

2012

THE EMPLOYMENT EQUITY HEARING

NORTHERN CAPE



Commission for Gender Equality

A society free from gender oppression and inequality

THE EMPLOYMENT EQUITY HEARING 2012

NORTHERN CAPE

28TH AND 29TH NOVEMBER 2012

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Acronyms

1. **CGE** – Commission for Gender Equality
2. **CEO** – Chief Executive Officer
3. **CFP** – Gender Focal Person
4. **BWASA** – Business Women's Association South Africa
5. **PSC** – Public Service Commission
6. **EAC** – Equity Assistance Committee
7. **HOD** – Head of Department
8. **AIDS** – Auto Immune Deficiency Syndrome
9. **JHB** – Johannesburg
10. **KRA** – Key Resultant Areas
11. **MM** – Middle Manager
12. **SA** – South Africa

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1. Foreword

The Commission for Gender Equality presents its report in respect of the Employment Equity hearings held on 28 and 29 November 2012 in Kimberley, Northern Cape. The Gender Equality Act gives the Commission the power to monitor and evaluate the policies and practices of government, the private sector and other organisations to ensure compliance with the promotion and protection of gender equality in South Africa.

It must be acknowledged that South Africa has made significant progress by promulgating pieces of legislation such as the Employment Equity Act. The intention of the Act is to achieve equity in the workplace by *inter alia*, promoting equal opportunity and fair treatment in employment through the elimination of unfair discrimination and the implementation of affirmative action measures. It is therefore the responsibility of the Commission to monitor compliance with the Employment Equity Act. This objective was achieved by hosting hearings for public and private entities to account for respect of gender transformation at senior and top management positions.

The purpose and rationale of conducting employment hearings was not to interrogate but to present the CGE with an opportunity to understand the challenges facing government departments and private companies in terms of implementing measures for the advancement of women, and gathering information on best practices and lessons learned.

This report highlights the various achievements and challenges faced by government and the private sector in implementing affirmative action measures to achieve gender transformation in the South African workplace. The report will be tabled with Parliament or any other authority to lobby for strategic change to transform and advance for change in attitudes and gender stereotypes thereby instilling respect for women's rights as human rights.

It is hoped that this report will facilitate the necessary impetus for the South African employer to recognise that gender transformation is inimical to the achievement of true equality of representation in the South African labour market.

I would like to take this opportunity to acknowledge government departments and private entities for acceding to the Commission's request for information and further for their appearance at the hearings. I would also like to acknowledge the endeavours of all contributors who assisted in the compilation of this report.

A handwritten signature in black ink, appearing to read 'M Shozi', is written over a horizontal line. A dashed line extends from the end of the signature towards the top right of the page.

Mr. Mfanozelwe Shozi

Chairperson: Commission for Gender Equality

2. The employment equity hearings in context

The Commission for Gender Equality (CGE) has a constitutional mandate to promote respect for gender equality and the protection, development, and attainment of gender equality. This constitutional obligation mandates the CGE to monitor and hold any entity within public as well as private spheres accountable to their constitutional obligations. In this regard the CGE has undertaken to monitor the impact of affirmative action on employment levels concerning historically disadvantaged groups such as women, Blacks and disabled people.

In addition to the Bill of Rights in the Constitution which seeks to promote equity across all levels of society, South Africa is signatory to numerous international conventions, such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Labour Organisation (ILO) Conventions, including the convention on discrimination. These initiatives demonstrate a commitment by the government towards addressing gender disparities in the workplace. In keeping with the aforementioned commitment, the CGE is expected to fulfil its constitutional role by conducting an evaluation of policies and practices in the employment sector and to advise the government of the day, employers, as well as the nation, on the status of women and gender in the South African workplace. This responsibility of the CGE is carried out without fear, favour or prejudice as promised in Section 181(2) of the Constitution of South Africa.

During the course of its investigation into the rate of transformation regarding the equitable representation of women and disabled people, the CGE took cognisance of various reports, such as the Public Service Commission Report on Gender Mainstreaming in the Public Service, business surveys and the Commission for Employment Equity Annual Reports. In keeping with the findings of the Commission for Employment Equity Report for the 2011 reporting period, it was found that at top management, Africans represented only 18,5%, while Whites represented 65,4%, with women making up only 19,1% of this occupation level. The CGE found similar trends. Against a background of gross underrepresentation of black people, women and disabled people, the focus of the CGE was to ascertain reasons for the miniscule levels of gender transformation.

The CGE found that the primary challenges facing gender transformation in the workplace were as follows:

- (i) A poor understanding of the obligations imposed in terms of the Employment Equity Act number 55 of 1998 (EEA), exists in the workplace.
- (ii) In general there is a lack of commitment towards promoting gender equality in the workplace.
- (iii) Employers are not being held accountable for non-compliance with their own employment equity targets.

- (iv) Enforcement and compliance in terms of the EEA is weak.
- (v) Adequate and quality support on how to achieve compliance with EEA obligations is poor, with a shortage of skills to promote the desired levels of compliance.
- (vi) EE obligations are regarded as a HR competency by most employers.

In terms of its findings, the CGE is convinced that gender transformation requires a concerted effort on the part of all stakeholders; which includes employers, Parliament (Portfolio Committee on Labour), the workforce, the Department of Labour and the Commission for Employment Equity; to collaborate in an attempt to empower and build a strong nation characterised by an equitable and representative workplace. Accordingly, the CGE trusts that its recommendations will not only assist towards promoting gender equality in the workplace but will also help in addressing inequality, poverty and unemployment as envisaged in the National Development Plan (NDP).

3. Executive summary

The Republic of South Africa (RSA) can demonstrate a strong political commitment to gender equality and transformation in the workplace owing to a comprehensive legislative framework and appropriate policies. Yet the evidence from hearings indicates that progress on gender equity has been slow. The reasons for the slow pace were also evidenced such, that clear measures can be recommended. Issues and findings emerging from the hearings are captured in the following three sub-sections:

- a) The framework for transforming the workplace
- b) The findings of the Commission for Gender Equality
- c) Recommendations

The framework for transforming the workplace

The RSA Constitution clearly promotes equality in the workplace and from the early 1990s, the republic has worked at international levels to eliminate discrimination on the basis of race, gender, sex, sexual orientation, age, and disability.¹ South Africa has also ratified many international agreements including:

- The International Labour Organisation (ILO) Convention No. 111, concerning equal remuneration for men and women workers for work of equal value. (Ratified by South Africa in 2000.)
- Article 2 of the above, which requires member states to promote and apply to all workers the principles of equal remuneration to men and women for work of equal value, by means of national laws, recognised machinery for wage determination, and collective agreements.
- ILO Convention No. 100 (ratified by South Africa in 1997), which requires member states to pursue policies that promote equal opportunity, treatment in employment and access to opportunities including vocational training (with a view to eliminating discrimination in employment).

Equality in the workplace is also embedded in RSA's national legislative framework including the:

- Labour Relations Act of 1995
- Basic Conditions of Employment Act of 1997
- Employment Equity Act (EEA) of 1998
- Skills Development Act of 1998
- Promotion of Equality and Prevention of Unfair Discrimination Act (PEPUDA) of 2000
- Broad-Based Black Economic Empowerment (B-BBEE) Act of 2003

¹ Section 2(9)(3)

Employers are bound by these Acts to equalise employment opportunities for women and those with disabilities, and to remove the barriers to their entry, advancement, development, remuneration and retention. They are also bound by the same Acts to do this in ways that are evaluative and innovative: reviewing old policies and practices and testing out new ones.

The Employment Equity Act (EEA) of 1998 is the foundation for a range of policies, commissions and activities to achieve equitable representation in the workplace because it:

- promotes skills development for the disadvantaged;
- establishes the Commission for Employment Equity (or CEE) to ensure employers promote equal opportunity and eliminate discriminatory hiring practices;
- makes employers responsible for training and developing women in the workplace;
- removes obstacles to promoting women;
- obligates employers to narrow wage gaps between employees of different sexes that perform similar work; and
- promotes flexible working hours; time off during pregnancy, and the improvement of maternity and childcare facilities.

Beyond legislation, there are two important policy documents to help guide implementation: (a) *the Affirmative Action Policy of 1986*; and (b) *the White Paper on the Transformation of the Public Service*. The first policy aims for equitable participation in the economy by all population groups by requiring employers to develop and implement Affirmative Action programmes and provide equal opportunities for women and people with disabilities. The second policy requires that all levels of public administration develop policies and programmes to ensure that Affirmative Action enters into management systems in ways that are accountable, monitored, coordinated and documented.

The Findings of the Commission for Gender Equality

The CGE's findings reveal a more progressive picture in the public sector than that of the private one. Nonetheless there are challenges with both. The following positive shifts can be reported:

- Black women comprise 56.3% of government employees and dominate at all salary levels in government.
- An increasing number of women are participating in the executive management bodies of businesses (now 21.6%).

- Certain efforts to develop the skills of women are on the increase (bursaries, coaching and leadership development).
- Certain government departments are providing executive training for women, developing EE targets, assigning responsibility for this at a senior level, and integrating EE into strategic plans (with monitoring interventions in place).
- Certain departments have included gender transformation targets in their performance appraisals of managers.
- Several government departments have initiated gender equality awareness within the workplace.

The negatives are:

- The pace of gender transformation in the workplace has been slow.
- The gender wage gap persists.
- Very few women are in the very top management positions of business² and some sources suggest that the number of women as company directors, chairpersons and chief executive officers (CEOs), actually declined in 2010-2011³.
- Black women comprise only 3.4% of top management in business and 3.8% of senior management (white women comprise 10.2% and 16.9% respectively).
- Representation of people with disabilities has also fallen, from 1% to 0.5% in both the public and the private sector.
- The public sector has failed to meet the state's 50% target for women's representation at senior management levels and its 2% target for employment of persons with disabilities.

Public Sector

The Department of Public Service and Administration (DPSA) asserts that departments are generally failing to report adequately on EE, citing: (a) a lack of accountability within departments; and (b) a lack of consequences - no punitive measures. Most departments conflate EE and gender mainstreaming and therefore do not distinguish these in terms of managing human resources and delivering corporate services. State policy also requires the appointment of Gender Focal Points (GFPs) at director level but this is not being implemented by departments, such that the state has also failed to ensure the adequate conceptualisation, implementation and reporting of gender mainstreaming. This indicates that gender equality and gender mainstreaming have neither been prioritised nor adequately implemented.

² The Employment Equity Commission's 10th Annual Report of 2010 reveals that women comprise 23.1% of top management and 19.4% of senior management.

³ The Business Women's Association's (BWA) 'Women in Leadership Census 2011' found 15.8% as directors; 5.3% as chairpersons and only 4.4% as CEOs.

Private Sector

The Employment Equity (EE) hearings revealed that for most companies:

- Women in senior and top management positions seldom comprise more than 12%.
- The gender and disability components of EE were seemingly unknown or wilfully ignored. (A contravention of the EEA.)
- Coherent policies for addressing gender transformation and disability could not be identified.
- Targets strategies; skills development programmes; and appropriate and designated management of transformation were absent.
- There were no means for measuring progress in gender equity. (Monitoring and evaluation systems absent.)

The CGE also identified signs of resistance to transformation such as racial favouritism in employment; insufficient measures taken to recruit and promote black women; and sexual harassment policies not yet in place (all in contravention of the Basic Conditions of Employment and Labour Relations Acts).

In the mining and engineering sectors in particular, women were very poorly represented and nearly absent were innovative interventions to encourage and support their entry. Instead these companies were citing challenges in complying with EEA provisions including ignorance of the Act's full requirements and difficulties in recruiting people with disabilities.

Recommendations

From these findings on both the public and private sectors, the CGE recommends that:

- envisaged gender equality legislation be fast-tracked and include accountability mechanisms (monitoring and evaluation), to ensure that the public and private sectors abide by legislation to promote gender equality;
- gender and disability measures are included in B-BBEE ratings and company scorecards to compel companies to take these additional components of EE seriously;
- the state refuse to contract, fund or have business dealings with any company or department that has failed to address transformation on the basis of race, gender or disability;
- the 50/50 representation of women on boards of private entities be included as a requirement for the listing of companies on the Johannesburg Stock Exchange (JSE);

- stronger enforcement mechanisms for reporting by the CEE be utilised to ensure compliance, and an increase in penalties for non-compliance, coupled with its envisaged 'Name and Shame and Praise' campaign, to compel companies to comply with EE legislation;
- the current review process of the EEC be expanded;
- the Department of Labour's Director General work with companies to develop measures for EE targets and strategies and Affirmative Action measures, such as clear targets for recruitment and skills development strategies;
- compliance by government departments with state legislation be enforced, and performance targets clearly established at senior levels to enable monitoring, measurement and accountability in terms of reporting;
- companies anchor gender transformation within their performance and accountability measures for senior management;
- employers develop a focused gender equality strategy that integrates targets and timeframes into recruitment, promotion, mentoring and empowerment interventions;
- companies develop clear policy – and apply this – on discrimination and sexual harassment in the workplace (supported by widespread awareness interventions);
- innovative ways and means be introduced and monitored by employers to enable women to advance within the workplace (as required by the EEA), such as the introduction of flexible working hours and childcare facilities;
- companies be encouraged to engage in aggressive education measures (supplemented by learnerships, bursaries and internships) that target 'scarce skills' for transformation in traditionally male dominated industries (the women to target are often found in support functions);
- wage discrimination be abolished (see the CEE's Annual Report for more details);
- Trade Unions be employed as a strategic component to accelerate transformation (for example, to apply pressure on both the private and public sector to comply with EE requirements, and themselves set an example by increasing the number of their own elected women officials);
- the Public Service Administration and Public Service Commission be utilised as entry points for pressurising government to enforce its own legislation;
- men be integrated into efforts to promote women's political progress in order to increase gender sensitivity and support for women's political leadership (without compromising the need to increase the number of women in meaningful leadership positions to challenge patriarchy);
- effective monitoring mechanisms should be put into place by employers to ensure that implementation of gender transformation in the workplace, in keeping with constitutional and legal obligations, are integrated into organisational strategic plans in addition to the performance agreements of senior management; and

- the CGE in collaboration with the Commission for Employment Equity, Department of Labour and the Department for Women, Children and People with Disabilities should devise effective measures including training programmes that are capable of assisting as well as enforcing compliance with the relevant gender equality policies and legislation.

