy vice-chancellor for research and postgraduate matters. The university noted in its submission that there were still few women at the vice-chancellor level and also in senior management, particularly finance.

Regarding gender distribution among employees, it was effectively 50/50 among academic staff (709 men, 699 women); support staff (professional, technical and administrative) was dominated by women at 61 percent. The total staff figures, for permanent and fixed-term contract employees, were 43 percent men and 57 percent women.

Gender distribution by post grade among permanent and fixed-term academic staff posed a challenge, albeit a common one: the higher one moved up the hierarchy, the fewer the women. UP had introduced measures to address this issue. The same issue presented itself among permanent and fixed-term support staff.

A shift could be seen over time in gender distribution: between 1994 and 2013, female academic staff had increased from 25 percent to 50 percent and support staff from 43 percent to 61 percent. Between 2012 and 2015, African female staff representation rose from 14 to 18 percent; coloured and Indian female staff showed little improvement, with a slight increase among coloured female staff in 2015.

UP employed 55 permanent staff members with disabilities. This accounted for 1.3% of the total staff complement, and was below the required 2% minimum. The university was undertaking awareness initiatives to get staff and students with disabilities to declare their status, and requested assistance on how to go about this successfully.

Staff turnover – at 6.3 percent for academic staff and 6.2 percent for support staff in 2014 – was relatively static over time, and showed some opportunities for transformation.

The university had in October 2015 completed an equity audit with Pricewaterhouse Coopers, which found that there was no evidence of inequalities or discrimination regarding race or gender per post, or of deviations between academic and support staff of comparable seniority.

UP had instituted several measures to address gender transformation, including:

- Selection committees were bound to appoint by order of preference, particularly from designated groups identified in the university's EE Plan.
- Posts were earmarked for filling by designated groups that were underrepresented.
- An earmarked, discretionary fund for creating diversity posts where there were no vacancies.
- Appointments were made in accordance with succession planning.
- Scrutinising job descriptions and advertisements, so that minimum requirements were not unduly inflated and recruitment could then be more competency-based.
- Making recruitment and selection committees more representative of race, gender and disability, to counter the element of bias.
- Training recruitment and selection committee members on the EEA and on how to conduct competency-based interviews.
- Enhanced use of professional search companies and academic networks to identify candidates from underrepresented groups, both locally and internationally.

- Continuing to implement the UP Journey for Change transformation framework.
- Showcasing UP, internally and externally, as a transforming university and employer of choice, particularly among designated groups.

Overall responsibility for gender transformation lay with the vice-chancellor and principal, with the executive director: human capital and transformation as the responsible manager. Top and senior management, and academic heads of department had EE targets as part of their Key Performance Indicators (KPIs). Staff members, in particular line managers, tracked their careers through personal development plans, as part of the university's electronic performance management system.

Resources allocated to gender transformation included an earmarked staff fund from which allowances were paid to attract and retain academics, such as start-up research grants, the aforementioned earmarked fund to create diversity posts, and professional development programmes that benefited women and PWDs.

Also, the university had recently updated its recruitment policies to support gender transformations, and would submit these to the Commission. UP had additionally introduced institution-wide mentoring and coaching, to give line managers necessary support. It had also sponsored the attendance of promising mid-level female employees on the HERS-SA programme, and would provide these figures to the Commission, as well as the numbers for its successful Professional Academic Leadership Programme, introduced in 2011 and rolled out since.

To build capacity, the university had an Academic Staff Development Programme, which identified the pool of doctoral and post-doctoral candidates and assisted them to complete not only their Masters' degrees (a minimum requirement for academic appointments), but also their doctoral qualifications. The university offered a teaching replacement grant, to allow staff to complete their PhDs. Seventy-eight academics had been supported since 2012, 64 percent of them female.

Its Early Career Researcher Programme, introduced in 2013, developed capacity for young and emerging researchers to be productive producers of research material. The programme offered workshops, one-on-one assistance, travel and networking opportunities, preparation for research leadership and postgraduate supervision training. The programme had supported 364 participants to date, 63.5 percent of them women.

In 2014, UP conducted a media campaign to profile its women researchers. It was reported internationally that women did not put themselves forward for available opportunities, so the university assisted women with media exposure to build their reputations and academic careers. During Women's Month, six women researchers showcased their work to a group of journalists, resulting in 18 positive reports. In addition, several women academics had won national and international awards for their work.

Gender-related needs identified by the university included flexitime: a formal policy existed for support staff, and academics enjoyed generous study leave and could often work from home. Regarding childcare facilities, several crèches and pre-schools around the university met parents' needs.

The university's Journey for Change awareness programme, informed by an Institutional Culture Survey conducted in 2011, was a framework for institutional transformation. The university planned another survey in the near future, to gauge how successful its efforts had been; it wanted to be seen as a great place to work and study. The original survey had identified key elements and enabling conditions, and five focus areas were decided upon:

- Promoting open dialogue: the Re-a-bua programme, which included gender and LGBTI issues.
- Access with success (ensuring that students admitted succeed in their studies), and accelerating EE.
- Implementing a leadership diversity management programme – improving teams' diversity, and equipping managers to lead them.
- Building a change navigation capability.
- Improving the flow of information.

The Re-a-bua programme would reach the end of its two-year lifespan at the end of 2015, and in that time thousands of staff and students had been engaged in dialogues and tasks involving a maximum of 25 people at a time. There had been very positive feedback, and what had been learned from Re-a-bua would be implemented in 2016.

Regarding initiatives specifically targeting gender, LGBTI and disability, two UP entities – the Institute for Women's and Gender Studies and the Centre for the Study of AIDS– had amalgamated in 2015 to form the Centre for Sexualities, AIDS and Gender (CSA&G), and it assisted the university. In addition, the university's Centre for Human Rights (CHR) had both a Gender Unit and a Disability Rights Unit, which focused on issues from a human rights perspective through teaching, internal and external training, research, advocacy, networking, community engagement programmes and collaborative initiatives.

CSA&G undertook several initiatives, among them a volunteer-based programme for students promoting gender equity and non-discrimination; students form collectives that run social and behavioural change programmes across the university. Its Gender Research @ UP (GR@UP) was a network of academics interested in gender research, which held monthly seminars and hosted visiting academics; these were open to the public also. It published an annual AIDS review, focusing on current debates in HIV and AIDS-related areas, including gender and sexualities.

It participated in national debates, such as programmes in partnership with the City of Tshwane, and also provincial and national government departments. It worked on gender-based violence issues. It had strategic partnerships, such as one with Irish Aid to offer consulting and training around HIV, gender, and sexual and gender minorities. It

presented an annual leadership programme for activists in the LGBTI and sexual worker spaces, and it ran various research projects, some of them commissioned.

Highly regarded gender researcher Professor Christi van der Westhuizen was appointed as an associate in August 2015. She was completing a UP gender audit, which provided information on which areas needed attention, and had developed a pilot online module called *Doing Race Differently* that examined race, class, gender and sexualities.

The CHR's Gender Unit undertook and promoted the implementation of, and compliance with, the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (the Maputo Protocol), and other international instruments protecting women's rights. It held active membership in African coalitions on women's rights and gender-based violence.

It was also a member of a steering committee, with the South African Human Rights Commission (SAHRC), the Department of Justice and Constitutional Development, and the Department of International Relations and Co-operation, for a regional seminar on sexual orientation, gender identity and gender expression.

The CHR's Disability Rights Unit, on 3-4 November 2015, hosted its annual Disability Rights Conference, which had the theme "Towards the effective implementation of the rights of children and youth with disabilities in Africa". It also hosted the annual African Disability Rights Moot Court Competition for law students, and published the *African Disability Rights Yearbook*, a peer-reviewed academic journal.

It had developed a core curriculum on disability rights for African undergraduate law students, as well as a toolkit for the SAHRC on promoting the right to employment for persons with disabilities, and a training manual on disability rights for the African Union.

The CHR itself also hosted an annual, week-long course on LGBTI rights for students, government officials, civil society and legal practitioners; it promoted LGBTI rights in Africa through its development of an advocacy toolkit and facilitating access to justice through the Equality Courts; and it offered a scholarship for LGBTI activists and human rights defenders to participate in its flagship Master's programme, *Human Rights and Democratisation in Africa*.

The CSA&G and CHR also undertook joint activities such as a review of laws affecting transgender and intersex South Africans for the Foundation for Human Rights, three short courses for human rights and development practitioners, and a *Gender Audit Tool* for IHLs across Africa; the latter would be disseminated to universities across the African Union, to promote gender equality.

Turning to its sexual harassment policies, the university had submitted its policies and noted comments made. Its Code of Conduct on Sexual Harassment had been in place since 2008, and applied to staff, students and third parties; it laid out the process for managing

complaints. UP also had a whistle-blowers policy, which provided for an independent Ethics Hotline where sexual harassment could be reported. All cases reported to the hotline were reviewed annually. All managers oversaw the sexual harassment policy, and a protection officer managed complaints and executed policies.

Sexual harassment complaints totalled 19 since 2012, with three staff and five student cases reported in 2015. Between 2012 and 2014, three cases had been successfully mediated, two complainants had refused to co-operate, and three cases had been dropped for insufficient evidence. The outcomes involved disciplinary charges against two staff members (one resigned prior to the hearing and the other was dismissed following the hearing); a student employee received a final written warning and counselling. In 2015, two of the student cases had been successfully mediated; one student terminated studies by agreement, one refused to participate in the process, one student case was dropped for lack of evidence. A contract worker's employment was terminated after a guilty finding; two staff cases were pending.

The university said its point of departure with sexual harassment was to employ discipline for education, and it looked forward to guidance from the Commission in that regard.