4. Introduction

The hearing took place at the Big Hole, Protea Hotel, Kimberley – Northern Cape. The Commissioners leading the hearings were Mr. Wallace Amos Mgoqi, Commissioner – Western and Northern Cape; Ms. L. Nare, Commissioner – Gauteng; Ms. Sylvia Stevens-Maziya, Commissioner – Gauteng; Ms. Janine Hicks, Commissioner – KwaZulu-Natal and Ms. Ndileka Loyilane, Commissioner – Eastern Cape. The CGE legal team comprised of the Acting Heads of Department; Advocate Kamraj Anirudhra – Western Cape, Ms. Davndri Veronika Pillay – Northern Cape, Mrs. Kerry Oosthuysen – Eastern Cape, Mr. Keegan Lakay – Western Cape, and Mr. Bernard Mahloko – Limpopo.

Commissioner Mgoqi welcomed all participants to the hearing. The opening comments of the hearing were presented by *Commissioner Nare*. She opened the proceedings at 9:45am and presented the comments from the days proceedings. She outlined Section 189 of the Constitution which gives us our mandate, and indicated that we would engage in interrogations, wherein we will ascertain the truth about the status of organisations. Since this is the relative truth, we therefore have to engage with each other. Participants will be speaking truthfully under oath and the Commission will be looking for signs of transformation in the workplace. Commissioners will also express their opinions about what is presented. The reason for labelling it relative is that afterwards we will have a clear way forward. The recommendations and findings will be presented to Parliament, hence the administering of taking the oath.

Mr Shozi, the Chairperson of the Commission was not present at the hearing. The lead Commissioner for Northern Cape, Mr Wallace Mgoqi was in attendance. The presence of legal experts and Commissioners was to provide guidance and to assist with robust interaction with departments and organisations. Participants were informed that they will be challenged by the panel on the assertions made.

Commissioner Loyilane performed the role of introducing the Commission for Gender Equality and she outlined that the mandate of the Commission is to promote and attain gender equality. The Commission is governed by the Gender Equality Act 39 of 1996. The core function is to assess the gender sensitivity of policies of business and statutory bodies. The Commission engages in research and investigates complaints. Submissions to Parliament are made from an informed position owing to the research department. Litigations are also engaged in on behalf of complainants. The Commission has powers of subpoena. If there is discrimination on grounds of gender, we have the tools to respond to such incidents.

The constitutional and international framework is our constitution and there are many acts on discrimination. For example, all member states of the UN are working towards equality or should be based on conventions or

collective agreements. There are also ILO agreements regarding discrimination in employment and reversing this with a review to eliminating all discrimination. Our national framework fits with international documents and we have key labour acts like the Labour Relations Act of 1995 or the Basic Employment Act of 1997 and others. The Affirmative Action Policy has some provisions (it has a philosophy aimed at diverse and equitable participation of all parts of the population in work). There are also reporting rules, monitoring rules and much more. The transformation of the Public Service also requires that Affirmative Action be firmly embedded in the management of government departments. There must be equal employment opportunities for all in both government departments and businesses. We cannot just say in employment, that people of disability or women do not have the skills—they have to be provided with opportunities. Employers must find a way to address many principles and laws which aim to achieve equitable representation across all occupation categories and levels.

Flexible working hours, maternity issues, training issues, promotional issues, remuneration issues and wage gap issues, including the auditing of these policies and practices with regard to both women and disabled people, are very important. On the disabled issues, it is women who are usually left behind.

With regard to the progress that we are making as a country, it appears to be regressing such, that at very top management levels and at senior management levels, especially in business, there seems to be a lack of compliance with the prescripts of gender equality legislation. The public sector is doing better. The private sector is 3.4% top management for black women. People with disabilities are dropping in representation—it fell from 1% to a half percent recently *instead of improving*.

Company scorecards are now required so that employment equity issues are taken seriously.

Gender Equality Legislation is binding and accountability is required in this regard. JSE companies should have a 50/50 split but are far from this and therefore we are moving towards enforcement and such activities as 'name and shame'. The DG review of the targets and strategies will have to take place.

Suggestions were provided as to what can be done to encourage adherence with gender equality compliance. It was recommended that it should be made a performance requirement for senior and top management to have targets and timeframes within an integrated strategy. Clear policies are required on pertinent policies like sexual harassment in the workplace. Measures must be targeted. Also we need creativity so that working women can balance their family and work responsibilities (working from home, etc.). We see that women are only in support functions and where this happens we need to see more programmes targeting these women with skills development and education.

The public and private sectors are performing very poorly with regard to transformation from gender and disability perspectives, *despite* a comprehensive array of constitutional provisions and mechanisms, ratification of international and regional treaties, and their domestication as national legislation. This is revealed in such documents as:

- The BWASA's Business Women in Leadership Census 2010
- The Public Service Commission (PSC) findings of 2006
- The Labour Force Survey of 2010
- The EEC's Annual Report of 2010

The CGE's report of July 2010 to the South African Committee of the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), found that inequalities are still reflected in labour force data despite significant labour legislation and other policies responding to historic race and gender inequalities.⁴ This is not acceptable since such problems have a direct impact on tens of millions of South Africans: (a) South Africa has a population of 50.59 million people, of which 52% are women⁵; and (b) a very high percentage of women undertake low-skilled wage employment.

FIGURE 1 (below) shows that: (a) women remain significantly under-represented in senior management and leadership positions; (b) that men dominate in the public sector; and (c) white women benefit most from Affirmative Action. Not showing is that in the public and private sectors, the representation of people with disabilities remains below 1%.

FIGURE 1:
SENIOR AND TOP MANAGEMENT STRATA OF PUBLIC AND PRIVATE SECTOR⁶

GROUP	PUBLIC SECTOR		PRIVATE SECTOR	
	Top Manager ↓	Senior Manager ↓	Top Manager ↓	Senior Manager ↓
African males	40.6%	34.7%	10.1%	9.1%
White males	15.4%	20.4%	60.6%	51.7%
African females	23.1%	19.4%	3.4%	3.8%
White females	3.6%	9.5%	10.2%	16.9%

⁴ Report to the CEDAW committee on SA's implementation of CEDAW: compiled by CGE in 2010, see Article 11 on Employment.

⁵ According to Statistics SA's Mid-Year Population Estimates for 2011; <http://www.statssa.gov.za/publications/P0302/P03022011.pdf>

⁶ Data for the illustration was taken from the 10th CEE Annual Report 2009-2010.

The more detailed CEE report confirms that men dominate at nearly every salary tier from middle to upper income.⁷ According to this study, 41.5% of promotions to top management levels were assigned to white males, followed by African males at 20.6%. African females constituted only 5.3% of promotions to this level, and white females, 11.9%. In terms of promotions to senior management positions, white males procured 35.75% of these; followed by African males at 17.7%; white females at 16.2%; and African females at 9.4%.

The BWASA 2010 Census on South African women in leadership provides particularly depressing data on the 315 JSE-listed companies:

- Women comprise only 4.5% of the CEO's and 19.3% of the executive managers.
- 73 companies listed on the JSE do not have a woman on their boards of directors.
- 16.6% of company directors are women.
- 6% of company chairs are women.

Another source of data, Census 2011, shows percentage decreases to: 15,8% women directors; 5.3% women chairpersons; 4.4% women CEO's and women in senior management positions at 35%. On the positive side: public sector black women dominate at all salary levels and comprise 56.3% of all government employees while the number of women at executive management level has increased to 21.6%.

In terms of disabled people, conditions have not improved. The employment rate of disabled people fell from 1% to 0.5% in 2009 such that an estimated 99% of disabled people can be regarded as excluded from employment on the open labour market.⁸ The employment of disabled people is a very high priority for the Department of Labour and designated employers should be taking serious steps to accommodate them.

The PSC's 2006 report on gender mainstreaming in the public service provides a clear picture of progress against targets set for the representation of females in senior management (levels 13–16). The target set for 2005 was to achieve 30% female representation in senior management. The report revealed that the public sector had achieved the targets set, which at that stage showed that women held 31.2% of senior positions in national government departments. The report noted however, that the majority of women were to be found at lower levels of employment and as support staff, such as secretaries and administration clerks.

⁷ The 10th CEE Annual Report 2009 – 2010.

⁸ Employment equity and the rights of disabled employees by Johanette Rheeder - <http://www.labourguide.co.za/disability11.htm>

In review of the data on gender equality, it can be concluded that 12 years after the EEA was enacted, gender transformation in the public and private sectors is at a dismal level. The situation is even worse for people with disabilities. The question to ask is: *How has this persisted despite clear legal obligations to promote transformation?*

Against this backdrop, the CGE convened its series of public hearings with state and private sector entities in order to:

- assess the impact of the EEA on women in both the public and private sectors, and address institutional and systematic barriers to their economic progress;
- hold public and private sector directors accountable for non-compliance with the Act;
- raise awareness of relevant international commitments and the importance of compliance;
- assess what measures have been put in place in the workplace to bring about transformation in terms of gender and disability;
- share experiences and identify challenges faced by CEOs and director generals in the implementation of the Act; and
- strengthen the working relationship between constitutional bodies and civil society in raising awareness about South Africa's compliance with international instruments, and about support and capacity interventions provided in this regard.

5. The process and participants

As required in terms of section 19(1) of the EEA, a designated employer of the department must collect information and conduct an analysis of all relevant employment policies and practices to identify barriers of employment equity. The scope of the questioning undertaken by the CGE is also guided by the Employment Equity Act.

The procedure is that departments will present and then the panel will raise issues depending on what information was forwarded in the documentation to the Commission. The purpose of the hearings is to generate research findings to check the alignment with other findings, for example the Department of Labour findings. The Commission will look at gender transformation in the workplace and the inclusivity of taking care of the needs of people with disabilities. The findings will be presented at Parliament. The idea is to hold government departments and the private sector accountable for the slow pace of gender transformation in the workplace and subsequently, failing to address the needs of women and persons with disabilities. One of the underlying benchmarks will be to establish measures and to see how these relate to policies. We also want to engage in best practices and meet international prescripts and commitments.

The Department of Justice, the Department of Social Development, the Department of Education, Pikwane Diamonds and De Beers were invited on Day One, and all the abovementioned participants were present at the hearing. Both public and private entities were required to respond in writing to a set of questions issued in advance of public hearing events established by the CGE. On the day, presentations were made, documents submitted and questions posed at the hearings during which additional information required was recorded. However certain entities: (a) neglected and/or failed to provide written responses; and (b) some did not accept the invitation to appear before the CGE, which obliged the CGE to draw upon its statutory powers to compel these parties to appear before it.

6. Findings and Recommendations: Government Departments

6.1 Department of Justice and Constitutional Development

The Department of Justice was the first government department that was called to present at the hearing.

It was anticipated that provincial presenters would explain provincial responses but this was not quite the case. Sylvia Mekwa, who is the Director of organisational development at *DoE National*, had with her at the front, Rodney Isaacs who is the Regional Head for the Northern Cape and next to him the DDG Tsietsi Malema who also drives gender issues. Also in attendance were law advisors from the DOJCD including Graphney Seleka, N. Rampete and De-Alto Plaatjies.

Mrs. Sylvia Mekwa led the group and took an oath. Mrs. Mekwa did not reply directly to the questions in the requested order given in the documentation, but in her own manner.⁹ The presentation also included a mix of national, regional and provincial data in response to review questions instead of dedicated provincial data and this was unclear to everyone present until question time.

A presentation was provided in three parts: (a) employment equity; (b) gender issues; (c) conclusion. The Acting DG said she looked forward to the engagement and would “present facts as we know them and will acknowledge our shortcomings”.

“The critical areas of work for the DOJCD are in victim support and empowerment; violence against women and children; access to justice; working with civil society; employment equity; and sexual harassment.” She stated that these items below helped to describe some of the progress:

- “Our key transformation measures are in line with the constitution and CEDAW.”
- “We have Thukuzela Care Centres nationwide.”
- “We have a chief director promoting the rights of vulnerable groups including women and children.”
- “We work with the SA Women Lawyer’s Association.”
- “We have an Equality Review Committee operating effectively on the Equality Act although Chapter 5 of the Equality Act needs to be put into place.”

⁹ This can make it difficult to enter the responses neatly into a log frame and opens gaps for not replying adequately to all questions. It was recommended at the debriefing on 20 November that presenters answer to each question in the order given to enable a better analysis of the submission both during and after their presentation and in terms of recording the proceedings. Many did not even understand that a mix of regional, provincial and national data was being presented until questions time.

- “We have Equality Courts throughout the country although we need to address the challenge of accessing them (training is required on Equality Courts and equality cases to NGOs, the public and others).”

The Acting DG said that the department had the training, the allocated drivers, the budgets and the national projects and events that can see progress being made in terms of gender equity. Standard review questions were answered by the Department of Justice in advance, in writing and oral submissions were also made in terms of questions asked on the day of the hearing from the presiding panel.