Student data by gender from its inception in 1908 showed that UP had grown to have a student body of nearly 50 000, and women students had been in the majority since the mid-1990s. In science, technology, engineering and mathematics (STEM), women made up 55 percent of the student body in the natural and agricultural sciences, 29 percent of the engineering, IT and built environment, 44 percent of the physics, 39 percent of the mathematical sciences, and 25 percent of the engineering and IT clusters of disciplines.

There were 3 655 women in single-sex residences (1 945 black, 1 710 white), 2 043 men in single-sex residences (1 010 black, 933 white), 1 733 women in co-ed residences (1 145 black, 588 white) and 1 251 men in co-ed residences (856 black, 395 white). Students with disabilities – visually impaired and wheelchair-bound – who lived in residences had increased from four in 2012, to 21 in 2015. It had a multi-layered structure in residences to manage reports of sexual offences and assaults, which also offered trauma support.

Policies UP had submitted to the Commission included policies on unfair policy, on unfair discrimination on the basis of race, sexual harassment, grievances and HIV/AIDS, human resources development, disability, remuneration, a disciplinary code and procedure for employees. In addition, the university had policy, procedure and guidelines applicable to the recruitment, selection, appointment and promotion of support services staff (excluding members of the executive), and similar documentation for academic staff (excluding deans and deputy deans).

There were approved structures and procedures, but no formal policies, for employee wellness and regarding posts. Succession planning and staff retention were handled in other policies. Policies were regularly reviewed (the last in 2012), including before developing new EE Plans; its next five-year EE cycle would begin on 1 January 2016, subject to Council approval.

To advocate policies, the university made them widely available electronically, on notice boards and in student policy and residence guides. Awareness workshops were held in residences and for staff members, and information was imparted during first-year student and staff orientation.

Regarding infrastructure development, in 2015 the university had to submit its plans according to a formal process guided by the DHET. Since 2000 it had been upgrading buildings to accommodate disabled staff and students as part of its EE strategies; around R21 million had been spent up to 2014, and for 2015-2017 R15 million per year was earmarked for infrastructure improvements. In 2015 a full disability audit was done in terms of current regulations, aimed at extending universal access to the elderly and pregnant women. The university had a Disability Unit that helped staff and students with assistive devices, and advice on what the university needed to do.

*(Please note: the university's slides on student numbers would not display during the presentation, and their details are not included here. The university said it would find them on another version of the presentation.)*

### **1.3 Questions and comments**

The Commission thanked the university for its presentation, which it said had been illuminating and had adequately closed various gaps in its written submission.

However, it said it was one thing to make plans; it wanted to know whether or not results-based monitoring and evaluation systems had been put in place to measure the success of its initiatives. Also, a senior manager for monitoring and evaluation was a statutory requirement – was there such a person?

The Commission asked how the mainstreaming of LGBTI issues was trickling down to the student population; this was important, as LGBTI persons suffered discrimination and exclusion.

It criticised the university because only 1.3 percent of its student population comprised persons with disabilities, and asked why it was difficult to achieve the required 2 percent.. Further, it said persons with disabilities were heterogeneous in their needs and aspirations, and the university needed to broaden its descriptions of persons with disabilities. Its libraries should provide Braille services.

With regard to private childcare facilities in the vicinity of the university premises, the Commission wanted to know whether or not there were agreements with such facilities, to prioritise the university community's needs.

The Commission asked whether or not the university would ever reach the objectives of its Re-a-bua programme if it engaged only 25 people at a time, given the size of the student and staff populations.

It also asked for a copy of the previous UP 2025 plan, which was entering a new phase in 2016, and wanted to know what the plan's targets were and what had been achieved.

The Commission commented that there was something "very covert" about UP's presentation. It had focused on white Afrikaners to indicate the advancement of women of all races in all categories. Gender transformation involved the advancement of women of all races. The Commission wanted to know which students were being admitted in which sectors; it also asked how many were South Africans or foreigners, as well as the gender distribution.

The Commission asked what UP was doing regarding about retaining women in its top echelons. It questioned that the staff numbers had almost doubled for white women, and to a lesser extent for women of other race groups. Similarly, African male staff numbers doubled, but not to the extent of the white male complement. It wanted to know many women occupied the positions of dean and just below, and which faculty performed the worst in terms of gender transformation.

#### **1.4 Response**

The university said that regarding monitoring and evaluation, it set annual targets that were approved by its Council, and submitted to the DHET. Internally, each member of the senior management team signed off on targets that were implemented throughout the year. Quarterly reviews were done by the entire senior management team to assess performance indicators in each target area; student and staff numbers are interrogated to arrive at remedial action.

In terms of student admissions, there was a five-year plan broken down by programme area, as well as by race and gender, as part of an agreement with the DHET; its performance was monitored. With staffing issues, information was presented to a Council sub-committee that was the highest body responsible for monitoring EE; for students, the university reported to a Senate sub-committee responsible for the student enrolment cycle. There were remuneration consequences for those who did not meet their targets, as part of a weighted performance evaluation system. All targets had to be approved by the DHET, in particular the responsible minister, to whom all performance reports had to be submitted.

The person responsible for monitoring and evaluation was the executive director: human capital and transformation. The Transformation Unit reported directly to her and she also chaired the Institutional Forum, a stakeholder forum comprising students, staff and organised labour, where monitoring and evaluation information was circulated.

On mainstreaming LGBTI issues across the UP community, discrimination was often hidden and this was why the university had introduced its helpline; people could report incidents anonymously to it. All complaints were investigated, and a formal report including outcomes had to be submitted to the Council.

While the university had highlighted its Re-a-bua programme as an example of raising awareness, there were also other initiatives: there was a compulsory awareness module in its orientation programme, and there were other such modules. Anti-stereotyping workshops are held in residences every year, and all student leaders receive this training.

In 2013 the responsible minister had visited UP, and they had spoken about breaking down and disaggregating disability data further. If the university had not yet provided the Commission with this information, it would do so as such data was kept.

UP's Disability Unit assisted all those who needed some form of support, whether or not they had declared a disability. Increasingly, visually impaired students and staff were using technology as well as Braille; a list of software available to staff was taken up across the institution. There were assistive devices for students with hearing impairment, and technology had been very helpful.

The university also had a research unit that investigated assistive devices, and some of its work had won international awards. A list of the devices, much of them technology-based, could be provided.

Regarding childcare, the university had an agreement with one early childhood provider. Under the Registrar the university had, however, started a new initiative called the University of Pretoria Precinct, a partnership with the City of Tshwane that included looking at how it could better engage with its neighbouring communities, including schools and businesses. Legal implications were complex; for example, in procurement the university wanted to give preferential points to local businesses. Agreements with childcare providers were a good idea, and would be taken forward.

The Re-a-bua programme had initially targeted the staff and student leadership. A range of other student development and training programmes were for students only, and the university would provide a list of them to the Commission. Because students were a transient population and came and went quite frequently, their training cycles ran differently to others'.

The university promised to furnish the Commission with the previous and current plans for its UP 2025 five-year cycles.

Regarding the breakdown of student numbers by race gender, the university's non-functioning presentation slides had provided such information. It would make the information available to the Commission in another format.

The university's enrolment plan made provision for all the equity categories and in programmes where numbers of students were capped, there were specific equity group targets. This information was made available on the university website. The university was threatened with litigation for this stance, but it defended itself with the Constitutional provision for fair discrimination.

For the past three years, far more offers had been made to black African students than to any other group. South African and foreign staff were categorised differently.

On disability, Minister Henrietta Bopape had visited the university almost annually and given valuable advice. Previously, the Disability Unit had focused mostly on students and not on staff; consequently, the university had not met its two percent disability target. It needed to capture more staff who fell into the disability category, as it had realised that some had been reluctant to divulge their disability because they feared stigma or felt the university offered them no support. The university had outlined in its 2015-2020 EE Plan how it would increase its disability statistic, and support persons with disabilities.

Regarding appointments, although all groups had met their EE targets, in some instances white women exceeded the appointments of black women. Its 2015-2020 EE Plan, to be presented to Council on 24 November 2015 (the day after it appeared before the Commission), made appointment rates a target for all deans.

The university currently had three female deans out of nine, all white. Some deans' posts were vacant, and it was hoped that in filling those posts the number would improve.

The Commission interjected, asking if the university had analysed why the appointment of white females had accelerated faster than for other groups, and what it would do about this. What would change? it asked the university.

The Commission then asked about the male deans: what was their racial composition? Gender equality began with the numbers, it averred.

The university responded that it had realised that changes were required in recruitment committees, and it was taking a different stance on how the committees were constituted and what information they used. Some committees were not aware of policies and procedures, or did not adhere to them. The university would train and support the recruitment committees; it also wanted to ensure that the committees were diverse, to counter a potential element of bias.

Of the six male deans, the university said three were black, two Indian and one African. The rest were white.

The Commission commented that the dean numbers were a reflection of a recruitment trend for white women seen among staff. This stubborn trend was either because of a lack of skills, or a racial bias. If the latter, it had to be dealt with. The Commission was looking for evidence of gender transformation, but the numbers and discourse were telling a different story.

The Commission also asked for disaggregated statistics about directors at the university, who fell below the deans, and also the next level down.

The university said in its analysis in preparation for its new EE Plan, it looked at skills by area; for example, in the School of Engineering one was recruited from the engineering pool, and it had engaged with the Engineering Council to identify teaching candidates with at least a Masters degree, the minimum teaching entry requirement. In addition, there was the internal programme to equip women with Masters and doctoral qualifications in scarce-skill areas such as the STEM disciplines. This was why the university had implemented an order of preference for appointments, precisely to counter the trend the Commission had observed, of employing white women.

It reported that it had 16 directors; eight were black and eight white. There were four black females (two African, and one each coloured and Indian), three black males (two African and one coloured), five white males and three white females; in this case, black included coloured and Indian persons. This information was at 30 June 2015, but it would provide the Commission with updated statistics.

The university conceded that the employment statistics were a concern in academic, skilled and technical positions up to the dean level, as the levels below were feeder groups for more senior posts. At six percent, UP's staff attrition level was below that of the private sector, and this impacted on opportunities for growth; because new posts were not being created, the university relied on staff attrition.

An important point that had not been mentioned, said the university, was that since the appointment of the executive director: human capital and transformation in 2012, all non-EE appointments had been centralised. Deans and directors had to make it clear when there was a specific appointment requirement; it had met its EE targets, and it was sympathetic only in instances where there was no one else who could do the job.

The Commission asked whether that meant that people were being developed for senior posts, in a training pipeline, to specifically lead the university. UP responded that this was why it had introduced coaching. Sometimes courses and MBAs did not identify problems, and so deans, heads of department and directors were being given coaching to understand their individual needs. For example, why were women often slowed down, compared to men? One would find that they were single mothers without support systems to allow them to finish their studies; the university looked at ways to help women compete with men in the academic sphere.

The Commission suggested that, in terms of improving disability representation, the university should consider partnerships with sister institutions and other bodies, such as Disabled People South Africa (DPSA), the Deaf Society and the Blind Society, to break the trend of disabled people not applying to the university. Graduates reflected an increase in the number of persons with disabilities, so why not strike a deal with such bodies to recruit them?

It continued that the university's strategic plan for transformation specified 2025, with five-year reporting cycles. The HETN presentation had spoken about the importance of the NDP and the university had said in its presentation that it took cognisance of key national

priorities. If this was so, then the NDP was one of the most important ones, as it contained everything that would be achieved by its 2030 target date. So, the university's plans and programmes had to be underpinned all the way by the NDP.

The Commission asked for a report on the university's Re-a-bua dialogues, so that it could examine the issues raised, as UP had said it would address them; the university should remember that the Commission was not engaging with it for the first time (on such matters). Also, the Commission had received the university's report on the LGBTI audit tool, but it did not include details on the measures the university intended to take based on the report. It requested an augmented version of the report, containing such measures. It further requested a copy of the Institutional Culture Survey that the university had developed.

The Commission said it really wanted to understand (situations), including assisting with mediation. Therefore, when the university mediated on matters of sexual harassment, the Commission would like to participate as an observer. It could not comment on how the university mediated such matters, as it had never observed it, and it wanted more sexual harassment statistics.

It asked whether or not there were income differentials, or if people were remunerated in the same way across employment levels. It asked also how much budget was spent on gender transformation; with procurement, how many women entrepreneurs were being supported? Was there procurement GE targets? Did transformation officials sit at the highest levels in the company, in order to direct transformation from there?

The Commission commented that UP did have best practice that could be used by other institutions, and the recognition of unpaid work for women as an impediment to their completing their studies, had presented an interesting dimension. Some activities and programmes were supportive of UP's transformation agenda – they just needed to be deepened.

Regarding sexual harassment cases being dropped by complainants, the Commission asked why this was so. Was it a matter of there not being a safe environment for them once they reported the case?

It said the university had identified certain vehicles with which it advanced its agenda, but had thought been given to an overarching vehicle to advance and embed the culture of transformation throughout the institution?

The university had touched on the retirement of staff members who had long been there, but it wanted to juxtapose that with the matter of budget: how would it balance budget and transformation agenda?

A further question was around whether the university had begun environmental design changes to accommodate persons with disabilities, and whether security measures had been put in place to ensure the safety of female students.

The Commission also wanted to know what measures were in place to address gender-based violence in the institution, not only sexual violence and other assaults: what plans were in place to completely eradicate gender-based violence among students, staff and suppliers?

The university responded that in terms of collaboration with networks for persons with disabilities, sometimes there were blind spots – and this was one such instance; it was good advice to engage with other entities. So far it was working with government, but it needed to look at assistance further afield.

It would make the Re-a-bua report available to the Commission, as well as the measures it had instituted following its gender audit and its 2011 Institutional Culture Survey report. It would arrange for the Commission to observe a sexual harassment case. It would further provide data on the HERS-SA programme that had been running in the higher learning sector.

The University Council's Human Resources (HR) committee had, in terms of pending legislation, in 2014 requested a report on whether or not there were remuneration differentials based on gender or race. PricewaterhouseCoopers conducted a thorough investigation, and found no differentials based on race or gender, but because of historical practices there were salary "outliers". The HR committee would investigate at what point these people's employment history decisions had been taken that led to the current situation.

The executive director: human capital and transformation sat on the university's executive and reported three times annually to the Council's HR committee. She also chaired the university's Institutional Forum, which advised the Council on transformation issues. Her role was to ensure that the Council was informed, so that it could give direction. It pointed out that at many other universities, the term "executive director" referred to what UP called a director. UP had two executive directors – for HR and finance – who reported to the vice-chancellor.

On sexual harassment cases, it said there were always reasons why people decided to proceed with them or not. In some instances there was no *prima facie* evidence, and in others the complainant decided not to proceed or the perpetrator left the university. It tried to help where it could, and it believed the process it followed was one of best practice in the higher education sector.

One of the biggest gender issues the university faced was the safety of female students in the adjacent neighbourhoods to the campus; this was becoming a major issue for the university. However, on campus, it was very safe – there were about 1 000 CCTV cameras, and the university was aware of what was happening at any time. If an incident did take place, it could reconstruct what had happened. The university noted that crime in the neighbourhoods was not only economic-based, but included a high level of gender-based violence.

The adjacent neighbourhoods were becoming student towns, and middle-class families were moving out. Students were transient, and this led to skewed neighbourhood development; UP wanted communities to move back, and attract businesses other than clubs or bars. This was a big part of the university's strategy, such as its precinct plan with the City of Tshwane, which was intended to increase non-student diversity in the neighbourhoods and enhance safety. At present the neighbourhoods emptied when students left, and there had been problems with establishments not adhering to their licensing conditions.

The university also had a Blue Route system, which assisted students to get home safely, within a certain radius of the university. It was striving for better lighting for surrounding roads in partnership with the city, which had been very supportive.

The university would extract gender transformation budget information, and provide it to the Commission; it did not want to hazard guesses and provide incorrect statistics. It would also provide details on procurement.

On accommodation for persons with disabilities, it had provided an infrastructure audit to the DHET, and in its infrastructure planning it had had to commit to accommodation. The problem was with older buildings, which were not wheelchair-friendly and did not have lifts. The university worked with the department, and as infrastructure money became available it tackled priority areas. New buildings and renovations were compliant.

The university aligned with all national priorities such as the NDP. For example, it planned to expand doctoral training in terms of the NDP; it had grown areas, such as engineering and some of the sciences, identified as scarce-skill areas by the NDP and the National Human Resource Development Plan. In the recent past, the Faculty of Education had been expanded to meet the need for teachers. It had also changed its curriculum to accommodate the new Technical and Vocational Education and Training (TVET) colleges. The medical programme was shortly to open new facilities because the programme had been doubled in size. One of the university's challenges to expansion was finding staff. Alignment with national priorities was thus taken very seriously.

The Commission thanked the university, and it looked forward to continuing the journey they had begun on 1 June 2015. It concluded by asking the university to provide the outstanding information by 15 December 2015, and saying it would monitor its discussion with the university. If necessary, supplementary hearings could be held. It could see the university was earnest in its transformation efforts; transformation was difficult, but it had to accelerate. Women, too, needed to transform, and it was heartening to see a woman driving change at the university.

## **2. NORTH WEST UNIVERSITY**

Representatives: Professor Dan Kgwadi, Vice-Chancellor, Mr Anton Scheppel, Director: Employee Relations, Mr Mashudu Davhana-Maselesele, Director: Operations, Mr Zaan

Strydom, Human Capital Specialist: Employment Equity and Disability, and Ms Ria Nel, Acting Executive Director: Human Capital.

## 2.1 The Commission's findings

Upon analysis of the information provided to the Commission by NWU, the Commission made the following findings:

- There was poor representation of African females at academic staff level, with the majority of academic staff being white females.
- The Commission was unable to make a finding on progress around persons with disabilities in top management or academic positions, as NWU did not provide such information.
- The Commission was concerned at the paucity of information provided in the university's EE Plan around measures to promote gender transformation in top and senior management.
- It commended the university for appointing an EE manager, but it needed clarity on the authority this person commanded, and it was unclear how much focus was placed on gender equity.
- It applauded the university for supporting gender transformation through its Capacity Building Fund, whose beneficiaries were 67 percent women. But it said racial disaggregation of the beneficiaries would provide more clarity on the extent of transformation.
- NWU relied on its EE Forum to monitor the upward movement of women and persons with disabilities to top and senior management, through monthly, quarterly and biannual reports. But the EE Forum was not adequately addressing gender imbalances, and this begged the question of how the university was implementing EE Forum recommendations.
- The university had no specific policies to recruit women and persons with disabilities.
- It had no childcare facilities, nor measures to put any in place.
- A sexual harassment policy was in place, but empowered the ombudsperson to decide which cases to investigate. There had been four cases since 2012, all effectively dealt with.
- NWU said it had no LGBTI issues, but the Commission regarded this as a red flag, considering how marginalised the LGBTI community was in IHLs.
- It commended NWU for maintaining a high number of African female graduates compared with other races. It appeared to have a good provincial demographic representation of all races.
- There were 160 students with disabilities, out of a student population of 73 870. The Commission noted ongoing commitment to making its environment conducive for persons with disabilities.
- A lack of awareness programmes for staff and students on sexual harassment policies was alarming, given the prevalence of sexual harassment on tertiary campuses.

- The university had been progressing satisfactorily in employing and retaining female staff; however, the majority of retained staff were white females, with very little representation of other races.