6.1.1 Submissions on standard questions and testimony presented

	STANDARD REVIEW QUESTIONS	TESTIMONY (WITH REFERENCE TO SUBMISSION IF AVAILABLE)	COMMENTS AND/OR FINDINGS
1.	EMPLOYMENT EQUITY PLAN: In terms of section 20 of the Employment Equity Act No. 55 of 1998, a designated employer must prepare and implement an Employment Equity Plan. Does your institution have an Employment Equity Plan? If so kindly provide a copy.	<p>Submissions:</p> <ul style="list-style-type: none"> ✓ Statement of Intent-Employment Equity. ✓ Circular 54 of 20 July 2012 (issued by DG). ✓ A national equity plan 01 July 2010-30 June 2015. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ “The department has circulars in place which address gender transformation” ✓ We have an EE plan for a period and ours is 01 July 2010 - 30 June 2015. (Note: this is a national plan but signed copy submitted.) ✓ “We have an EE committee structure throughout the department at regional level which are Employment Advisory Committees or EACS which monitor implementation of the EE plan; monitor all achievements and look at the work environment to ensure that it is non-discriminatory in terms of practice and supporting management with regard to employment related issues.” ✓ We also consult EE Audits in terms of the ACT and this was done in September 2010 in line with EEA requirements—Chapter 3 Section 19. 	<ul style="list-style-type: none"> ✓ In terms of documentation, only a circular was presented as the provincial plan; dated 20 July 2012. ✓ On testimony (see left), they do not have a provincial plan that has been signed-off. ✓ Documentation is in terms of memorandums or circulars or national plans.

<p>2</p>	<p>SEX AND DISABILITY DISAGGREGATED DATA OF YOUR TOP MANAGEMENT AND SENIOR MANAGEMENT POSITIONS.</p>	<p>Submission (top management):</p> <ul style="list-style-type: none"> ✓ 1 Coloured male: Chief Director, Regional Head. ✓ 1 Coloured male: Director, Legal. ✓ 1 African female: Director, Court Operations. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ "Our purpose is to investigate and evaluate the recruitment of females to senior management and top management. As part of the commitment to transforming the workplace, our employment equity policy has a statement of intention which is to implement the strategy on accelerating to the achievement of 50% employment equity and develop an equity plan." ✓ "One female in top management level: the DG" ✓ Women in management include the chief director, 2 directors (PWD and EE), deputy director, assistant director and an HR practitioner. ✓ PWD = 1.16% (below the set targets by 0.84%). ✓ 4 employees with disability at senior management – 3 of these are women. ✓ At regional level we have a regional head, regional HR director and deputy director and some have met the 2% target for disability. ✓ Work profile slide presented. We have not met our targets. 30 Oct 2012 – 38% at SMS level. This is below target by 12%. ✓ We have many vacancies and therefore have an opportunity to make a change. Any recommendation for a new post requires a massive motivation to be someone who is not female or disabled. 	<p>The mix of responses to regional and national targets created muddled testimonies - it is not always clear which is national and which is provincial.</p>
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3	<p>MEASURES. What measures have been put in place to promote gender transformation and to increase women's representation in senior management and top management at your institutions?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Circular 54 of 2012 as issued by the director general. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ "We have strategies for meeting EE targets—annual reviews aiming at 50% women in senior management." ✓ "We have advertisements in the press." ✓ "We involve the EEC during interviews." ✓ "We have monthly communication on the EE status and targets." 	<p>Submissions and testimony do not seem to match.</p>
4	<p>WHO is responsible for implementing and overseeing gender transformation at your institution?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Director for Human Resources for each regional office. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ We have a gender directorate with directors, 2 deputy directors, 6 assistant directors, 2 admin officers and a secretary. ✓ "We have an EE committee structure throughout the department at regional level which are Employment Advisory Committees or EACS which monitor implementation of the EE plan; monitor all achievements and look at the work environment to ensure that it is non-discriminatory in terms of practice and supporting management with regard to employment related issues." ✓ We also consult EE Audits in terms of the ACT and this was done in September 2010 in line with EEA requirements—Chapter 3 Section 19. 	<p>The testimony seems to refer to the national situation.</p>
5	<p>PERFORMANCE REVIEW. Does implementation of gender transformation measures, form part of the performance review of senior managers? If no, kindly provide reasons for this.</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Yes-this is in Circular 54 of 2012. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ Not covered. 	<p>The gap in testimony owes to the presenter not following the order for the standard review of documentation and subsequently not seeing the gap.</p>

<p>6</p>	<p>RESOURCE ALLOCATIONS. What resources have you allocated to support gender transformation as mentioned above? If no resources have been allocated, why?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Annexure 54 of 2012. ✓ Written Statement: "Gender mainstreaming workshops and Formation of Equity Assistance Committees (EACs) monitor the implementation of the EE plan, amongst others. The forum is chaired by the director of Human Resources at regional level". <p>Testimony:</p> <ul style="list-style-type: none"> ✓ A 9 million rand budget for women empowerment projects externally and internally. ✓ We have a gender mainstreaming programme too. ✓ Budget allocation for EE programmes as 'Change Diversity Management' is R500,000. ✓ Disability has R1.2 million. 	<ul style="list-style-type: none"> ✓ Submission was vague on allocated resources. ✓ Testimony was more precise as to budget allocations but appears to refer to the national situation rather than the provincial one.
<p>7</p>	<p>WOMEN WITH DISABILITIES. What mechanisms or systems are in place to track the movement of women with disabilities to senior management or top management priorities at your institutions?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Monitoring of the Employment Equity Plan; transfers and the filling of vacancies. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ We have been promoting people with disabilities but need we need to work harder and plan better. ✓ We maintain a database to target both women and those with disabilities. ✓ We continuously engage with disability organisations. 	<p>No employment equity plan was submitted for the province; submission seems to refer to national.</p>
<p>8</p>	<p>RECRUITMENT POLICY. Do your recruitment policies specifically target men and women with disabilities for recruitment to senior positions? If so, please provide us with a copy of your recruitment policy which makes provision for this. If not, kindly provide reasons why.</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Recruitment and selection policy. ✓ Statement of Intent-EE. ✓ Circular 54 of 2012. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ Not discussed. 	<p>The presenter did not follow the order given for the standard review of documentation and this might explain the gap in testimony.</p>

<p>9</p>	<p>MENTORSHIP AND/OR CAPACITY BUILDING. Are any mentorship and/or capacity building programmes aimed at accelerating women and disabled people's progression to senior and top management positions? If not why not? Kindly provide reasons.</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ "Yes – Gender mainstreaming workshop." <p>Testimony:</p> <ul style="list-style-type: none"> ✓ We want to focus on remedial action including earmarking vacant senior management posts. ✓ Development of accelerated leadership programmes. ✓ Awareness workshops for people with disabilities. ✓ Provision of information access to visually impaired employees. 	<p>It was not too clear that much was being done – much of the testimony was about what was planned with the possible exception of providing awareness workshops.</p>
<p>10.</p>	<p>CHILDCARE. Does your institution provide childcare facilities and/or flexi-time or working from home to balance family responsibilities with work? Please provide evidence thereof.</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ No childcare facilities. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ Childcare facilities. 	<p>None in submission. Mentioned in testimony.</p>

<p>11</p>	<p>AWARENESS. What steps have you taken to initiate awareness on gender equality and discrimination in the workplace? Who has been targeted with these measures and what success has been achieved thus far?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ "Awareness Sessions provided to the EAC who is represented by designated and non-designated members from all areas within the region. At area level, sub structures of EAC are in place consisting of designated and non-designated members from all offices within the area, thereby ensuring dissemination of information. ✓ Both designated and non-designated members have been targeted. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ Measures in place are communicated through intranet, email, notice boards, EE awareness workshop, posters and pamphlets. ✓ We participate in national commemorations – Women’s Day Celebration and Women in Public Service Management Week. World’s Aids Day, International Day of the PWD. ✓ Sexual harassment awareness workshops. ✓ Sexual harassment awareness pamphlets. ✓ Health and wellness program. ✓ Sports and recreation program. 	<p>None.</p>
<p>12</p>	<p>GENDER DISCRIMINATION & SEXUAL HARASSMENT. Does your company have gender discrimination and sexual harassment policies? Kindly provide us with copies of these policies. How effectively have these policies been utilised? If there are no policies in place or you have not utilised these policies, what explains this?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ See Annex 5 – Sexual Harassment Policy. ✓ Written statement: "The region monitors compliance with regard to policies. Any cases of non-compliance are reported and investigated. 1 sexual harassment case reported and no cases of discrimination. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ We have policies in place and have submitted files on this – employment equity, sexual harassment, health and wellness, recruitment and selection, HIV policy. 	

<p>13.</p>	<p>In terms of section (19)(1) of the Employment Equity Act, a designated employer must collect information and conduct an analysis of all relevant employment policies, practices, procedures and the working environment in order to identify employment barriers which adversely affect people from designated groups. Kindly provide these policies. (See next table.)</p>	<p>Submission (much but not all of it is national):</p> <ul style="list-style-type: none"> ✓ Recruitments and Selection Manual and Policy. ✓ Disciplinary Code and Procedures. ✓ Code of Conduct Booklet. ✓ Employee Health and Wellness Policy. ✓ Sexual Harassment Policy. ✓ Minutes of Regional EE Meeting. ✓ Incomplete—no HIV/AIDS policy as they are waiting for national office to submit. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ We identified barriers to equality and acted on them. ✓ Awareness workshops for people of disability. ✓ Provision of assistive devices for those with disabilities. ✓ Accessible work environment for PWD. ✓ Provision of information access to visually impaired employees. ✓ Wheelchair access in ablution facilities. 	<p>No submission of HIV/AIDS policy.</p>
<p>14.</p>	<p>SUCSESSES AND CHALLENGES</p>	<p>Successes:</p> <ul style="list-style-type: none"> ✓ More than 50% representation of women within the region. <p>Testimony:</p> <p>Challenges are internal and include:</p> <ul style="list-style-type: none"> ✓ Non-achievement of EE targets. ✓ Poor adherence to EE targets. ✓ Difficulty in attracting suitably qualified employees. ✓ We want to focus on remedial action including earmarking vacant senior management posts. ✓ Development of accelerated leadership programmes. ✓ Institute disciplinary actions to non-achievers on EE targets. ✓ Incorporate workplace transformation. 	

15.	ADDITIONAL SUPPORT NEEDED	<p>Submission:</p> <ul style="list-style-type: none"> ✓ “The department has circulars in place which address gender transformation.” <p>Testimony:</p> <ul style="list-style-type: none"> ✓ (Nothing said on this.) 	<p>The gap in testimony may owe to the presenter not following the order for the standard review of documentation and this makes it difficult to identify the gaps.</p>
16.	ADDITIONAL DATA PRESENTED ON OUTREACH ACTIVITIES BY THE DEPARTMENT	<ul style="list-style-type: none"> ✓ Justice Week started in 2007 and offers free legal advice to communities and community centres. ✓ We hosted an international conference on women in the judiciary in 2003, this led to the formation of an International Coalition of Women Judges – South African Chapter. They align systems. ✓ PEPUDA – the Equality and Prevention of Unfair Discrimination Act covers gender and disability and prevents gender-based violence. Since its promotion in 2000 – Equality Courts were established across the country to aid in addressing the systemic inequalities and unfair discrimination that are deeply rooted in social structures. ✓ Some topics – gender-based violence, female gender mutilation, and succession. ✓ Partnered with Legal Aid South Africa too. Do the rural courts work for women? We did workshops and found that there was a need for the training of magistrates. ✓ We developed a step-by-step system to address equality in the Equality Courts and developed pamphlets for this. ✓ The challenges experienced by this included access to the Equality Courts (we are getting public feedback) – many do not know about these courts. Some of the magistrates were not well trained either and so we came up with a multi-pronged approach working with the Justice College. We talked about how to train and sensitise magistrates and the public. In January – February 2012 we had workshops around the province. ✓ 386 Equality Courts were established across the country. ✓ Every court acts as an Equality Court. ✓ 2,614 equality matters were heard in the lower courts in 2011/2012 –indicative of a substantial increase over previous years. 	<p>This was not deemed relevant to the questions but the presentation did not follow the order for the standard review of documentation and this entered into testimony. This is national data rather than provincial.</p>

6.1.2 Questions and comments

	COMMISSIONER QUESTIONS/COMMENTS	RESPONSES (Mainly provided by Sylvia Mekwa, Acting Director from National)
1	<p>Commissioner Loyilane—I see the budget allocation on the screen is R2.2 million. What percentage of that is the total allocation for the department and R2.2 million for what? And it looks like you gave us a national budget!</p>	<ul style="list-style-type: none"> ✓ Sylvia Mekwa – “On the budget allocation, how does it relate to the department? I am not in a position to respond to this. Not sure if we are the right people to say this.” ✓ “We have a centralised budget and we give support as needed”
2	<p>Loyilane: In regard to the Equality Courts, you said you were conducting a gender assessment. What is the timeline and when will it be completed? Will it show us the effectiveness of these courts? Will it sit on the shelf?</p>	<ul style="list-style-type: none"> ✓ The Equality Court Research is sampling type research and we do not cover all the provinces. We started with Gauteng and we are in Limpopo now. ✓ With regard to their effectiveness, they are just not utilised widely. There are some initiatives for the Equality Court to function better since not all can access it. From our studies in Gauteng, we see that we have to raise awareness and we did focus groups with presiding officers and talked to people in the courts to find this. We are looking at how to make improvements based on the research into the Equality Courts. Still, we are seeing very few cases and so we engage with civil society too and try to find out why these Equality Courts are just not utilised widely. ✓ To monitor, there is an operational centre in the department that provides us with stats on all the Equality Courts and this is how we monitor. From this we can see which court does not really function and then we see what measures to put in place to see that these work better. The big problem is lack of information on these courts at ground level and therefore we have few cases.

<p>3</p>	<p>On page 9 you say that you have a sexual harassment policy and that you would provide workshops. How many did you conduct this financial year? How many cases have been lodged?</p>	<ul style="list-style-type: none"> ✓ Sylvia Mekwa: "We have had workshops and the number for this financial year is one at the national office where we invited everyone throughout the country. We then mandated regions to continue to conduct these workshops throughout the country – but just one for this financial year." ✓ The regional head answers for the region: The sexual awareness presentations were done 2010-2011 and we had managers learn and new employees (39 of them), were trained in sexual harassment. We also did this again 2011. Induction training always includes this and so many are exposed to the sexual harassment policy. We give certificates too as proof. ✓ Sylvia Mekwa: "We do have cases in the department on sexual harassment and do work on this in terms of labour relations. We have 7 sexual harassment cases and are busy with one now. We had dismissals in other cases and some serious responses."
<p>4</p>	<p>You are not reaching the EE targets. What is being done in terms of the department and recruitment to increase the number of women and those with disabilities at senior management and in top posts?</p>	<ul style="list-style-type: none"> ✓ "We acknowledge being below targets. Our DDG posts are being re-advertised because we did not get a sufficient pool of candidates and now we are headhunting. We are engaging with institutions to look further. Most of our adverts are through media and the visually impaired do not see this and so we are going to communities too and also post on websites of disability organisations, and are contacting them." ✓ "We are trying to enforce adherence too – all vacant senior management posts will be filled by females at SMS level. Approval for any deviation from this has to be obtained from the DG. They need strong motivation to do otherwise." ✓ Our targets are aligned to the Act's requirement and we have a national EE plan for a period and ours is 01 July 2010 – 30 June 2015. We are hoping that by 2015, we meet targets. However we want the 2% disability reached by 31 March 2013.