In conclusion, the Commission found that the university faced challenges in formulating and implementing well-defined gender equity mechanisms. It needed to adopt drastic and robust mechanisms to promote gender transformation.

## 2.2 North West University's appearance before the Commission

NWU began its presentation by thanking the Commission for allaying its fears about its appearance, despite the disconcerting subpoena to appear before the Commission. It concurred with the Commission's findings on the state of gender transformation at the university, but pointed out that this was a developmental process.

The university was excited to present its latest strategy, which had been passed by the University Council on 20 November 2015, only three days before it made its appearance before the Commission. It would play an important role in advancing the transformation agenda at the university.

**It touched on the 10-year strategy, which intended “to transform NWU as a unitary institution of superior academic excellence, with a commitment to social justice”. It stressed the creation of a unitary university as it was the amalgamation of three separate, and semi-autonomous, campuses: Vaal, Mafikeng and Potchefstroom. The university had had 15 faculties: two in Vaal (both deans white), five in Mafikeng (three white and two black deans), and eight in Potchefstroom (all deans white). Of the 15 deans, five were female. Now there would be only eight faculties, each with a single dean, instead of a dean at every campus. They would no longer report to campus deans, who would be replaced by deputy vice-chancellors responsible for campus operations, but instead to the deputy vice-chancellor: teaching and learning, who in turn reported to the vice-chancellor. This represented a robust and radical change to the way NWU was structured, and would ultimately assist it to achieve its institutional targets.**

The University Council that had approved the strategy consisted of 30 members; 24 were male, 12 were black and 18 white.

Turning to the gender transformation questionnaire that it had completed prior to the hearings, the university said 68.6 percent of top and senior management was male and 28.6 percent female (25 men to 10 women). One senior manager was a male foreign national, making up the complement. In terms of the total academic and support staff of around 3 600, the university conceded it fell far short of targets, with white male and female staff dominating (33 and 37.2 percent respectively), and African staff numbers lagging. Of the total, 41.6 percent of staff was male, and 56.3 percent female. When one looked at the academic staff there was almost gender parity, with about 53 percent male and 47 percent female. About 5 percent of male academics and 1 percent of female academics were foreigners; foreign staff were not looked upon favourably for support positions.

Of 31 top and senior management incumbents, and academic and support staff, there were 32 PWDs. The gender split was 54.8 percent male and 45.2 percent female. As with other institutions, people were often reluctant to disclose disability. For example there was a bursary for disability. Quite a few of the university's students living with albinism did not want to take the bursary, as they did not consider themselves as having a disability. It could be symbolic of the environment, where confidence that disability was not an inability had not been created.

The current top management organogram, prior to restructuring, showed two deputy vice-chancellors, three executive directors, the registrar and three campus rectors reporting to the vice-chancellor. At present they included four females. However, the university was losing a few of the incumbents, as senior managers in IHLs were a scarce resource, and they had been recruited by other institutions also needing to comply with gender transformation requirements.

The university then listed what it considered its achievements, even if they fell below the expectations of others. For example, 10 of 35 senior managers were female; if one looked at the challenges in the higher education sector, the university felt it had done well. It also highlighted that 67 percent of its Capacity Building Fund went to women; a Human Rights Committee, chaired by a third party that investigated human rights complaints and made recommendations to management; annual human rights awareness campaigns, the 2016 edition of which would focus on gender awareness; and support structures on each campus to report and receive assistance about cases of sexual assault and other offences. The biggest challenge was victims being too fearful to come forward. The university would look at addressing this issue.

The university's sexual harassment ombudsperson was a clinical psychologist, and thus in a position to counsel complainants. Its sexual harassment policy was in place, communicated to staff and students, and it did not compromise when it came to this offence. Regarding "sex for marks", the students did not want to discuss it, but the university knew that it was a point of action.

Addressing challenges to gender transformation, the university admitted it had been more focused on diversity than on gender; female appointments had been skewed towards white women. It did not yet have mentoring programmes specifically for women, but it had nominated women to the DHET's New Generation of Academics Programme (NGAP) for them to accelerate their PhDs. NWU also did not have childcare facilities on any of its campuses, although there was a need if one considered the age of current and incoming staff members. There were also salary disparities between male and female staff due to historical factors; in the past, women – especially white – would prefer to break service and focus on raising a family before taking a position, leading to an experience difference between male and female staff.

Short- and long-term goals included monitoring the retention of female employees, initiating awareness campaigns around gender equality and discrimination, providing more

training on sexual harassment to staff and students, and promoting sensitisation around the rights of the university's LGBTI community. Students were doing well with LGBTI awareness campaigns, and LGBTI student structures were part of the SRC on all campuses. Nevertheless, a lot needed to be done still around conscientisation of students. Recently, a transgender student living in off-campus accommodation was fatally stabbed; whether it was because the victim was transgender or just a squabble between students, had yet to be established.

Other goals included developing mentoring programmes for women to fast-track their careers, with capacity building focused on underrepresented black staff; investigating childcare facilities on each campus; improving opportunities for promotion among support staff; sensitising all employees about cultural differences; and prioritising gender transformation and not only racial transformation at various occupational levels.

On this last point, the university said the Commission's finding that it reflected provincial racial demographics contained a hidden detail: its Mafikeng campus was overwhelmingly black and its Potchefstroom campus was predominantly white, with the Vaal campus more integrated. The first two campuses were still largely racially polarised, and this was a serious transformation issue; these could not be racial enclaves. Targets, therefore, aimed at diversifying campuses racially. One way of doing this was to have all faculties use all campuses as sites of delivery.

Training planned for 2016 included senior management monitoring and supporting all gender transformation efforts; the university's Human Rights Committee would focus on discrimination, gender equality and racism, and was in discussions with the SAHRC in this regard (the university mentioned a recent incident of racial polarity around demands by black students to remove a statue of the Afrikaner poet Totius, and Afrikaner students standing against this, a situation that could easily have led to race war); and more emphasis would be placed on sexual harassment during training in the university's Behavioural Manual.

The university, now that its strategy had been approved, had an approved structure with which it could address academic excellence, unity and social justice.

### **2.3 Questions and comments**

The Commission noted that it had expected more details from the university, and it wanted to know what was in place to accelerate gender transformation. It said the university had not shared any EE statistics, and it asked what was actively being done to attract black, Indian and coloured women to the institution.

It noticed that while addressing gender equity, discrimination and racism, NWU had omitted disability, yet it should always be included. It asked what the nature and outcome were of a sexual harassment case. It asked for a copy of the strategy recently approved by the University Council. It also said flexitime and childcare facilities freed women staff, and the university had to take a definitive position on the matter.

The Commission pointed to the HETN presentation, which had noted that NWU was the most poorly transformed of the three institutions before it. Yet the university had not said much about the concerns raised by the HETN, with the notable exception of its sexual harassment ombudsperson. It wanted to know why, when cases were made, accused people resigned and victims withdrew their complaints; also, it wanted to know what measures had resulted from finalised cases.

It questioned why, when women climbed the ranks, there was the question of grooming and capacity building; why distinguish between men and women? Who groomed the men? Men and women should be coached together, and women should be ready to take leadership positions.

The LGBTI issue at the university was unclear, and there was no sense of a tangible programme to address it. It was not a matter of acknowledging LGBTI persons' presence, but about mainstreaming them into the university community. The Commission also asked about the university's progress in meeting its two percent disability representation target, and in providing reasonable accommodation for persons with various disabilities. It wanted to know if the university's new strategy had monitoring and evaluation embedded in it.

The 50 percent gender equity target was not just a South African imperative; it was a regional and international target, and South Africa was required to report on such demographics to the United Nations, the African Union, the Southern African Development Community and other bodies.

The Commission said that all tertiary institutions with merged campuses had serious problems, and it appreciated NWU's attempts to address its own. It had offered its support to NWU, only to be met with a "none for now" attitude; perhaps the time was right for the university to consider what support the Commission could provide to it.

When the university listed its disability data, it mentioned learning impairment; the Commission wanted to know what this meant. It also criticised the university for referring to albino people, when it was more sensitive to refer to people living with albinism.

It asked why there was persistent employment of white females and males. It questioned what the observations were in terms of income differentials. It asked whether or not NWU had a GFP and, if so, at what occupational level was this person? It asked for the university's new strategy's targets. Did the university have a succession and recruitment plan, and how was it responding to its diversity needs? The indicators were that there were binding constraints on transformation.

The Commission wanted gender-disaggregated information for the vice-chancellor, deputy vice-chancellors, deans and directors, as well as for support staff. It asked what the university's budget for gender transformation was, and how much procurement promoted black economic empowerment. It asked what the seniority of the university's transformation officer was.

Finally, the Commission said the NWU presentation had mentioned a focus on diverse staff, and it wanted to know what “diverse staff” meant, as opposed to the legally defined “designated groups”. It also asked what the lifespan of the new strategy was, whether or not it linked to national priorities such as the NDP, and what its targets were.

## **2.4 Response**

The university began by listing what was in place for transformation, and what the vice-chancellor had already done in the first 20 months of his tenure. A lot of detail remained to be sorted out, especially on strategy, which had now been decided upon in principle. The EE Plan had been revised, including an audit of human resources, policies, processes and practices, which had been provided to the University Council’s Human Capital committee. Interim targets for the next three years had been formulated.

The restructuring of the university itself (which it hoped to complete by 1 January 2017) was a massive undertaking, involving complete reorganisation of faculties and reporting structures, and would necessitate the formulation of new targets. The university looked at what was possible, and to meet and exceed its current targets it would revise recruitment policies and succession planning – anything that would help to improve its EE profile, and in particular gender equity. It was a step-by-step process beginning, importantly, with revising the EE Plan and then all policies that could be barriers to EE and gender equity.

The Commission interjected and asked if NWU could provide its current staff information. What was happening at its three campuses, and what was the situation before the university embarked on its new strategy? It needed to understand whether the university was progressing or maintaining the status quo. It would be good if NWU could identify its existing challenges in terms of numbers, and any suggestions to resolve them; then the Commission could check in with the university after a year, to see what progress had been made.

The university responded that it would provide such information by campus, as it was quite detailed. It had already provided disaggregated data on executive management and deans, but was unable to immediately provide such information for directors. At top and senior management level, there were 35 managers, one a foreigner. Black representation made up 23 percent, white was 74 percent, and women 29 percent. The university said this was not where it wanted to be, and it would provide the targets it wished to achieve in three years’ time. There had been a small improvement in black representation among staff, according to monthly statistics; this would also be provided.

There were 1 362 academic staff members, of whom 24 percent were black, 70 percent white and 47 percent women. It could not immediately provide the number of black women, and wondered how binding the oath was on delegation members who had not taken it, when they could provide incorrect information. The Commission explained that the person who had taken the oath would be expected to affirm at the end that the testimony provided was factually true and correct. The proceedings were of a legal nature, and a report would be compiled and presented to Parliament; if the proceedings were

misleading, then the report would also be, and the Commission would be implicated in misrepresentation. That is why that person would have to confirm the trueness and correctness of the testimony. The university said it was providing approximate numbers at the hearing, but would provide exact information later.

Of 1 544 professionally qualified and mid-level staff, 25 percent were black, 71 percent were white and 46 percent women. It would provide figures on total support staff to the Commission, as well as budget for transformation. It could provide details of the Capacity Building Fund; it was only for black staff, and ran into R17-18 million per year.

On targets in the new strategy, a lot of details still needed to be finalised. A whole project team would attend to this, and HR would play a strong role in helping to achieve the transformation targets as articulated in the strategy.

Regarding four reports of sexual harassment against staff and students, the university said one was against a hostel officer and another was against an academic. Both were found guilty and dismissed. In two further cases the employee resigned before action was taken. There were three cases against students. No cases had come through the sexual harassment ombudsperson, instead all coming via line management.

The university said it would provide a copy of the new strategy to the Commission. It had indicated already that childcare facilities would be investigated, as this was a serious issue.

Where diversity was concerned, rather than designated groups, in Mafikeng, for example, if the university adhered to designated groups the campus would be blacker than it is, rather than more diverse. In terms of NWU's transformation agenda, diversity was the aim – so at Mafikeng a white female dean may be appointed ahead of a black male or female one. To have a 98 percent black campus would not prepare a student for the wider world; an entity that was 100 percent black was not transformed, nor was a 100 percent white one. The university had set targets to move its campuses towards a more South African environment; that was why diversity had taken priority over designated groups.

Issues around women and disabilities were frequently sensitive; the university used as an example a disabled student who was unhappy at being assisted, and instead preferred being seen as differently abled. When it came to mentoring, it was not always so that men mentored women; sometimes senior women were the mentors. The university meant to provide a platform, in terms of succession planning, that was conscious about women, it said. Indeed, everyone needed mentoring – it was just that previously it had been biased towards men. However, when one looked at rare skills, it was important to nurture female students with specific talents.

The disability percentage was below the required two percent, but it was at least above one percent, the university said. The challenge was that some disabilities were not declared. Its Disability Units were very strong across the three campuses, and the university worked closely with Disabled People SA (DPSA), which was invited to participate in all its

programmes. Because disabilities went undeclared, it could be underreporting to the Commission. Disability was a sensitive matter, and it had to be handled carefully so as to not cause offence. However, universities were microcosms of society and should drive change.

Turning to the new strategy and the NDP's goals, the university said it was conscious of its social responsiveness; the strategy's statement of intent spoke of social justice. All targets were directed and informed by its contribution to the NDP. The strategy was a 10-year one.

The transformation officer's role and level would be reviewed as part of the restructuring process. Currently, the transformation officer reported to the vice-chancellor, and it would remain a very important role. There was no way a transformation officer could not report to the accounting officer, it averred. There were a number of permutations for that role, including coupling it with the human capital position.

Regarding procurement, NWU had currently a Level 4 rating, which was good enough but the university wanted to improve upon it; it proved compliance.

Putting a budget figure on transformation underscored what the university wanted to do because transformation comprised several elements, such as quality or infrastructure: equity of provision or resources. Any of its R4 billion budget not spent on transformation would be a waste, and transformation was considered in everything it did. Every manager should consider themselves a transformation agent.

The university said it would require a lot of support from the Commission in its endeavours. Its appearance before the Commission had been particularly timely because of the recent approval of its strategy, and its presentation would have been different had it testified earlier. Also, hearing UP's testimony earlier in the day had provided it with valuable food for thought.

It said it tried to employ the students with disabilities it produces, but it was a struggle because they found employment elsewhere. The term "learning impairment" was a category provided to the university by DPSA and was a broad term; disability was often limited to wheelchairs and the blind.

In terms of residences, higher priority was given to female students, who had 60 percent of the accommodation allocation for security reasons. New buildings, including residences, had to include reasonable accommodation for students with disabilities, as the university wanted to integrate them into the broader community. There was a plan, required by law, to upgrade older buildings to cater for certain disabilities, particularly wheelchair access. Also, sign language was included in its functional multilingual policy.

The Commission said with national transformation, one always found pockets of discrimination. Universities were seen as institutions that transformed society. During the HETN presentation there was mention of Afriforum, which had the Constitutional right to organise and promote minority rights. The Commission asked: would Afriforum be allowed to promote minority rights over majority rights on campus? What was the university's view of conservative versus progressive voices on its campus, in its Senate and in its Council?

How did the university make progressive change in the face of conservatism?

Also, did the university have programmes to transform off-campus residences, as opposed to on-campus accommodation, for which details had been provided? How did it promote diversity, when different race groups persisted in clustering together?

Finally, in terms of Section 53 of the EE Act, state institutions such as universities had to do business with Sections 2 and 3 of the same Act. Section 2 forced one to ensure that providers had eliminated unfair discrimination, and Section 3 compelled one to do business with institutions that had implemented affirmative action. The university spent millions on procurement, and the Commission wanted to know about its providers.

The university responded by saying the Mafikeng campus had been the University of the North West before it merged with Potchefstroom University and the Vaal campus to form North West University, a new brand. Afriforum was on campus and had recently delivered a memorandum to the university – but two weeks before that, a group called Reform PUK had delivered its own memorandum. The latter group comprised mainly black students, the former only whites. Afriforum had addressed the university's language policy, and they wanted to be taught in Afrikaans. Black students, on the other hand, wanted to be taught in English and did not want to use the university's simultaneous translation services. The university had to try and balance conflicting interests, and that within budgets and rights. Afriforum had said it was not against transformation, but race-based transformation; the Reform PUK students were not against Afrikaans, but wanted to be taught in English. It could not exclude a student on the basis of language, or that the institution was for a particular race group.

Its student body was a microcosm of its society, and its programmes needed to produce transformed South Africans. Otherwise, the university would not be playing an important role. However, the university could not choose what it got; but it had to address stereotypes in a complex environment. A clear balance was important.

On procurement, it was difficult to determine if suppliers complied with Sections 2 and 3 of the EEA. However, within BEE verification, if one did not submit an EE Plan and in turn have affirmative action measures, one did not score any BEE marks. Suppliers with BEE scoring were adjudged as compliant with most – or preferably all – of the required elements. Its target was to use 60 percent of spend on BEE procurement, but this was currently at 87 percent. For this and black-owned businesses, it earned full BEE marks; however, where it had struggled for several years was on doing procurement with black female-owned businesses. It currently, thus, had a BEE scoring of 18 out of 20 for BEE procurement.

In terms of the new BEE codes, which had wrought many changes, not all financial, it would look at developing black women-owned businesses so that it could procure more from them, and improve its own BEE score.

The Commission said that nothing before it suggested the university would transform within the next five years. There seemed to be an explanation for everything that was not

happening. The institution had an average of upwards of 70 percent white males, and the women who had been included were largely white. It wondered what NWU had been doing in the two or three years preceding its appearance at the hearing. What the Commission had was a political statement, of working towards a progressive stand; the Commission would interpret that as a commitment to transformation, but it could not quantify what the university was doing or going to do. There were binding constraints generally, and political undertones specifically.

The Commission said it was not looking for diversity, it was looking for designated groups, transformation and a plan. For example, the information about procurement and BEE provided a clear picture. The Commission was trying to understand whether or not the university would be transforming in the next five years, because it had no measure – targets – with which to work. It was unclear where everyone was, unlike with UP. There were contradictions, such as a lack of focus on women in recruitment, where the emphasis was on diversity. The Commission was looking at gender transformation. It said UP had shown a trend, and NWU should ask what its trend was. It suggested that more time be spent with the university to support it in gender transformation, such as a twinning process.

The Commission resolved to adjourn the hearing for a few minutes, so that the Commissioners could caucus in private on further action to take.

The university said its performance plan – which entailed figures – would come out of its new strategy, which had to be completed first. Once the plan was done, it would be submitted to the Commission. The trend was this: if it wanted to increase black academic staff by a particular number, it could state that – but that did not take into account the various campuses. By effecting diversity at the various campuses, better-looking campuses resulted, but they cancelled each other out in terms of numbers. It was unlike UP, where there were no potential racial enclaves. If such enclaves did occur, the Commission would be unhappy about that. It was important to also note that many black students were distance learners, and one would not see them on campus. The Potchefstroom campus had more black than white students, but half of them were distance learning students. This begged the question: did full-time or distance learning students provide NWU's institutional culture? The answer was full-time students, and transformation had to focus on them.