5	<p>Mr Mgoqi: You mentioned the annual access to justice events since 2007. You made a point on endeavouring to meet the legal needs of all South Africans, especially women and children. They have legal needs on a daily basis but you focus only on a one-week long 'Access to Justice' programme annually. Is more being contemplated? Are you planning on meeting the legal needs of women and people with disabilities in a more comprehensive way?</p>	<ul style="list-style-type: none"> ✓ “Regarding access to Justice Week – we do more because women lawyers are providing free pro bono legal services to the community along with some officials in the department but they cannot be away from their offices more than a week. This is voluntary and so this is difficult to expand. We do need to look at rolling it out longer than a week and I will suggest this to my principal”. ✓ Access to Justice Week is also carried out continuously in terms of outreach programmes. We go to old age homes, etc. ✓ The Department of Justice is rolling out a lean maintenance programme so that women do not have to sit for hours at the court and instead can be assisted within two hours. We have rolled this out in Kimberley already. We have an electronics fund transfer system for maintenance beneficiaries and we get them to register with this. Women get an SMS when money goes into their bank account. ✓ We have maintenance officers too and so the cases are tracked and pushed through the system.
6	<p>How many women are in your highest positions; how many clerks? What is the opportunity to reach the upper echelons of your department? Where are the women sitting in your department? For region and department?</p>	<ul style="list-style-type: none"> ✓ No response and then the question was repeated further below.
7	<p>Your transformation issues are being driven, but is there a project approach to achieving 50% for women?</p>	<ul style="list-style-type: none"> ✓ No response.
8	<p>On Thukuzela Centres—we see that there are 50 or so that are operational. We want to know from your department how you are planning to make all of these operational.</p>	<ul style="list-style-type: none"> ✓ On Thukuzela Care Centres—the NPA is running with these and found that there are problems of stakeholder involvement especially in terms of prosecution. We need social development and other departments. The budget was donor funded by USAID and the head of SOCA is trying to find a solution to the funding problem. Partnerships and money explain the problem.
9	<p>What is your recruitment policy? How are you bringing women from lower levels upward? What is the staff development system?</p>	<ul style="list-style-type: none"> ✓ The files provided to you show our advertising and explain the target group.

10	I am following up on your R2.2 million budget. Does that include the salary of people in the unit or directorate for gender equality? Is it for programs? What is the total budget? You did not answer this.	<ul style="list-style-type: none"> ✓ On the budget—this does go to programs and not to salaries.
11	Your EE plan looks like it is a national picture and did not refer to the region. You are giving another picture – a national picture but what is the local situation? If you do not have that now provide it within 7 days.	<ul style="list-style-type: none"> ✓ “We do not have per region information today. We cannot tell you the percentage that goes to gender equity but our budget is a few billion rand.” ✓ Each regional office has its own programs and budgets and we can give these so that you have a total picture.
12	Please look at your training and development policy –is there a policy there or a draft? Do you have a staff retention policy? We do not seem to have those and need them within 7 days.	<ul style="list-style-type: none"> ✓ In terms of promoting the equality act – our promotions policy and workshop data can be provided and we have a reference team. We have on-going training. ✓ We have a retention policy – it is still a draft but at a very advanced stage.
13	You mentioned a review. Can we have the terms of reference for the review committee on the Gender Equality Act?	<ul style="list-style-type: none"> ✓ There are two committees – we have the relevant team and quality review committees. The chairperson is the senior DG. The TOR has to be requested from the secretariat. The chairperson has these.
14	Please explain your 24 hour turnaround time on cases of sexual harassment.	<ul style="list-style-type: none"> ✓ We do respond within 24 hours to such cases and appoint an investigating officer or talk to the victim right away.
15	We need a gender breakdown on your department to understand the employment equity situation.	<ul style="list-style-type: none"> ✓ Women are the majority in the department. It is level 13 and up where the problems start in terms of targeting.
16	Do you have an EE plan to address the problem?	<ul style="list-style-type: none"> ✓ Yes—the EE plan is in the submission and it addressed the problem in level 13 and up. See the file. Each region also has an EE plan that refers to their own work environment so we can monitor where problems are.¹⁰

<p>Final comment from Ms. L Nare: We could have a hot debate and your sexual harassment policy does not seem so clear and whether or not it was adhered to is not clear. But to summarise, we appreciated your presentation and one of the things that we agree on is that there are gaps, please submit these in the next seven days:¹¹</p> <ul style="list-style-type: none"> ✓ Training and Development ✓ Sexual Harassment ✓ Succession Policy ✓ Career Path Planning <p>The questions asked are ones that are important because in terms of sexual harassment, most people do not report. They get harassed by the person they are reporting to.</p> <p>The poorest of the poor need help because they do not get the same legal services as the rich. We appreciate the work of Thukuzela Centres for this reason.</p> <p>The Department is making great strides but has some gaps in terms of delivery. We do not want to be where we were at in 1994 but between then and now women have not been affirmed and we need that.</p>	
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6.2 Department of Social Development

Barbara Bartlett, Deputy Director from DSD Kimberley presented and took the oath. She was accompanied by Yolande Van Wyk from Human Resources and Mr. Andre Le Tape who is manager for Employee Health and Wellness and Employment Equity. Mrs. Bartlett is responsible for the Gender Focal Point.

¹⁰ No plan was submitted for the Northern Cape.

¹¹ There were more gaps than this if the table above is consulted.

6.2.1 Submissions on standard questions and testimony presented

	STANDARD REVIEW QUESTIONS	TESTIMONY (WITH REFERENCE TO SUBMISSION IF RELEVANT OR AVAILABLE)	COMMENTS AND/OR FINDINGS
1	EMPLOYMENT EQUITY PLAN. In terms of section 20 of the Employment Equity Act No. 55 of 1998, a designated employer must prepare and implement an Employment Equity Plan. Does your institution have an Employment Equity Plan? If so kindly provide a copy.	<p>Submission:</p> <ul style="list-style-type: none"> ✓ No policy except in DRAFT form. ✓ Draft of Employment Equity Plan is dated September 2012. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ "Plan in place and reported upon." 	Employment Equity Policy and Employment Equity Plan are both DRAFTS according to submission. Testimony was contradictory.

<p>2</p>	<p>SEX AND DISABILITY DISAGGREGATED DATA OF YOUR TOP MANAGEMENT AND SENIOR MANAGEMENT POSITION.</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ See Annexure: 48% women representation at senior management. ✓ 52% male and 48% female salary posts 13-15. ✓ Coloured females in posts = 15. <p>Testimony on top and senior management</p> <ul style="list-style-type: none"> ✓ Female = 12 (46%), 12 of 26 managers. ✓ Male = 14 of 26 managers (54%). ✓ Disability = 0 at senior and top management. ✓ Disability: Overall as a department we have achieved the 2% target (N. Cape not achieving target). ✓ Disability: "We are challenged at senior management and want to resolve this but the final decision does not rest with us. The executive authority appoints senior management but we only make recommendations and we have made such a recommendation to prioritise a female with a disability". ✓ Coloured = 28%. ✓ African = 52% (the most). ✓ White = 16%. ✓ Indian = 4%. ✓ Under 50% as a department but missing it by only one senior manager. ✓ In respect to our top managers –executives—the scales are reversed and this is 60% female. ✓ Head of department and two executive managers are female and two are male. ✓ In terms of racial demographics, in the Northern Cape the Coloured are dominant but our employment equity targets do not reflect this – 52% Black rather. ✓ Women are underrepresented – 26 senior managers in the department with 12 being female. ✓ 67% of department are females ✓ Is there room for improvement? Yes, where high level executive decision-making takes place – senior managers. 	<p>No disability data submitted.</p>
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<p>3</p>	<p>MEASURES. What measures have been put in place to promote gender transformation and to increase women's representation in senior management and top management at your institutions?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Written Statement: "We are currently running capacity building programmes for women and gender mainstreaming in the department. The gender policy is currently under review for it to be aligned with the national gender and women empowerment policy". ✓ Monthly monitoring reports on employment equity started October 2012. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ Implementation of the HoD's 8 principles of Action Plan is guiding us in ensuring that there is sufficient representation at top and senior management positions. ✓ We are running capacity building programmes and doing gender mainstreaming. ✓ Weakness—no capacity building up until now with senior female managers. ✓ A significant number of female employees lack basic skills like driving – we need this to deliver services. ✓ Women not always nominated for training. ✓ No dedicated deliberate effort and programme in place to prepare and support the next layers (women in middle management). ✓ We have group executive training programmes for senior managers now. ✓ If there is no funding in the WSP for the training of the female senior manager then we support. ✓ We try to ensure 50% of all nominations are females – this is in place. ✓ HRM to identify talent for mentorship programmes. ✓ Head of Department took over responsibility for gender transformation in the department and holds the executive and district manager accountable for supporting the GFP and her efforts to coordinate the empowerment of women. ✓ All our performance agreements reflect the above responsibility too. 	<p>Under review.</p>
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4	<p>WHO is responsible for implementing and overseeing gender transformation at your institution?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Written submission: Ms. B Bartlett. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ Gender Focal Point manager monitors and evaluates. ✓ Part of HOD's performance agreement too. ✓ Resources—we have a dedicated unit. 	
5	<p>PERFORMANCE REVIEW. Does implementation of gender transformation measures form part of the performance review of senior managers? If no, kindly provide reasons for this.</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Written: "This is covered under the 8 principles which constitute part of her performance agreement. Measures have been put into place to cascade this down to senior management". <p>Testimony:</p> <ul style="list-style-type: none"> ✓ We can track women and monitor recruitment processes. 	
6	<p>RESOURCE ALLOCATIONS. What resources have you allocated to support gender transformation as mentioned above? If no resources have been allocated, why?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ "A budget of R120,000 and the staff complement has been significantly increased." <p>Testimony:</p> <ul style="list-style-type: none"> ✓ R120,000 grant only but this does not include salaries (this figure). ✓ With salaries the figure becomes over R1.5 million but this is just 1% of department budget. ✓ SW supervisors in rural and remote areas are not easy to retain. ✓ We have mechanisms to track women. 	
7	<p>WOMEN WITH DISABILITIES. What mechanisms or systems are in place to track the movement of women with disabilities to senior management or top management priorities at your institutions?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ "All recruitment processes are monitored to ensure that the equity targets are met." ✓ There is a very recent action plan – (due date for final, given as December 2012). <p>Oral Testimony:</p> <ul style="list-style-type: none"> ✓ The policy is not specific in this regard but under review. ✓ Mentorship and capacity building programmes are being developed for women with disabilities. 	<p>Recruitment strategy for the disabled was being worked on from 21 July 2012 – strategy formulated in HR forum meeting.</p>

8	<p>RECRUITMENT POLICY. Do your recruitment policies specifically target men and women for disabilities for recruitment to senior positions? If so, please provide us with a copy of your recruitment policy which makes provision for this. If not, kindly provide reasons why.</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ "Policy under review." <p>Testimony:</p> <ul style="list-style-type: none"> ✓ The policy is not specific in this regard but under review. 	
9	<p>MENTORSHIP AND/OR CAPACITY BUILDING: Are there programmes aimed at accelerating women and disabled people's progression to senior and top management positions? If not, why not? Kindly provide reasons.</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ "In partnership with social workers, 'My Confidence' workshops are conducted regularly." <p>Testimony:</p> <ul style="list-style-type: none"> ✓ No data. 	
10.	<p>CHILDCARE: Does your institution provide childcare facilities and/ or flexi-time or working from home to balance family responsibilities with work? Please provide evidence thereof.</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ "A draft policy has been developed for consideration by the HOD and MEC." <p>Testimony:</p> <ul style="list-style-type: none"> ✓ No childcare facilities but we have prioritised a work life balance policy. ✓ Gender focal office were asked to prioritise systems and facilities for women. ✓ We are engaging the provincial treasury which has a childcare facility to see how we can maybe use this facility. ✓ We have a draft policy on this too. 	<p>Draft. Note: in the submissions there is a 'proposal on a childcare facility' –an undated, unsigned, 2-page document.</p>

11	<p>AWARENESS. What steps have you taken to initiate awareness on gender equality and discrimination in the workplace? Who has been targeted with these measures and what success has been achieved thus far?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ “Gender Mainstreaming Programmes” <p>Testimony:</p> <ul style="list-style-type: none"> ✓ Gender Focal Point manager has workshops and is popularising this. ✓ We have a women’s network in the department and it was scheduled for launch in October and now 10 December owing to delays. 	
12	<p>GENDER DISCRIMINATION & SEXUAL HARASSMENT POLICIES. Kindly provide us with copies of these policies. How effectively have these policies been utilised? If there are no policies in place or you have not utilised these policies, what explains this?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ A DRAFT policy—currently under review. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ This is in place but policy is not approved. ✓ We are reviewing it too. ✓ Policies in place but in draft form. 	In draft.