The devil was in the detail, it said, and it was easy to misunderstand the situation. Multi-pronged approaches were required to remedy the situation, and the strategy would help to achieve that. That was why it appeared the strategy was at a high political level, yet the Commission wanted figures. When it did a 10-year evaluation of its merger, there was a clear finding that NWU did not address racially induced divisions of the past; those were still in place, and the university agreed that the Commission should work with it to better understand its unique situation.

The principal deponent, the vice-chancellor, then confirmed under oath that the evidence presented by his team was factually true and correct. The hearing adjourned for a short while,

to allow the Commissioners to confer; it noted that it preferred consensus decision-making. When proceedings resumed the Commission said that in the qualitative and quantitative information provided, some issues had not been captured to its satisfaction. But it would not determine immediately what action would be taken; it would write to the vice-chancellor, detailing what it needed from the university. In short, this would include disaggregated data for all three campuses (all employment levels, all race groups), details of the university's new strategy, and the dichotomy between (and data about) full-time and distance learning students. NWU would be given 14 days to provide its responses, or be issued a notice to appear. The Commission expressed the desire to co-operate with the university; it would be given until December 2015 to provide information, but if it failed to do so adequately it would be recalled to provide supplementary evidence.

## **CLOSING AND REFLECTION**

The Commission recognised UP and NWU, Oxfam, DHET, HETN, the Police and Prisons Civil Rights Union, the National Education, Health and Allied Workers Union, the Office of the Public Protector, the SAHRC, the South African Institute of Race Relations and media for their attendance on the first day of the hearing, and thanked its own legal team for their support.

It briefly summarised the proceedings, including articulation of the Commission's various mandates and the reason for the hearings; the presentation by the HETN on the higher education sector, and the particular challenges that UP and NWU face; findings by the Commission on, and submissions by, the two universities, as well as subsequent engagement with the Commissioners.

It would await further information from the universities. Whether or not supplementary hearings would be necessary, remained to be seen. But the Commission said it was impressed and happy that vice-chancellors themselves had made themselves available to appear before it at a time of great turmoil and uncertainty in the higher education sector.

It also applauded its partners present, including Oxfam and its sister Chapter 9 institutions, the SAHRC and the Office of the Public Protector. By working together, they achieved much. The media was also lauded for putting the Commission and what it did in the public eye, and the Commission's legal and support staff were thanked.

## **PRESENTATION – 24 NOVEMBER 2015**

### **3. TSHWANE UNIVERSITY OF TECHNOLOGY**

Representatives: Professor Lourens van Staden, Vice-Chancellor, Professor Stanley Mukhola, Deputy Vice-Chancellor: Academic Affairs, Mr Kgosana Tladi, Executive Director: Transformation and Human Resources.

### 3.1 The Commission's findings

Upon analysis of the information provided to the Commission by TUT, the Commission made the following findings:

- Seventy-five percent of top management was male, and 25% female.
- There was poor representation of African females at the professor and associate professor levels; it was even worse when looking at coloured and Indian staff members.
- Only 0.25 percent of all staff were persons with disabilities.
- The Commission was unable to determine whether or not TUT has a GFP, as the provided information was non-specific. This required clarity, as it touched on accountability for gender issues.
- TUT failed to provide specific data, required by the Commission, on resources allocated to gender transformation; instead, it provided overall budget for all transformation initiatives.
- TUT relied on its Transformation, Employment Equity and Diversity (TEED) Directorate as responsible for tracking the movement of women and persons with disabilities to top and senior management through other structures, such as the university's Gender Forum. TUT did not say how often such forums sat to assess data and trends.
- It did have an employee talent acquisition policy aimed at designated groups, but this did not mean that women or persons with disabilities would be prioritised.
- Asked if there were mentorship or capacity-building programmes for women and persons with disabilities, to accelerate them into positions in academic, top and senior management, the university had provided a list of awards to women. However, the Commission would be interested to know the race groups of the award recipients.
- The university did not have childcare facilities, nor measures to put such facilities in place.
- TUT had a broad and far-reaching sexual harassment policy, covering staff, students and any others dealing with it; this was commendable. There had been 13 sexual harassment cases since 2012, but some of the information provided was lacking.
- TUT published "success stories" of LGBTI staff and students, but provided no examples. The Commission commended strides to create an inclusive environment for LGBTI staff and students. What was also lacking was information on unisex facilities, and whether they were already in use.
- The majority of enrolled students, and graduates, from 2012 onwards were African females. A concerted strategy could assist to recruit African female graduates to balance female representation at top management level.
- Between 2012 and 2014, there had been a significant improvement in the number of students with disabilities. Again, the Commission suggested addressing the lack of staff with disabilities by recruiting graduates who were disabled.
- TUT used awareness programmes to communicate all its policies, but it was unclear how employees in low-level positions were reached.
- It did not provide information about the retention of women staff, and its employee talent acquisition policy said nothing in this regard. The Commission would request further information.

In conclusion, the Commission found that transformation was happening at a slow pace, which could be improved if TUT adopted clear, concrete gender transformation policies.

It was criticised for not paginating the indexed documents it had submitted, and it had not responded to all questions, choosing instead those it wanted to answer. Almost all of the policies submitted were under review, and the Commission requested that finalised, approved policies be provided to it.

### **3.2 The Tshwane University of Technology's appearance before the Commission**

TUT began its presentation by saying that its appearance on such occasions was a privilege as it allowed the university to explain what it was all about. It had no problems in partnering with the Commission in order for it to achieve gender transformation. It believed its presentation would address some of the concerns already raised.

In showing its senior management organogram, it said it would show the journey on which it was embarking to improve on the 25 percent female representation at those employment levels.

In 2013 the university's top management resolved to bring a different approach to advancing women within the institution. The resolution said every faculty should employ assistant deans to facilitate succession planning, with preference for women candidates. In five or 10 years' time, there would be a pool of women from which to draw when more senior vacancies arose. They would be attached to the office of the relevant dean 60 percent of the time, with the rest going to research and supervising postgraduate students. EE was to be taken into consideration when appointing assistant deans.

IHLs sometimes operated at a slow pace, particularly if there was no buy-in into processes. But by the end of 2014, the assistant deans had been installed in a robust programme.

Regarding who was responsible for implementing overseeing gender transformation at TUT, it said all line managers at dean level were responsible for overseeing EE. The vice-chancellor's office was responsible for seeing that all appointments were in line with EE provisions. Overall responsibility lay with the Council, which was given an annual EE report. Finally, all top managers had EE as a Key Performance Area (KPA) in their employment contracts.

When the university spoke of transformation, it covered such areas as EE, academic transformation, human rights, morals and others. Annually, the university allocated R500 000 to all transformation initiatives, including gender transformation. External funding had made an LGBTI/MSM (Men having Sex with Men) Programme Officer position possible; the problem was that funders often wanted to impose their own mandate on programmes. Provision had also been made for a TEED Project Administrative Officer, an Employee Health and Wellness Manager (for an area which TUT had, unusually, linked with transformation) and others.

TUT's TEED directorate was responsible for tracking the upward movement of women and persons with disabilities into senior and top management. The directorate was assisted in doing this by the EE and Training Committee, which met quarterly and monitored adherence to EE targets; its chairperson was mandated to inform the vice-chancellor, as the accounting officer in terms of the EE Act, of challenges. Other bodies assisting the TEED directorate included the Institutional Forum (top management), which ensured that issues of gender, human rights and diversity were taken into account by top management, the Gender Forum, created in 2015, a People With Disability Forum, faculty boards and Environmental Management Committees. All of these bodies monitored EE and transformation.

On the question of whether or not the university had policies that specifically targeted women and persons with disabilities for recruitment into top and senior positions, it provided its employee talent acquisition policy and a copy of a recent advertisement for the position of Executive Dean: Faculty of Science to show it complied with requirements on EE and disability. It also offered annual capacity-building programmes, and provided a list of senior staff on its Accelerated Development Programme. TUT also recognised women through its Academic Excellence Awards, which ran a year behind because of their rigorous criteria.

TUT did not have childcare facilities, but its master plan, submitted to the DHET, made provision for such facilities. It did, however, offer flexitime arrangements to staff. It had previously had a childcare facility, but lost this during a merger some years ago.

It held biennial initiatives to raise awareness on gender equality and discrimination, and it provided documents in 2013 and 2015; everyone was at some stage made aware of sexual harassment and other policies. When circulars go out, they reach all 5 000 staff; for those who do not work on computers, such as cleaners, there is a workstation at every place where they congregate to access information, and circulars are posted on notice boards. Awareness speakers were often either bilingual, or two people presented in different languages.

Regarding LGBTI issues at TUT, there had been several challenges, including establishing unisex toilets and unisex residences, as well as writing, publishing and conducting research on successful stories of LGBTI students and employees; other challenges included ensuring appropriate literature on LGBTI issues was available in the library and removing offensive literature, engaging with curricular development departments to integrate material about sexual orientation and gender diversity into their curricula, and engaging with policy developers to integrate LGBTI issues with current policies. The university also said, as an aside, that its policies currently under review remained in force until they were replaced with updated revisions that had been approved by the Council.

The university's sexual harassment policy did not differentiate between students and staff, but the method of reporting sexual harassment differed for each. (At this point, the Commission upbraided the university for using stereotypes in its choice of language; the offending statement was immediately withdrawn.) The sexual harassment policy had been employed several times, with five disciplinary matters and a grievance in 2012 (resulting in

two dismissals, one written warning, one final written warning and a not-guilty finding, as well as a referral for disciplinary hearing in the case of the grievance): three cases in 2013 (no further detail provided); and four more matters in 2014 (three finalised, with one dismissal, one final written warning and one not-guilty finding). A single case in 2015 had been withdrawn. A challenge for TUT was people withdrawing cases, and the university took concrete steps such as buddy mechanisms to ensure that complainants were confident in seeing their case through. Another factor was other stakeholders becoming involved, such as organised labour defending their members; this was a disincentive for people to become involved in the process.