<p>13.</p>	<p>In terms of section (19)(1) of the Employment Equity Act, a designated employer must collect information and conduct an analysis of all relevant employment policies, practices, procedures and the working environment in order to identify employment barriers which adversely affect people from designated groups. Kindly provide these policies.</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Policies were attached. ✓ Available: Workplace HIV and AIDs Policy, Integrated Employee Health and Wellness Policy, Non Communicable Disease Policy, Gender Policy. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ Submission refers. 	<p>These are in DRAFT form:</p> <ul style="list-style-type: none"> ✓ Employment Equity Policy ✓ Sexual Harassment Policy ✓ Chronic Illness Policy
<p>14.</p>	<p>SUCSESSES AND CHALLENGES</p>	<p>Successes:</p> <ul style="list-style-type: none"> ✓ Gender Unit with a staff complement of 3 officials and a budget which is projected to be increased in the coming year. ✓ Resources allocated to the Unit. ✓ 48% women representation at senior management. ✓ We are mainstreaming gender perspective in the department and have dedicated units to enable good progress. <p>Challenges:</p> <ul style="list-style-type: none"> ✓ Poor monitoring of policies. ✓ Failure to disclose disability status by staff. ✓ Gender and Transformation Unit understaffed and lacking adequate capacity too. 	

15.	ADDITIONAL SUPPORT NEEDED	<p>Testimony and Submission:</p> <ul style="list-style-type: none"> ✓ Buy in by all staff to ensure that gender mainstreaming is institutionalised. "This is a big challenge across the board" she says. ✓ We request as a department, assistance in gender training programmes by DPSA. ✓ DPSA to assist in developing budget with guiding principles in implementation. ✓ Platform to be created to share best practice in the province. ✓ Analysis of policy – we need support to test effectiveness of our programmes and to analyse our plans to see if they conform with the objectives of gender mainstreaming. ✓ We need help with monitoring and evaluation and government seldom has the system in place for this. 	
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6.2.2 Questions and comments

	QUESTIONS	RESPONSE
1	Commissioner Nare: We want 8 documents in 7 days because I do not hear much and will say that there is not much to work with. You have not submitted much.	✓ We responded to the brief as we understood it.
2	<p>These policies requested:</p> <ul style="list-style-type: none"> ✓ Recruitment ✓ Disciplinary and Grievance Procedure ✓ Code of Good Practice ✓ Training and Development ✓ Employee Wellness ✓ Succession and Career Path Planning ✓ Staff Retention Policy ✓ Promotions and Remuneration <p>We need all of the above within 7 days.</p>	<ul style="list-style-type: none"> ✓ There are some policies we have submitted – see succession policy and career path – we call this talent management and so see this submission. ✓ On promotion and remuneration – these are bargained and we do not have a policy on this because this is centrally done and coordinated by the Public Service Administration. We cannot have such a policy. ✓ Disciplinary and Grievance Procedure is a general policy that we have and we will submit. ✓ The Code of Good Practice we have too and will submit. ✓ Recruitment Policy was submitted to my knowledge but if not here we will re-submit. ✓ See Management Policy too. ✓ Staff Retention—this is a draft. ✓ Minutes from the Employment Equity forum – it exists and we will check on this. ✓ On health and wellness, what are we doing? I refer that to my staff and also in terms of disability. (They were stopped by the Commission – no presentation made.) ✓ Note: The Minister wanted to hand over the discussion to the GFP manager and speak and explain all of this but she was stopped.
3	Commission: Firstly, let's appreciate that the HOD came herself and did not send a report with staff. As my colleague has said, the responses cannot be taken seriously. From what I have in front of me I see not much attention was paid to responses. HOD—you need to perhaps drag people over the coals who are putting your image and integrity at stake. My observation is that gender and disability is far from being an issue in your department. Your small budget for gender transformation will do very little. What can be done with R120,000?	

4	Commissioner: You have 3 staff members— what is their designation and what are they responsible for?	<ul style="list-style-type: none"> ✓ Executive managers from various programmes serve on the gender forum but then we had availability issues and so we changed plans and are reviving the gender forums by appointment of specific people to this with all the business units represented there.
5	Commissioner: Something struck me— gender is not being taken seriously. Do you understand what a gender focal person should be doing? They should not be tasked with developing childcare facilities or facilities management. This is not their job. These things should not be relegated to a gender focal person. A gender focal person is to be mainstreaming gender issues within your department.	
6	My fellow Commissioners spoke about what was not submitted. From my view you are violating the Employment Equity Act No. 55 of 1998. Social development is female dominated. Why did they not put principles in place? You are engaged in events perhaps but you need a GFP forum. How did it collapse?	
7	You gave services to communities –HIV/ Aids, etc. But what are the programmes for the staff within the department?	
8	No minutes were provided from the EE forum? What is the delay here?	
9	What are you doing to address gender transformation in the workplace?	
10	What funding have you allocated to gender equity?	<ul style="list-style-type: none"> ✓ With regard to the budget, it is very small but it is the first year in which we have managed a small budget. You have however touched on an issue that a budget is allocated on the basis of a plan submitted. ✓ Unless we have a plan on gender management and a gender mainstreaming plan in the department, it is difficult to get approval and funds allocated. ✓ We lack a plan and it is the absence of an overall plan that is the cause of delays.

11	Let's try to summarise this so that we do not run in circles. I do not want to put anyone on the spot. We do not need further inputs. We need to do a lot of work with your department and that is sufficient. We are requesting the outstanding documents and the Employment Equity Plan.	
12	We have been kind but you do not even have a plan and you are not following good practice.	
13	We are not happy with the transformation at DSD and must move on to the next presentation.	
14	What is it we are looking for? We must work on this further. We appreciate that the DDG came to these hearings and for that reason refrained from saying too much.	

6.3 Reflections and concluding comments for the session with the Government Departments

A Commissioner from Northern Cape: I noted the following of issues during the presentations:

- One is the need for inter-governmental relations with other service departments that could impact upon the mandate of another department. Social Development has a Victim Empowerment Programme that impacts the SAPS. Then you find contradictions in the programmes of these different departments and no mechanism to smooth this out to provide a better service. A social worker might be responsible for the VEP but runs into problems with how SAPS operates. Is it not possible to have a unit that will assist with this?
- We also pay too much attention to regulation and policy and not enough attention to education. The public or society is not equally aware of, or able to access these policies.
- With Social Development there is a mention of women not being nominated for training when training happens. Is it that we just have the policy and don't know how to implement it, or is it that people simply flout our policies?

Office of the Status of the Woman: On the Department of Justice, they offer beautiful reports but do they have a national community that they are servicing? They are not even reporting on the provincial issues that they were asked to report on here!

Barbara Bartlett of Social Development: “We sit with the national framework of 2000 that is not even implemented yet. We are not understaffed but the gender focal persons await the full implementation of policy and this is the problem. The GFPs are maybe events driven but when it comes to programmes like 16 Days of Activism, they can run with this. We should however not just be events driven. They say they are headhunting females because not enough are qualified but we see qualified people sitting at home. What is their criterion then? More males than females are found at senior management level and this is a sign that women are suffering under men.

Speaker from Education Department: Thank you Commissioner. We as gender focal persons feel that something is finally going to happen, now that the Department of Education has been sent back and the top manager is being called back. Thanks for sending us back! We are fighting a losing battle with regard to gender issues. Anything to do with women is events driven. We have gender units and they say “take it all to the gender unit” but the gender unit is not integrated into the department. We are also still having cases where people are suspended for sexual harassment and secondary rape because people are not suspended as they should be.

CGE: Broader issues have been raised. What are the outreach strategies for these departments that have spoken? For instance, we discussed headhunting and the problems with dismissals. What remedial things can happen? Social Development can also respond.

Social Development: At a workshop that we had, we observed that women are sometimes sent for training but could not go because of their children. When the training starts, you then hear about the training and this occurs often. Women that are not licensed to drive were mentioned as a problem too but how can this be if Social Development is dominated by women? We will look into this, however.

Female Speaker from Department of Justice and Constitutional Development:

Some points:

- There is a justice cluster where many issues are coordinated for implementation by different departments and there are provincial versions of this and so coordination mechanisms are actually there.
- An issue that compounds the problem of victim support, as mentioned, is that each department has different kinds of systems that need to be streamlined.
- It is also true that we are not sending out messages to the public that they can understand easily and this is why we need good outreach—messaging that works.

- In the recent past, we decided to concentrate on getting legislation into all the official languages too because sometimes this is not done. In Sixteen Days of Activism we see most of the messages are in English and top people speak this, but this does not reach people on the ground.
- We can try to hook up with the National Prosecuting Authority (NPA) and the Magistrate Commission.

Speaker from DOJCD: On headhunting we look for scarce skills sometimes and that is when we need to headhunt. These are highly experienced posts sometimes that require recruitment. Anyway we only headhunt when people skilled enough for positions are scarce. All other posts we advertise.

Female Speaker: We need these programmes in rural areas, especially where ignorance of the law and procedures, and rights of women are not there.

Speaker from DOJCD: The 'Access to Justice Initiative' in the Northern Cape is available. This was outreach to the rural communities specifically and we provided this to people at court level.

CGE: There is a gender justice forum and there is a list of all the complainants there who have given evidence, etc. A submission was made in this regard as to what might be the outcome. So the gender justice forum is a very good point of entry for people wanting to integrate their efforts on gender issues.

Speaker: No information is provided to the victims. This is a huge countrywide problem. People go through our systems but they do not know how the process is moving along and are uninformed.

Speaker from DOJCD: Gender Justice with departments will have to communicate what is happening with cases.

CGE: There was a question about the involvement of the department in the gender machinery. At provincial level in DOJ, no one seems to look at issues of gender, but this is part of justice. If they do get involved, they are just sent to a meeting and ordered to attend matters concerning gender justice. This person ends up dealing with these issues in terms of going to meetings and then participating in gender month etc., which is an inadequate response.

7. Findings and recommendations: Private Companies

7.1 De Beers Consolidated Mines

Presenters for De Beers Consolidated Mines: (a) Mr. Philip Barton, CEO of De Beers Consolidated Mines; (b) Mr. Gerrit Lotz, Head of Human Resources; (c) Ms. Mpumi Ziklala, General Manager, De Beers; and (d) Malcolm Hendricks – General Manager of Kimberley Mines.

Philip Barton takes the oath and then thanks the Commission. He reports on the review of their Employment Equity Plan by the Department of Labour. They had some successes but found that they have a long way to go. In an overview of the current operations—Limpopo is largest mine; the corporate offices are situated in Johannesburg; there is a mine near Kroonstad; and Kimberley is where the Ecology Head Office is located along with a few other functions. Namaqualand Mines is now being sold but De Beers will remain while rehabilitation is going on. De Beers is much smaller today than what it was a few years ago. They were not making money and therefore sold a lot of diamond mines including some here and elsewhere. Now De Beers has only 2,280 employees in South Africa. The figure used to be 8,000 employees but lots of restructuring meant that people lost jobs – 8,000 down to 2,260 (28% of what it was) as of today. This year mining in SA will return 58 million tons of ore and 4.4 million carats will have been recovered.

Who owns De Beers? A Luxembourg registered company owns 74% of De Beers. The De Beers group of companies includes Anglo American, which also holds a large percentage. Of interest here may be the Ponahalo Structure, which includes sizeable percentages of women and disabled people. There are big trusts and company shares for disabled people and disadvantaged women – they are major beneficiaries.

De Beers strategy – we have a common goal to secure our future. This is true of everyone participating in De Beers, from employees to stockholders. In 2008-2009 business was very uncertain in this country. We focused on security of the environment; and resource growth; and control of waste; but much is cash and carats. We have to achieve a certain tonnage a year to make a profit. We have to invest day by day in the business to sustain it. We have to get so many carats out of the ground to continue the business. This gives us the cash that we can distribute. Every carat that we mine is a carat less and so we have to explore and look for more resources.

We focus on diamond people, we train them so that such people stay with us. We also develop the business and work in strategic and disciplined ways to try to optimise our assets.

7.1.1 Submission on standard questions and testimony presented

	STANDARD REVIEW QUESTIONS	TESTIMONY	COMMENTS AND/OR FINDINGS
1	EMPLOYMENT EQUITY PLAN: In terms of section 20 of the Employment Equity Act No. 55 of 1998, a designated employer must prepare and implement an Employment Equity Plan. Does your institution have an Employment Equity Plan? If so kindly provide a copy.	<p>Submission:</p> <ul style="list-style-type: none"> ✓ 3 year Employment Equity Plan 1 Oct 2011 – 30 September 2014 (Annexure A). <p>Testimony:</p> <ul style="list-style-type: none"> ✓ See page 5 of our submission – from 2010 to 2012 – over the last three years – we brought in many women as part of targeted recruitment aimed at more female representation. 	See Annexure A. Note: Each mine also has its own plans and programmes and a consolidated plan was received.
2	SEX AND DISABILITY DISAGGREGATED DATA OF YOUR TOP MANAGEMENT AND SENIOR MANAGEMENT POSITION.	<p>Submission:</p> <ul style="list-style-type: none"> ✓ 0 females in top management. ✓ 1 female in senior management. ✓ 43 Professionally qualified women. ✓ Disability – 1 white male senior. ✓ 24% are female employees and so at top management level they are not present as there are only 3 people. ✓ De Beers has focused on professionally qualified women so as to bring females into top ranks, so it is wide there. ✓ 1.4% are disabled and they will soon be at 1.8% if not 2%. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ 2,300 people in the workforce and 25% are female. ✓ 1% are disabled people. 	23% female employees altogether but no women in top management and 1 in senior management (the 1 in attendance at the hearing – Ms Mpumi Ziklala, De Beers General Manager).

<p>3</p>	<p>MEASURES. What measures have been put in place to promote gender transformation and to increase women’s representation in senior management and top management at your institutions?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Annual Talent Review Process—identifying females to be fast-tracked. ✓ 2 female managers were sent to the company’s Canadian based operations to gain international management experience. ✓ Employee Study Assistance Schemes—675 participated 2005 – 2011 in which 229 (34%) were female. ✓ Post graduate training programmes (2-3 years) has 10 females at present (40%). ✓ In-service training that includes females, 371 (23%) of 1,667 trainees were female. ✓ 5 female bursary holders. ✓ Technical learnerships includes 24 females (57%). ✓ Education grants to 70 (36%) male and 124 (64%) female learners costing R1 940 000. ✓ Targeted recruitment since 2010. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ We have a clear organisational strategy to increase female participation in De Beers. Every person wants an opportunity to grow and develop and we focus on all employees. We can see where the organisation is going and we help people to progress their careers. ✓ We have a De Beers plan up to 2014. ✓ We have a plan to progress each year and target each management level. ✓ We achieved our 2013 targets in 2012 and we are looking at increasing to 31% females by 2014; and we want to go from 25% to 28% at professional and senior levels. ✓ We have succession planning and development that allows us to move females up the ranks in the next year or two. ✓ We have female mining forum meetings where we work with women to develop their careers. 	
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4	<p>WHO IS RESPONSIBLE FOR IMPLEMENTING AND OVERSEEING GENDER TRANSFORMATION AT YOUR INSTITUTION?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ The Head of Human Resources DBCM reports directly to the board on the employment equity and planning process. ✓ Human resource managers and general managers, report to the person above. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ Mr Gerrit Lotz – Head of Human Resources (present at the hearing), was assigned on 5 August 2011 to the post of Gender Equity Manager. 	
5	<p>PERFORMANCE REVIEW. Does implementation of gender transformation measures form part of the performance review of senior managers? If no, kindly provide reasons for this.</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ A general manager at each operation, monitors and evaluates the implementation of the Gender Equity Act. ✓ Transformation is part of the Key Result Areas (KRAs) which informs human resources on issues such as remuneration and performance. ✓ Performance reviews with senior managers @X per annum. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ At the top there is a transformation committee and these are also found at the level of the mine. ✓ Then, there are individual Key Performance Areas and this allows us to monitor in terms of our plans and targets. ✓ The transformation committees ensure that their key performance measures are replicated in the Key Performance Areas of the senior managers, etc. 	

<p>6</p>	<p>RESOURCE ALLOCATIONS. What resources have you allocated to support gender transformation as mentioned above? If no resources have been allocated, why?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ In 2011, R36 106 546 or 4.69% of total actual payroll was spent on skills development. ✓ 22.3% of the above or R8 051 759 was allocated to female training and development. ✓ Financial provision for female training is R11 135 693 or 25% of total financial provision. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ “Resource allocations are being made to support gender transformation, most of it is in training and development. We are creating a pipeline to pull women into senior ranks.” ✓ We have a conscious strategy to increase our spending on training and employment engagement and our own productivity by having more skilled employees. ✓ Bursaries also play a role in meeting transformation objectives – 25% of our bursary budget was spent on female employees. 	
<p>7</p>	<p>WOMEN WITH DISABILITIES. What mechanisms or systems are in place to track the movement of women with disabilities to senior management or top management priorities at your institutions?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Specific transformation and employment equity objectives are tracked and monitored. ✓ Human and operational resources also go to helping women with disabilities but with no direct allocation or mechanism (see below). ✓ Transformation meetings are convened quarterly – CEO and senior management in attendance. ✓ Employment Equity Policy Committee exists. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ Ponahalo Disabled Persons Trust is the partner in helping De Beers to promote and empower people with disabilities. 	

<p>8</p>	<p>RECRUITMENT POLICY. Do your recruitment policies specifically target men and women for disabilities for recruitment to senior positions? If so, please provide us with a copy of your recruitment policy which makes provision for this. If not, kindly provide reasons why.</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ No, not directly in terms of men and women with disabilities (only gender perspective). <p>Testimony:</p> <ul style="list-style-type: none"> ✓ This is a gap. 	
<p>9</p>	<p>MENTORSHIP AND/OR CAPACITY BUILDING: Are there programmes aimed at accelerating women and disabled people's progression to senior and top management positions? If not, why not? Kindly provide reasons.</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Professional Management Development Programme to enhance individual knowledge and skills. ✓ Supervisory development programmes. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ There is succession planning at senior management level. We have identified 3 individuals to move into senior management ranks in the next two years and we have 22 we want to move into senior management. ✓ Another important element is around our development planning, we are moving female participants upward and are busy recruiting. ✓ In terms of our supervisory development programme, we also train people to be miners and have 57% of individuals on our learnership programme (females). ✓ We provide educational grants and bursaries in an attempt to increase women. For instance, young females can be awarded engineering scholarships and we have offered apprenticeships too. ✓ We also aim at matriculants in general and try to improve skills in maths for further development. This is all underpinned by mentorships and coaching. 	

10.	<p>CHILDCARE: Does your institution provide childcare facilities and/ or flexi-time or working from home to balance family responsibilities with work? Please provide evidence thereof.</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ No childcare facilities. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ No such facilities (the lack of them attributed to the mining environment) but the company arranges flexi-time and offers four months paid maternity leave. 	
11	<p>AWARENESS. What steps have you taken to initiate awareness on gender equality and discrimination in the workplace? Who has been targeted with these measures and what success has been achieved thus far?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Diversity Management Institute is doing this in the 2012-2013 budgetary year involving expert facilitators. ✓ 2007-2009 Diversity Awareness Programme throughout the Company too (train the trainer approach starting with 10 women trainers). <p>Testimony:</p> <ul style="list-style-type: none"> ✓ We host 'Women in Mining Events'. 	
12	<p>G E N D E R DISCRIMINATION & SEXUAL HARASSMENT POLICIES. Kindly provide us with copies of these policies. How effectively have these policies been utilised? If there are no policies in place or you have not utilised these policies, what explains this?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ No submission found but it was stated "The company has a sexual harassment policy in place" <p>Testimony:</p> <ul style="list-style-type: none"> ✓ There is a zero tolerance policy of gender discrimination and sexual harassment in the workplace and the company has experienced isolated incidents of this and addressed it sternly and promptly including dismissals 	

<p>13.</p>	<p>In terms of section (19) (1) of the Employment Equity Act, a designated employer must collect information and conduct an analysis of all relevant employment policies, practices, procedures and the working environment in order to identify employment barriers which adversely affect people from designated groups. Kindly provide these policies. (See next table.)</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ When the new 3 year plan was drafted, an analysis of policies, practices, procedures and the working environment took place, employment barriers were identified and steps taken. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ Extensive workplace analyses have been conducted. 	<p>See the workplace analysis in Annexure C.</p>
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14.	SUCSESSES AND CHALLENGES	<p>Successes: (Ms. Mpumi Ziklala, De Beers General Manager presents here).</p> <ul style="list-style-type: none"> ✓ While employment equity barriers exist, we do have plans in place and all these barriers are being engaged. We constantly on a quarterly basis engage and make necessary amendments. If you look at recruitment, you can see that we are making headway. ✓ 13%-27% in core operation areas (women) and we set out to find them and grew our own team. ✓ One of our newest mines has 27% females in technical positions. ✓ "I, a female senior manager, started with De Beers in 1996 and was brought in." <p>Challenges:</p> <ul style="list-style-type: none"> ✓ Women are still underrepresented and we are trying to develop female skills. ✓ In technical skills arenas like artisans and engineers, there are few women. ✓ Are mines attractive to women? This is a constraint and one has to accept that this is an issue. ✓ Shift work – We struggle to retain semi-skilled females. They have to work shifts, which make impact on the home life. ✓ We have to balance between business needs and equity needs. Sometimes we have many young females and we see many leaving us owing to pregnancy. We need a diverse group of people to ensure this does not happen. ✓ We want to grow skills. 	
15.	ADDITIONAL SUPPORT NEEDED	<p>Submission:</p> <ul style="list-style-type: none"> ✓ More cooperation between mines, government, and the mining qualification and learning institutions. 	

7.1.1 Questions and comments

	QUESTION	RESPONSES
1	Wallace Mgoqi: I want to get a sense of your sourcing strategy in terms of geography. Are you only recruiting from the geographic areas of operations or is the net much wider than that?	<ul style="list-style-type: none"> ✓ On recruitment we target different levels and especially target local communities surrounding our mines but for management and senior management, we target nationally, but this is a barrier. Our mines are remote and it is difficult to retain females from big cities in rural areas and so we also try to target local recruitment through bursaries and development programmes. We target areas around our mines increasingly.
2	In terms of your social responsibility programmes, I am aware that Anglo American helps with women empowerment programmes. Do you have something of that sort, empowering women?	<ul style="list-style-type: none"> ✓ We have social responsibility programmes in 5 areas – Kimberley, Kroonstad, Springs, and Namaqualand, where we target youth and women. Not sure what percentage that is. Maybe over 40% go to youth and women in terms of enterprise and development. ✓ Ponahalo Disabled Persons Trust helps De Beers to promote and empower people with disabilities. ✓ We have three separate trust funds. Disability is included here which helps women and the disabled. ✓ We drive the social investment through our Ponahalo Trust where De Beers funds corporate social investment.
3	There was a lot of shuffling between presenters to the front! We find women becoming pregnant at a reproductive stage but what do you do in terms of an EAP?	<ul style="list-style-type: none"> ✓ Question on women falling pregnant, all at the same time—not all 20 people but our pregnancy figures increase over the winter season. How do we deal with that? We do aim to employ women and therefore analyse this and we accept that women at a certain age get pregnant. We make sure that we have a diverse team on shifts so that we are not dependent only on women. ✓ When someone is pregnant we might intensify training for them at that time and develop their competency, or maybe moved over to HR during this period ✓ I am on the Women in Mining Forum and our biggest concern is getting women back to work, where they are willing to return if we look after them and where they feel confident that we want them back.
5	When it comes to recruitment, what is the probability of reaching some targets? Yours is 2 women to reach senior management over a period of 3 years. Why is it so conservatively low?	<ul style="list-style-type: none"> ✓ We are male dominated but have demonstrated today that we cannot run away from the numbers and must do more. We do have clear targets and plans and intend to achieve them. ✓ I have full confidence in my team.

6	Page 23, there is no maternity leave and yet you have many males. So men that have children must not get maternity leave either?	<ul style="list-style-type: none"> ✓ Paternity leave, no we do not have this. We have 5 days of family responsibility leave, this is 5 days paid leave if there is a new addition to the immediate family. ✓ Men can get time off to be with their wives.
7	How many sexual harassment cases have you experienced? There have been some allegations that women are at risk in the mines. What are your policies?	<ul style="list-style-type: none"> ✓ We had one case of sexual harassment and the individual was found guilty and dismissed.
8	Thank you for a comprehensive presentation and for the CEO coming himself. First, your leadership structure is male dominated and I do not see in your documents that there is a succession strategy? More can be done there?	<ul style="list-style-type: none"> ✓ Succession issue: We have retirements on the board and then it may be possible to change this. On the executive committee we have targeted two spots for females should the males move on. We are aware and targeting. We cannot force people to leave but we know of one or two leaving shortly.
9	Comment: Gender mainstreaming is in key performance areas of senior management, which can be congratulated.	<ul style="list-style-type: none"> ✓ No reply. (Mr Gerrit Lotz, Head of Human Resources was present and is the GFP)
10	As far as mine based structures go, how do you evaluate performance?	<ul style="list-style-type: none"> ✓ We take this seriously and have key performance areas that we measure.
11	Comment: I am a bit impressed and like what I see in terms of your policies and your leave system, which is quite comprehensive and you offer 4 months on full pay for pregnancy leave.	<ul style="list-style-type: none"> ✓ We are interested in the children of our employees and we see them as future talent too and we have benefits for them. We want entire families to benefit.
12	In terms of the mining sector, it is said that employment of females is challenged and you are 60-80% dominated by white males but this is diminishing and there is a plan. More than 60% dominance of white males. How do you change this to deal with African males and women?	<ul style="list-style-type: none"> ✓ We have identified barriers to women advancing and these are not random but have been researched. We have put these together and are addressing them, even though we have not achieved our targets. ✓ We also have submitted labour plans. ✓ Employee assistance programme is there too.
13	There is an issue on sexual harassment and I think you should respond to it. There is a sexual assault or sexual harassment case. Is your protective clothing suitable for both males and females? Females in a full bus could be harassed when close together with men. Is your protective clothing taking care of this?	<ul style="list-style-type: none"> ✓ We had one case of sexual harassment and the individual was found guilty and dismissed. ✓ We have open pit mines and our buses are the type where you sit with a seatbelt. ✓ We have addressed protective clothing and there is protective clothing appropriate for women.
14	Outreach programmes? Do you have a corporate responsibility programme on this?	<ul style="list-style-type: none"> ✓ Yes, this was presented in the documentation.

15	The tragedy of mining seems to centre on housing developments around mines. What is it you are doing to transform social conditions around the mining area?	✓ Department of Housing comment: We don't employ migrant labourers. We don't have many people who come from other provinces to work in our mines. We don't have hostels and this kind of set up. We have home ownership schemes and have introduced a comprehensive home ownership scheme. We even did surveys to see how many employees want to own their own houses. We have a current scheme and there are weaknesses in it that we are addressing.
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7.2 PIKWANE DIAMONDS¹⁰

Theresa Morudi was the main presenter and took the oath. Alongside her were Philip Pikwane and Peter Motise. The Commission was not satisfied with the submissions and furthermore this company was subpoenaed by the Commission. Pikwane was also not prepared for the presentation (see next paragraph below). Therefore the Commission did not allow for much testimony. Most of the discussions with the Commission pertained to the poor quality of the submissions, the lack of them and how to correct these problems.

Introductions were made by the Commission to Pikwane Diamonds, who appeared to have missed the other presentations. The oath was administered by Mr. Wallace Mgoqi. Spokesperson came forward and swore in. Theresa Morudi, the main presenter, introduced Administration Manager, Phillip Pikwane and the Safety Officer, Peter Motisa. The company was established in 2005 and is a "very small" mining company headquartered in Kimberley that processes ground from the De Beers sites. They have a few plants in the Northern Cape. "We are not really in a position to do the presentation as the CEO is not present" said Morudi. "This is a learning experience for me, the first time I learnt of the Employment Equity Act was when I was invited here!" "I have done the research now and have sat down with the Department of Labour to discuss policies and procedures within the company and to work out an Employment Equity Plan." "I was subpoenaed to come before the Commission today." There was really no formal presentation because the submissions were inadequate.