TUT listed among its gender transformation successes its approved policies, even though many were being reviewed, its Accelerated Development Plan for men and women, establishment of the Gender Forum and the Women in Leadership structure, appointment of assistant deans for succession planning, and networking through the HERS-SA training academy. Its gender transformation challenges included implementation of policies, gendered micro-politics, a lack of resources, motivating women to take leadership positions, and sexual harassment and gendered curricula. It mentioned the matter of a woman who had been appointed to take up a director's post at the Mbombela campus, only for her to withdraw at the behest of her family, which had felt she was too close to retirement age. They stood firm, despite the university arguing that her appointment supported women empowerment.

TUT said additional support it required to address gender transformation included Commission assistance to encourage line managers' compliance with institutional policies, and resources to advance and promote women empowerment programmes.

Gender-disaggregated statistics for students from 2012 to date showed that female student numbers had slightly exceeded male student numbers each year, and climbed from 26 586 in 2012, to 27 508 in 2013, 28 523 in 2014 and 29 075 in 2015. What was important was that TUT, as a university of technology, complied with the principles of science, engineering and technology; the DHET had sent student gender targets, and TUT had probably surpassed them. In terms of graduation, female students far surpassed males; this indicated that TUT provided an environment conducive for women to study.

The university did have programmes to attract female students to historically male-dominated facilities. Each year its marketers focused on girls' high schools and neighbouring schools, to increase female student numbers. Its Soshanguve and Ga-Rankuwa areas proved to be very difficult for recruiting female students. Things had changed on its campuses, and there were fewer males present than females; TUT was a home for its female students.

It submitted policies, including a recruitment and selection policy, disciplinary and grievance procedure, training and development policy, employee wellness (a new policy), HIV/AIDS policy, succession/career-pathing policy, staff retention policy (TUT was an employer of choice because it worked hard to retain employees), retirement planning,

sexual harassment policy, and promotions and remuneration policy. It also provided minutes from TUT's EE Forum, and a copy of its EE Plan.

All line managers, according to the Department of Labour's EE Plan Policy, were responsible for communicating EE issues. TUT had adopted a Human Resources Business Partner (HRBP) service delivery model to ensure EE issues are communicated by HRBPs. Organised labour formed part of all institutional structures that addressed transformation, including the EE Forum.

Disaggregated statistics of students with disabilities, by race and gender for 2012-2015, showed a gradual increase in the numbers of male and female students. TUT was rated as an environment conducive to students with disabilities.

The university was trying to be more accommodating to persons with disabilities; it had done an environmental audit for enhancing accessibility for disabled students. It provided a copy of an Award of Recognition from the National Council for Persons with Physical Disabilities in South Africa in this regard.

Regarding policy advocacy, TUT had partnered with well-known organisations such as the Commission for Conciliation, Mediation and Arbitration, People Opposing Women Abuse, Khuluma Ndoda, the Commission and Sonke Gender Justice, to raise awareness about its sexual harassment policy.

The university's management had sleepless nights when female staff wanted to resign, because it did not want to undercut its staff retention figures; it tried its best to retain staff.

In terms of students in residential accommodation from 2012 to the present, disaggregated by race and gender, showed female students outnumbered males each year: 7 955 to 6 223 in 2012, 122 097 to 10 103 in 2013, 10 021 to 8 134 in 2014 and 8 980 to 7 309 in 2015.

Mechanisms in place to assist in cases of sexual offences and assaults in residences, included a "judiciary system" in terms of which any student who had been harassed could report the matter, and support systems would immediately be provided. Sexual harassment cases were non-negotiable: if one made oneself guilty of harassment, one should not be on campus.

### **3.3 Questions and comments**

The Commission thanked TUT for its presentation, which it said provided comprehensive and relevant data. One needed to measure results; without them, one could not see success, and if success was not visible, it could not be rewarded. If success was not being rewarded, then it was likely that failure was being rewarded. Furthermore, if success was not visible, then there was nothing to be learnt from it.

TUT did not provide a sense of whether or not it had an institutional monitoring and evaluation system that looked beyond inputs and outputs, and evaluated impacts. The Commission wanted to know more about this.

Regarding Point 1.6 of the performance agreement for the executive director: transformation and human resources, shared with the Commission, which LGBTI social inclusion programmes were included and how were they measured? Point 2.6 of the agreement covered assistance in developing EE Plans – what about implementation and achievement? The Commission knew that without these, EE would not take place. TUT should include implementation and achievement into this KPA. It was important to know it would fulfil Point 2.10, regarding mainstreaming diversity in the workplace,

Designated groups in terms of the EEA included black people, women and PWDs. There was a problem in terms of males and females in mid to senior management at TUT. An analysis of female managers would show that the majority were white. In absolute numbers, they came close to African managers. The Commission wondered, in terms of South Africa's demographics, why there were so many white women in that segment. The Commission wanted answers. It could, however, see that TUT was trying to recruit coloured and Indian women. But it wanted to know what measures were being taken by top management to change the situation.

The Commission, in an aside, noted that Commissioner Lulama Nare was a member of the TUT Council, which was why she was not present at the hearing.

The Commission asked for a breakdown of campuses in terms of gender equality. It asked how they would be changed to reflect South Africa's demographics. It also asked what the plan was for recruiting African female professors, and the timeframe for achieving this; TUT could not say there were not enough qualified women, especially given its own graduation figures.

It asked for minutes from a Gender Forum meeting; it would also like to attend a Gender Forum meeting as an observer. It commended TUT for creating the forum.

The Commission asked how many women had gone through the university's mentorship programme, and given leading positions in the institution. Also, how many males were being mentored by females? What strides had been made in employing men in positions generally regarded as women's posts?

It thanked TUT for providing sexual harassment statistics, but wanted to know the nature of the complaints – were they rapes, harassment or assaults, or sex for marks?

While there were more female than male students in tertiary institutions, they tended to study communications, history, and education, and few were studying IT, engineering and the hard sciences. How many women had studied, and graduated in, the latter disciplines at TUT?

What mechanisms were in place to go to rural areas to attract women and boys? Were there programmes to give opportunities to those who had the potential but had not passed their schooling well?

Regarding the university's 2013 succession planning resolution, women and men had the same training and experience: why was there this leadership waiting period for women? Male-dominated senates perpetrated patriarchal tendencies, the Commission said.

The university's sexual harassment policy had not been properly cascaded down to all staff and students. Everybody should know about it, and it was worrisome that some did not. The Commission was disturbed that someone at the SRC had caused secondary victimisation of a sexual harassment complainant; students had to be sensitised.

A R500 000 budget for transformation had to cover many initiatives: it may be that only two percent of that budget was earmarked for gender transformation.

Regarding childcare facilities, the Commission said the loss of its one facility had left a vacuum. While the university created childcare facilities, it should conclude agreements with childcare providers around the university.

In terms of LGBTI issues, it was comforting that there were plans for unisex toilets and residences.

When it came to reasonable accommodation of persons with disabilities, TUT spoke of physical access, but reasonable accommodation included a lot more, such as Braille, sign language interpretation, accessible toilets and other things.

The university had provided no detail about procurement, yet it should be following legislative requirements. The Commission wanted details about the university's procurement policy. It also wanted more information about PWDs.

The Commission said it was upsetting to always lump women and disability together; disability was a standalone issue. It urged TUT to look at the issue of recruiting students with disabilities. It wanted to see minutes from the university's Disability Forum, and could perhaps assist the forum. It also wanted statistics for persons with disabilities – had the university reached its required target of two percent of staff being PWDs? Disability was vast, it said, and comprised far more than canes and wheelchairs. Also, how were students with albinism accommodated?

Regarding sexual harassment, how were those who were exonerated found not guilty? There were also too few reports of sexual harassment for an institution of its size – why was this so? TUT was too casual about sexual harassment, the Commission said.

It asked how long it would take for education to be taken seriously. Where did students go after graduating?

In terms of the 2013 resolution to create assistant deans, how many females were in the leadership pool? In the advertisement provided for the post of director, no mention was made of designated groups – why was this so?

There had been nine cases of sexual harassment since 2012. The Commission felt that sexual harassment was not taken seriously, and it repeated the view that nine cases were too few for such a big institution.

With the R500 000 transformation budget, a lot was happening. The Commission wanted to know what was specifically being budgeted for gender equality.

Regarding the number of female students, what was the percentage of female graduates each year? Were there any programmes ensuring that as many females as possible graduated? Perhaps when the university provided the requested information, it would become clear which disciplines produced the highest numbers of female graduates.

### **3.4 Response**

TUT began its response by thanking the Commission for a wide variety of questions, and noting that it would not be defensive about its shortcomings. It regarded the hearings as a learning opportunity, and would like to be monitored on its challenges.

A serious shortcoming was that until recently, the university had not had a performance management and development system in place. It was the first year in which top management (levels 1-4) had undergone such evaluation. With deans, Heads of Departments (HoDs) and below, performance management would be piloted in 2016. In the past there had been no consequences for non-performance. The university had strategies and policies in place, which now had to be implemented; structure was lacking.

The university's Engineering Faculty was the largest in South Africa, with over 10 000 students. The university was committed to doing what South Africa required of it.

Statistics favoured female students, but their numbers were only slightly higher than males'. There were more male than female engineering students, but this situation was improving. The university needed to go everywhere and recruit students, and it needed to adopt schools and empower teachers to ensure that learners were ready for university and did not fail. In the Science faculty, female students were beginning to dominate.

The university said it was making a concerted effort to meet the gender transformation targets that it had been set. In this regard, all deans were evaluated on their targets twice annually. Of the 14 assistant deans, nine were women, mainly black; they were being prepared just as males would be, including training through HERS-SA and the Gordon Institute of Business Science.