¹⁰ This company was subpoenaed. Theresa Morudi furnished the documents (e-mailed to Veronika on 15 November, 2012)

7.2.1 Presentation on standard questions

	STANDARD REVIEW QUESTIONS	TESTIMONY	COMMENTS AND/OR FINDINGS
1	EMPLOYMENT EQUITY PLAN In terms of section 20 of the Employment Equity Act No. 55 of 1998, a designated employer must prepare and implement an Employment Equity Plan. Does your institution have an Employment Equity Plan? If so kindly provide a copy.	<p>Submission:</p> <ul style="list-style-type: none"> ✓ “We do not have an Employment Equity Plan.” ✓ We are currently engaging with the Department of Labour on this. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ None. 	<ul style="list-style-type: none"> ✓ Very few documents were submitted— basically the response to the CGE questionnaire, sexual harassment policy and an ‘AIDS Policy’—none of it satisfactory
2	SEX AND DISABILITY DISAGGREGATED DATA OF YOUR TOP MANAGEMENT AND SENIOR MANAGEMENT POSITION.	<p>Submission:</p> <ul style="list-style-type: none"> ✓ 3 people in top management – 2 males and 1 white female. ✓ 3 people in senior management – 2 males and 1 African female. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ None. 	
3	MEASURES. What measures have been put in place to promote gender transformation and to increase women’s representation in senior management and top management at your institutions?	<p>Submission:</p> <ul style="list-style-type: none"> ✓ 1 female bookkeeper in senior position is female. ✓ We will endeavour in the future to train women with disabilities to work in the diamond cutting room. ✓ Other females: 1 female geologist, 1 female office manager; and 1 female HR manager but she has resigned. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ None. 	

4	<p>WHO IS RESPONSIBLE FOR IMPLEMENTING AND OVERSEEING GENDER TRANSFORMATION AT YOUR INSTITUTION?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Nobody at the moment. The HR manager has resigned and no one is currently in this post. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ None. 	
5	<p>PERFORMANCE REVIEW. Does implementation of gender transformation measures form part of the performance review of senior managers? If no, kindly provide reasons for this.</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Not currently in place. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ None. 	
6	<p>RESOURCE ALLOCATIONS. What resources have you allocated to support gender transformation as mentioned above? If no resources have been allocated, why?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ This was not considered at all but because it was highlighted as important, Pikwane will 'start' this process of allocating resources. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ None. 	
7	<p>WOMEN WITH DISABILITIES. What mechanisms or systems are in place to track the movement of women with disabilities to senior management or top management priorities at your institutions?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ This is not indicated in the submission which only refers to a female geologist, senior bookkeepers, a female office manager and an HR person who resigned (females; not disabilities). <p>Testimony:</p> <ul style="list-style-type: none"> ✓ None. 	

8	<p>RECRUITMENT POLICY. Do your recruitment policies specifically target men and women for disabilities for recruitment to senior positions? If so, please provide us with a copy of your recruitment policy which makes provision for this. If not, kindly provide reasons why.</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ No policy in place. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ None. 	✓
9	<p>MENTORSHIP AND/OR CAPACITY BUILDING: Are there programmes aimed at accelerating women and disabled people's progression to senior and top management positions? If not why not? Kindly provide reasons.</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ No policy in place. ✓ "Staff are sent to capacity building programmes. The HR person who recently resigned had been given the opportunity to do her HR diploma, which she completed. The bookkeeper went on an accounting course. Our geologist went to a mineral conference." <p>Testimony:</p> <ul style="list-style-type: none"> ✓ None. 	✓
10.	<p>CHILDCARE: Does your institution provide childcare facilities and/or flexi-time or working from home to balance family responsibilities with work? Please provide evidence thereof.</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ No childcare. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ None. 	
11.	<p>AWARENESS. What steps have you taken to initiate awareness on gender equality and discrimination in the workplace? Who has been targeted with these measures and what success has been achieved thus far?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ A sexual harassment policy is in place. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ None. 	<ul style="list-style-type: none"> ✓ No clear measures indicated. ✓ The policy is inadequate.

12.	GENDER DISCRIMINATION & SEXUAL HARASSMENT POLICIES. Kindly provide us with copies of these policies. How effectively have these policies been utilised? If there are no policies in place or you have not utilised these policies, what explains this?	<p>Submission:</p> <ul style="list-style-type: none"> ✓ A sexual harassment policy was submitted. ✓ "We have never had such a situation." <p>Testimony:</p> <ul style="list-style-type: none"> ✓ None. 	
13.	In terms of section (19)(1) of the Employment Equity Act, a designated employer must collect information and conduct an analysis of all relevant employment policies, practices, procedures and the working environment in order to identify employment barriers which adversely affect people from designated groups. Kindly provide these policies. (See next table.)	<p>Submission:</p> <ul style="list-style-type: none"> ✓ "Yes." ✓ AIDS policy submitted. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ None. 	
14.	SUCCESSSES AND CHALLENGES	<p>Successes:</p> <ul style="list-style-type: none"> ✓ "No major challenges so far." 	
15.	ADDITIONAL SUPPORT NEEDED	<ul style="list-style-type: none"> ✓ "A workshop would enlighten us as a company, since we have never looked into this in depth." 	

7.2.2 Questions and comments

	QUESTION	RESPONSE
1	What is the size of the company?	✓ We are still in the process of retrenchments. We are standing at 86 people approximately and this includes all the different sites.
2	Do you have HR policies?	✓ We do have sexual harassment policies but no HR policy in place.
3	We see there is no CEO and we do not want to proceed. We want the person accountable to be here to account for the lack of policies and to be more prepared. It is fair that we do not continue with the process.	✓ No comment .
4	Advise: Since you are working with De Beers, we suggest that you find out about the gender equity policies	✓ No comment.

5	On the CEO not being present, we think he did not come because he knew the company was not ready to present. We do not want to break you down but instead, want to work with you.	✓ No comment.
6	In seven days, give us what you have?	✓ "I have submitted the sexual harassment and HIV/AIDS policies. We do not have other things on file. We work with De Beers and comply with their standards. We have to comply with the De Beers standards."
7	You have an AIDS policy but HIV and AIDS are two different things and so we need you to respond appropriately. You need to work on your policies	✓ No comment.
8	In seven day give us what you have (draft plans of what you need to put in place; how do you intend to comply?) Send your: <ul style="list-style-type: none"> ✓ DRAFT Employment Equity Plan ✓ HIV/AIDS Policy—if they are HIV infected what do you do? ✓ Pregnancy Policy ✓ Childcare Policy 	
9	In six months time we will meet with you again. We will stay in touch along the way. For 85 people you have to have these policies in place and an Employment Equity Plan.	✓ No comment.
10	Your absent CEO is a problem and he must come in the next six months. Are you only in this province?	✓ We are only in the Northern Cape.
11	Recommendation from the chair: Pikwane should participate and see what the hearing is trying to achieve.	✓ No comment.

8. General concluding comments for Day One

When the Department of Education was called to account before the Commission, the Director Mr. Tshepo Phiri was not in attendance. He did however send a junior staff member, an employee from the Human Resources Department. The Commissioner's panel did not allow him to present evidence or represent the Department of Education. They advised him to convey a message to Mr. Phiri that the hearing for the Department of Education would instead, be heard the following day. It was ordered that Mr. Phiri be in attendance, failing which there would be an adverse finding against him. An announcement was made that the SAPS and ESKOM were due to appear at the hearings tomorrow.

	Speaker	Comment
1	Jasmine Mohamed, a GFP from the Department of Agriculture.	I have been a gender focal person for some time and I am glad to be here and see that the CGE is dealing with this strongly and I believe that it is the way to go. We think you should not accept presentations from just anyone and that the CEOs must come to present.
2	Barbara Bartlett, Department of Social Development.	I apologise that I cannot attend tomorrow.
3	CGE	I would like to reiterate that many should attend tomorrow to learn about the good practices that are required.

Day Two

9. Opening comments for Day Two

On Day Two of the hearing only 4 Commissioners were present, namely Mr Wallace Amos Mgoqi, Commissioner – Western and Northern Cape, Ms L. Nare, Commissioner – Gauteng, Ms. Sylvia Stevens-Maziya, Commissioner – Gauteng, Ms. Janine Hicks, Commissioner – KwaZulu-Natal. Ms. Loyilane was not available for Day Two. The Commission for Gender Equality lead by Commissioner Nare, welcomed all participants present.

Commissioner Nare: *Is Gender Transformation occurring in the workplace?* This is our concern and we will have discussion between us. This is Day Two and on our list is the SAPS, AND ESKOM and we will have to subpoena the Department of Education to appear. The Commission was then introduced. We have Eskom here, gender focal people and other departments and civil society present.

10. Findings and Recommendations: Government Departments

10.1 The South African Police Service

The Provincial Commissioner of SAPS, Lieutenant General J. D. Basson, the invitee, was at a meeting in Pretoria so was not available to attend. Major General, Henriette de Waal replaced Lieutenant General Basson and took the oath (swearing in that the contents of the presentation are true). She was accompanied by Odette Raynard of SAPS. There was no PowerPoint presentation provided.

In introduction, Major General de Waal stated that the national office creates national targets and fills vacant posts. There are 91 police stations in the Northern Cape and these are mostly rural. The gender equity situation in the Northern Cape was also presented as distinct from the national picture "because of our rural areas, where women will not go." She continued, "In Gauteng it is different and so our national picture is better. We have a national women's network where there is a women champion leading all women in a province and a gender desk where projects get coordinated from. Provincially the women's group is also very active and we also engage men to be part of these projects. We are changing the culture."

10.1.1 Response on standard questions and testimony presented

	STANDARD REVIEW QUESTIONS	TESTIMONY (WITH REFERENCE TO SUBMISSION IF AVAILABLE)	COMMENTS AND/OR FINDINGS
1	EMPLOYMENT EQUITY PLAN . In terms of section 20 of the Employment Equity Act No. 55 of 1998, a designated employer must prepare and implement an Employment Equity Plan. Does your institution have an Employment Equity Plan? If so kindly provide a copy.	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Employment Equity Plan 2010-2014 attached. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ Target is 60% male / 40% female. ✓ Percentages now: 64.6% male and 35.54% female. ✓ SAPS used to be male dominated due to the job requirements but there has been big progress in the last few years in promoting females. ✓ From level 8 and up we have made a lot of progress. ✓ At this stage most women are at warrant officer level. ✓ As one moves up to the senior ranks, this creates a challenge. ✓ We submit an equity report each quarter to national on our progress. 	<ul style="list-style-type: none"> ✓ Both the national Employment Equity Plan and the Northern Cape plan were submitted (years 2010-2014 for both).
2	SEX AND DISABILITY DISAGGREGATED DATA OF YOUR TOP MANAGEMENT AND SENIOR MANAGEMENT POSITION.	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Provincial Commissioner JD Basson is female. ✓ Major Generals: 5 female and 3 male. ✓ Brigadiers: 6 female and 11 male. ✓ In Aug 2012-SMS Level 12 of 26 (46%) female. ✓ Persons with disability in senior management = 0. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ 6 females and 3 males in terms of senior management represents progress ✓ The brigadiers also represent progress and the shortcoming is being addressed. ✓ We now have a person that is a Brigadier who is disabled and he has resumed duties and so our report is wrong—we do have this one person. 	<ul style="list-style-type: none"> ✓ See also Northern Cape Employment Equity Report for July-August 2012, Section B on workforce profile.

<p>3</p>	<p>MEASURES. What measures have been put in place to promote gender transformation and to increase women's representation in senior management and top management at your institutions?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Target is 50% of females in the workforce (submission is not clear on target attainment). ✓ 70% of all nominations for all skills development and training must be female. <p>Oral testimony:</p> <ul style="list-style-type: none"> ✓ We work according to national targets and do not determine these provincially. ✓ Challenge: One difficulty is in the rural areas—rural stations do not have infrastructure like schools and medical facilities. ✓ We have done surveys and research to find out why we have few applicants from women for rural areas and found out the above. ✓ We have made workplaces women-friendly and have female pilots where this was previously male dominated. We have women on tactical teams too but this requires physical strength but even on this level we have improved. ✓ In advertising—we advertise for women. ✓ Transformation is a key performance area. ✓ We do submit an equity report each quarter on our progress. 	
<p>4</p>	<p>WHO is responsible for implementing and overseeing gender transformation at your institution?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Human Resource Utilisation Component is responsible for gender-related issues in both planning and reporting to the National Commissioner. ✓ The Women's Network champion facilitates all activities which impact on the overall quality of women's lives. <p>Testimony</p> <ul style="list-style-type: none"> ✓ We have a national women's network where there is a women champion leading all women in a province. ✓ We have a gender desk from where projects get coordinated. ✓ Provincially, the women's group is very active and we also engage men to be part of these projects. We are changing the culture. 	

5	<p>PERFORMANCE REVIEW. Does implementation of gender transformation measures form part of the performance review of senior managers? If no, kindly provide reasons for this.</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Yes, employment equity is captured as a key performance area in the performance agreements of senior managers. <p>Testimony:</p>	
6	<p>RESOURCE ALLOCATIONS. What resources have you allocated to support gender transformation as mentioned above? If no resources have been allocated, why?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Cluster guardians have been appointed to offer support and assistance to all commanders and members within a respective cluster. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ Training initiatives—70% of all training goes to women to empower them to ensure imbalances of the past are addressed. We focus a lot on station commanders to ensure they are 100% up to date on what is expected. 	
7	<p>WOMEN WITH DISABILITIES. What mechanisms or systems are in place to track the movement of women with disabilities to senior management or top management priorities at your institutions?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Employment Equity Report and Employment Equity Profiles indicates progress; also utilised as a monitoring tool. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ None. 	
8	<p>RECRUITMENT POLICY. Do your recruitment policies specifically target men and women with disabilities for recruitment to senior positions? If so, please provide us with a copy of your recruitment policy which makes provision for this. If not, kindly provide reasons why.</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ "Recruitment is done in line with National Employment Equity Targets and people with disabilities are encouraged to apply at all times—this being stipulated in all advertisements" <p>Testimony:</p> <ul style="list-style-type: none"> ✓ None. 	<ul style="list-style-type: none"> ✓ See National Instruction 6/2005 on Selection of Employees in posts 1-12. ✓ See National Instruction 4/2010 on Appointments to Posts on Salary Levels 13-15.