The university was unable to provide gender equality statistics for each campus, but it would furnish such information and include how each campus was performing per faculty. This would make sense of the university's progress in achieving gender transformation.

The university's Senate had approved a new promotion policy that gave preference to women, and it believed this would reflect change at the institution.

Regarding sexual harassment, the deputy vice-chancellor: academic affairs was prepared to personally take up reported cases. Academics were fired for sexual harassment, including one who sent an SMS to a female student. The university exhorted students to immediately report anything with which they did not feel comfortable. At the university, it was easier to report transgressions to female staff, who then became champions for victims of sexual harassment. Twice annually, the Council received reports on the extent of sexual harassment.

The university's TUT 101 project helped rural students to adapt easily to varsity life; it believed it would soon see changes in students adapting to their studies. The university would also help children who had not done well at school, especially in the sciences, and it was trying to make a difference for students with academic gaps.

TUT's pass rates were steadily climbing, and it believed it would achieve its new 80 percent pass rate target.

Providing more detail about sexual harassment cases, TUT said in 2013 an HoD was suspended immediately after being accused of sexual harassment. It took 12 months to bring a student complainant aboard. In that period three others had withdrawn – one dropped out of university, one married, and the third graduated. The university wanted to do the right thing, but was let down by unforeseen circumstances.

In a sexual harassment case at the Mbombela campus, between two staff members, the incident happened during the victim's 12-month employment probation period, but the case was only reported after this period had elapsed. She had been afraid that her probation would not be approved. The individual responsible was eventually dismissed. A challenge was the withdrawal of sexual harassment cases, even ones lodged with police. A mechanism was needed to see cases through.

Social inclusion projects included annually celebrating Men's Day, Women's Day, the 16 Days of Activism Against Violence Against Women and Children, World AIDS Day, Disability Day, Human Rights Day and others. It was still a challenge to bring different race groups

together, however. Activities rotated between campuses, and TUT encouraged partnerships with other entities.

The university's newly formed Gender Forum would have its first meeting on 27 November 2015, to which the Commission would be invited. It would formulate its 2016 plan at that meeting.

For monitoring and evaluation of its EE Plan, the following were in place:

- The EE Committee met quarterly, with a specific meeting template.
- Everyone had to agree on report-backs.
- When filling posts, there were statistics about vacancies and TEED advised on priorities; an advertisement was then formulated.
- Once a line manager had made an employment recommendation, TEED looked at it before it was finalised.

The university said it would provide the Commission with the gender equality component of its transformation budget. There were examples of females mentoring males, such as when assistant deans mentored HoDs.

Because it was known that graduates struggled to find jobs, the university conducted a nationwide survey to find out where its alumni were.

The Commission then said that in terms of section 53 of the EEA each organisation had to check that service providers complied with affirmative action provisions; this also related to BEE and procurement policies. It asked how African women, coloureds and Indians benefited from procurement.

The Commission thanked TUT for being honest with it about its shortcomings. Some entities appear before the Commission and simply lie, or omit information.

Another issue was the policies submitted. Where they being reviewed with a view to plugging the holes in them?

Regarding the redesign of environment for PWDs, students living with albinism had indicated that they did not want to be seen as disabled. And how far had TUT come in providing reasonable accommodation for persons with disabilities?

Apart from waiting for people to vacate their posts, there existed several other opportunities to replace staff, including death, resignations, dismissals and restructuring. Were all such opportunities exploited?

The Commission asked further what the status was of gender-based violence on its campuses, and whether progress had been made in supporting student mothers and fathers. It asked again if TUT was meeting its 2 percent disability target.

The university responded by saying it was finalising a Memorandum of Understanding with the Faculty of People Management to design particular programmes for students with disabilities employed as interns. TUT had some of the best facilities for students with disabilities, including science laboratories. Most such laboratories were at the Pretoria campus, but there were hourly buses for students to access them.

Turning to procurement, the university said it catered for BEE procurement, but it fell short on gender. It was working on improving this situation.

The university had moved away from permanent positions for deans and HoDs, with incumbents rotating in and out of such posts. Previously, it had been impossible to dislodge incumbents.

The university had been restructuring itself since 2014, as this provided the opportunity to shuffle around what it had, and earmark positions for designated groups. The higher education sector's Sectoral Committee was also looking at the issue of insourcing and outsourcing, to find solutions that would not bankrupt institutions. The university would provide its supplier database to the Commission, including details on women suppliers and expenditure.

With regard to students who were parents, TUT offered counselling to mothers; it was not sure how to proceed with fathers.

It also pointed out that the advertisement it had provided did reflect preference for designated groups.

The Commission's legal team asked about employment at all levels, particularly at lower levels, where there were more than 6 000 men and more than 2 000 women. What strategy did it have for addressing this gender imbalance?

The university replied that in the past, the entry level for lecturers was high. There was a lower barrier to entry currently, with its "grow your own timber" initiative. Junior lecturers became lecturers as soon as they earned their Masters degrees; upon earning their doctorates (and if they belonged in a designated group), they became senior lecturers. The ideal was to have all lecturers as professors. Regarding non-academic posts, a multi-pronged approach was used: in-house appointments, and some outsourcing. This would be further addressed with the review of the university's new EE Plan for the coming five years.

## **CLOSING AND REFLECTION**

The Commission thanked TUT for its honest and cordial engagement; progress would not have been made otherwise. It hoped TUT would turn some of the questions directed at it into suggestions, informing efforts to re-engineer their institution. The hearings were cast as transformation hearings, because they did not only touch on gender.

The Commission would look at the responses it received from TUT, and based on them might invite the vice-chancellor back.

There were a number of challenges in the higher education sector, such as race and gender. When engaging with institutions, they had to be treated with dignity and respect.

The Commission appreciated that the TUT team before it was male, but females could also be included in its ranks. Nevertheless, the issue of transformation was correctly formed in their minds.

There were two things to consider: the Commission wanted the requested information within 10 working days, as well as its Gender Forum minutes.

The Commission concluded by wishing TUT good fortune with regard to the student protests currently affecting its campuses.

## COMMENTS BY CGE COLLEAGUES

Mr Mahlubi Mabizela, of the DHET, said the department had many disaggregated statistics, but these had to be compared to the higher education sector as a whole. In terms of composition of universities' Councils, the entities had no control; perhaps this should be addressed in the Higher Education Act.

Regarding NWU and Afriforum, the latter was not a minority group and did not represent a homogeneous group in South Africa.

It recommended that when doing its background work, the Commission spoke to the DHET, which could inform it on developments at IHLs, such as on language issues. It could also advise the Commission on correct terminology, such as face-to-face and distance students instead of full-time and part-time students, and that LGBTI was now actually LGBTQI (with the addition of "queer").

The Commission's work was appreciated, because it took ahead the issue of transformation. It noted also that the DHET's Transformation Oversight Committee still lacked indicators for IHLs to achieve transformation.

Another DHET representative, Sesi Mahlobokwane, who was responsible for social inclusion and equity, said that with regard to gender equality and gender mainstreaming, it was important for the Commission to support institutions needing training; one could not have highly educated men making offensive comments. People, no matter their seniority, did not understand gender equality.

Regarding the university's story about the woman who declined to take up the Mbombela director's post, she said patriarchy ruled in that area. One reason for this was that IHLs distanced themselves from the communities they served. Instead they should partner with other entities, such as churches, to address this patriarchy.

Another speaker, a woman who did not identify herself, complimented the Commission for the work it did; South Africa would transform in terms of gender, she said.

She continued that the Commission needed to cover all sectors, including the trade union movement, where there were many challenges. She also asked what powers the Commission had to recommend language policy to government or Parliament. The language issue was very serious in South Africa.

A representative of the Office of the Public Protector, named only as Titus, also appreciated the Commission's work, saying transformation ought not to be a by-the-way issue.

All three institutions before the Commission had disappointed on disability matters, and recommended that the Commission dug deeper on that subject. Also, little was known about how institutions' sub-structures – such as forums and committees – were constituted. This could compromise the transformation agenda, and transformed people must be involved in such structures.

Mr Reginald Legoabe, of the HETN, expressed his gratitude for working with the Commission. He noted that vice-chancellors did not work in isolation, but with each other; they should take responsibility for their actions and decisions.

An intern at the Department of Social Development's Gender Unit said that TUT had averred that gender was a line function. She asked why it was not a strategic function.

The Commission then commented on issues of gender in executive directors' KPAs, which had not been interrogated, not even by its own staff. It would strongly recommend the mainstreaming of gender. It further agreed that it should focus on sectors such as trade unions – but would need the assistance of other entities to assist it in this regard.

## **REFLECTION**

The Commission acknowledged TUT, the Commission's CEO, the HETN, fellow Chapter 9 institutions, electronic and print media, the DHET and trade unions present, the Department of Social Development and Oxfam, as well as its legal team that had prepared the hearings and the Commissioners.

It paid tribute to Commissioner Mgoqi for articulating the Commission's mandate, and Mr Legoabe for a well-considered presentation of the HETN's preliminary investigation.

TUT had made its presentation, and it was appreciated that despite the turmoil on campuses at present, all of the entities' vice-chancellors had appeared before the Commission.

The Commission was open to the suggestions of colleagues who made comments after the TUT presentation.

It took partnerships very seriously – it achieved its vision, mission and objectives because its partners were with it at all times.





## 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)**

42- 44 Oxford Street,  
Cnr. Terminus & Oxford Streets,  
3rd Floor,  
Permanent Building,  
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)**

523 Provisus Building,  
3rd Floor,  
Cnr Stanza Bopape &  
Steve Biko Street,  
Acardia, Pretoria  
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**