<p>9</p>	<p>MENTORSHIP AND/OR CAPACITY BUILDING. Are any mentorship and/or capacity building programmes aimed at accelerating women and disabled people's progression to senior and top management positions? If not why not? Kindly provide reasons.</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Mentorship Programme and Detective Skills Development Programmes are in place to ensure equal development opportunities for all. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ We have a specific mentorship programme called the Guardian Programme—senior females appointed as mentors to junior female members to help build their experience. 	
<p>10.</p>	<p>CHILDCARE. Does your institution provide childcare facilities and/or flexi-time or working from home to balance family responsibilities with work? Please provide evidence thereof.</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ No childcare facilities provided and no working from home. ✓ Flexi time can be arranged with immediate commanders. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ We do not have facilities for childcare and have not made any progress on this. ✓ Explanation: This owes to our 12 hour shift system and we would have to have childcare facilities for 91 stations around the clock (no budget for this). ✓ We do have a soft approach on this and allow for flexi-time. When members work shifts we allow them to work office hours only until the baby grows up a little. 	

<p>11</p>	<p>AWARENESS. What steps have you taken to initiate awareness on gender equality and discrimination in the workplace? Who has been targeted with these measures and what success have been achieved thus far?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ The section 'Human Resource Utilisation' is responsible for awareness training and it is conducted in the province. ✓ The Section 'Labour Relations' is also actively involved in all reported discrimination cases. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ We empower women in communities too, not only internally. We adopt children and provide them with school fees, clothing and other needed items. We help women hurt by domestic violence and contributed 42,000 rand for women with cancer. 	
<p>12</p>	<p>GENDER DISCRIMINATION & SEXUAL HARASSMENT POLICIES. Does your company have gender discrimination and sexual harassment policies? Kindly provide us with copies of these policies. How effectively have these policies been utilised? If there are no policies in place or you have not utilised these policies, what explains this?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ The Sexual Harassment Policy for the South African Police Service was reviewed during 2011 and is included in the attachments referred to in paragraph 13 below. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ We are dealing well with this and have a no tolerance approach and recently dismissed two police officers. ✓ We have specific approaches that have been union approved and there is complete buy in 	

<p>13.</p>	<p>In terms of section (19) (1) of the Employment Equity Act, a designated employer must collect information and conduct an analysis of all relevant employment policies, practices, procedures and the working environment in order to identify employment barriers which adversely affect people from designated groups. Kindly provide these policies. (See next table.)</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Policies that are regarded as barriers are discussed during the consultative forum meetings and indicated to the South African Police Services Head Office for consolidation purposes in the quarterly employment equity reports submitted. ✓ Copies of the following polices and documents are attached: <ul style="list-style-type: none"> · Selection and Appointment of Employees on Post level 1-12 · Appointments to Posts on Salary Levels 13 to 15 · Grade Progression and Promotion of Employees of the Service Post Levels 2 to 12 and Bands A to MMs · Grievance Procedure · Discipline Regulations · Agreement on Sexual Harassment in the Workplace · Employees of the SAPS living with HIV/Aids · SAPS Code of Conduct · Education, Training and Development Policy in the SAPS · Dress Orders · Employee Assistance Programme · Consultative Forum Minutes · National Employment Equity Plan · Provincial Employment Equity Plan · Northern Cape Employment Equity Report for July-August 2012 <p>Testimony:</p> <ul style="list-style-type: none"> ✓ "All our policies were attached to the submission and these were all negotiated in bargaining councils with unions and all are gender sensitive and gender is a big issue for us—we adhere to regulations on this." 	
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14.	SUCSESSES AND CHALLENGES	<p>Success:</p> <ul style="list-style-type: none"> ✓ "While in the beginning there was a challenge with resistance to change, especially as female managers were appointed, this attitude has changed because females have proved themselves as capable, skilful and knowledgeable. Now there is positive acceptance of the changes." 	
15.	ADDITIONAL SUPPORT NEEDED	<p>Submission:</p> <ul style="list-style-type: none"> ✓ No additional support is needed since SAPS has implemented all of the relevant policies. 	

10.1.2 Questions and comments

	QUESTIONS/COMMENTS	RESPONSES
1	The SAPS is a male dominated environment and so what programmes do you have in place for males? We have a responsibility to ensure that men are gender sensitive.	<ul style="list-style-type: none"> ✓ We are consistently doing employment equity training including both males and females. We have these workshops and see members changing their views. In the beginning, people think this is about statistics but it is about much more. ✓ We do sexual harassment training continuously. Odette Reynard is here and she does sexual harassment training and our target is males. We see men changing owing to this—it's enormous. Cases are dropping—the reported cases drop owing to this. ✓ We have a domestic violence course too and how to deal with rape victims. ✓ Our employee health and wellness group has a colleague sensitivity workshop. ✓ So we have many practical workshops to ensure that men are more gender-sensitive.
2	In terms of victim empowerment and the victim charter, how many specialised people do you have in your respective stations for this?	<ul style="list-style-type: none"> ✓ There are only 5 stations (5%) that do not have a victim empowerment facility. We have victim friendly rooms and chairs, toys, toiletries, sanitary equipment and other things. ✓ On each shift, the female helps the victim as opposed to a male and these women are trained. ✓ Males are trained too.

3	How many cases that get reported actually get to the court? Do you operationalise your policies?	<ul style="list-style-type: none"> ✓ We did provide a portfolio committee presentation with this data that you are asking for but I do not have it here with me. ✓ The police service experience on domestic violence cases is that most women want to withdraw the case the next day. If women do not want to act as a witness we cannot continue with the cases. ✓ We did have an analysis in terms of rape and domestic violence and most cases involve family members—uncle, brother, father etc. – and then the family intervenes to get a withdrawal of the case.
4	In terms of childcare facilities, what is your target? It is noted that you cannot do this all over. Can you partner with other departments?	<ul style="list-style-type: none"> ✓ We have units especially for child and female cases. These were originally in Kimberley and Uppington and now it is in most places. ✓ These units also provide the police with training on cases dealing with women and children. ✓ From the time they enter the station they are taken right away to the described facilities.
5	On the childcare facilities, are you planning to deal with this? The problem was stated but what solution are you looking at?	<ul style="list-style-type: none"> ✓ There is no movement in terms of this but it was discussed in Women's Network Meetings. ✓ SAPS is a big group and this would become a very intensive project involving major budget allocations. ✓ We also rely on the national office and cannot just start this on our own.
6	On intergovernmental relations, we see people working in silos and it does not seem that departments liaise on facilities. Maybe the Department of Public Works or Education can support you in meeting the needs of your employees? Might even make their facilities better to work with SAPS.	<ul style="list-style-type: none"> ✓ In terms of relations, we are part of the CJS cluster and we do work monthly with other departments and discuss matters of mutual interest ✓ Our stations are sometimes 80kms out on a gravel road and then DSD cannot just send a SW to these places. ✓ Police have to transport victims to nearest facilities. ✓ Yes—other departments have to get involved but owing to the above this can be challenging. ✓ We are busy with a retention strategy on rural areas. Our women and young people get bored in these places. They cannot go to movies or even get a headache tablet. Some must travel 80km to get fuel! They are always requesting a transfer out to bigger cities. So, we are in the early stages of working with the Department of Public Works to do something about the infrastructure in these places. ✓ What can we use as motivation? Rural pay. Improve facilities as if they were border posts. Use the development fund to build a gym or something like that.

7	<p>Kamraj—In your EE Report Section B, a salary band refers to students and there are far more males there than females. If you want to push towards a 60/40 target, why this?</p>	<ul style="list-style-type: none"> ✓ In terms of our students, we do have a challenge. Our recruitment requirements are high. Your body mass index must be high; you need physical fitness, mental fitness and a health test is administered. ✓ Recently we had 50 posts allocated to us and struggled to get female applicants and then when they applied they did not pass the above tests. ✓ One problem was that psychometric tests were in English (most people here speak Afrikaans). ✓ We even tried to reduce our requirements in terms of mass and weight but people must still pass these tests. People have to be mentally stable. Also our training is 8 months and this is difficult for women, they often withdraw if they fall pregnant. Thirteen students in recent training fell pregnant! ✓ Our job requirements for SAPS are such that we cannot have a pregnant woman in uniform chasing a suspect.
8	<p>In your provincial Employment Equity Report and at the MMS and SMS levels, (see first page), you say that at MMS levels you have 38 men to 18 females, and then at SMS level, 14 males to 12 females. Taking cognisance of that, we go down to numerical goals in paragraph 13.2. You are saying from the current position, you will get 25 women on SMS levels (14 males, 15 females) by 2014. How will you make this big change within two years? How do you move so quickly from where you are at to where you want to be?</p>	<ul style="list-style-type: none"> ✓ Consultative forum and equity targets are separately monitored and evaluated. ✓ We do monitor and personnel services have to explain why they do not attain targets. ✓ We had 112 posts for our January 2013 intake and we want women. The closing date was 12 November and we got a lot of female applicants but how far will they get when it comes to our requirement tests? ✓ Our physical requirements are very high. In one instance you must run and drag a bag at the same time. We cannot lower such requirements. ✓ The consultative forum acknowledges that we cannot attain our targets. ✓ We have a number of allocated posts and work out the national demographics. We do this as a paper exercise. National demographics vs. available posts to try to meet these requirements. ✓ We almost comply with the target nationally but we have particular challenges in the Northern Cape. ✓ We are a national department that uses the national targets. ✓ We recently advertised 10 MMS posts and received our targets and 50% of appointees were female and so our new report will look better than what was presented today.
9	<p>Where is your gender focal point person and how much budget is allocated at that level?</p>	<ul style="list-style-type: none"> ✓ A major general is a gender focal point person and Lt. Col. Reynardt in HR management (present at the hearings) is the coordinator on employment equity and training. She addresses all complaints and all grievances ✓ A Lt. Col. Xolani looks in the same manner at disability.

10	Kamraj: In terms of the Employment Equity Act (Sec 19), an analysis must be done with regard to any obstacles and our chair tried to lead you onto analysing this. You should be doing the analysis but you let it slide as something you cannot take further but that is not complying.	✓ Response: We did not just leave it and the Women's Network did a survey to find out why women are not applying in rural areas. We tried to convince them and had career exhibitions to teach women about how they could rise through the ranks. The outcome of such projects is not positive. No clinics, doctors, schools in many of our places. We do need a rural strategy to better the lives of people in those places but this is a big challenge.
12	Commissioner Nare comments: We need to improve on recruitment and therefore people should not get pregnant while on the course. They should have medical tests at the start, and then they should be instructed not to fall pregnant during this period. This is gender-sensitive in terms of the choices that people make. Choices go with certain conditions.	✓ No response.
13	Commissioner Nare comments: Try outreach to schools so that you recruit girls from schools, targeting Grade 11. We need younger women coming through the ranks.	✓ No response.
14	We acknowledge your report and believe that you are doing a lot of work. We were a little uncertain about your HIV/AIDS policy but it is a good report.	✓ No response.
15	You need to work with the Public Service Administration to achieve targets too.	✓ No response.
16	Please email us your statistics so that we have more relevant evidence within the next 7 days.	✓ No response.

Questions and comments taken from the audience relating to the SAPS presentation

QUESTIONS AND COMMENTS TAKEN FROM THE FLOOR ON THE SAPS PRESENTATION		RESPONSES
1	Pearl Ntsiko, Statistics SA: With regard to your recruitment, approach the statistics office for the database in terms of matriculants currently not working. We can give you names of females that have certain qualifications.	✓ CGE: This speaks to intergovernmental cooperation and outreach too.
2	Mpherefere Molwaledi, National Institute for Higher Education and Corporate Services: In terms of relationships with the opposite sex while in training, it is difficult to tell them not to have sex. They should rather be supported to see how they can delay training.	✓ SAPS: We have health and wellness people who work with the trainees right along in the colleges and they help with family planning. This is standard practice but girls still fall pregnant.
3	Maphefo Molatlhwa, Provincial Legislature Gender Focal Person from Galeshewe: The Major General indicated that she has the females but what are the demographics of the women who get hired by police?	<p>✓ Top post = white female.</p> <p>✓ Level of Major General: 5 females, 3 males, 1 African male, 2 coloured males, 1 white female and 4 black females.</p>
4	Jasmine Mohamed, Agriculture GFP: First, we are responsible for rural development and I want to commend the SAPS because they always assist us. Second thing, your requirements for recruitment includes health but when you are in the force this is not maintained! Third, the pregnancy of the young women on the force and even school children concerns us. When we were young, we were scared to even kiss a boy but there is a problem now because young people are having sex. We are working in silos and we all have the same programmes! We need to work together to solve the problems.	✓ SAPS—on fitness issues. It was in the media about 5 years back that the police were not fit. So now we do regular fitness tests and we monitor members. We all have to undergo this. There is a police gym in Kimberley to keep the police fit too. We have a firearm competency test too that involves physical fitness. We offer police special rates at Virgin Active too.

5	<p>Mark Makhel from the Department of Environment and Major Conservation in Northern Cape (Special Programmes): My concern is that you said it is too difficult to place women in the rural areas owing to the schools and facilities found there. Are there not women in these rural areas that can rather be targeted? If they live there, how do they cope? Surely if they cope, they can cope as a police officer? Secondly, in terms of the budget for the gender focal person, what is that?</p>	<ul style="list-style-type: none"> ✓ Firstly, on the budget for the gender focal person, there is no budget for this because it is under human resource utilisation. ✓ Secondly, the Women's Network is dependent on donations from business and other means. ✓ We do have females in the rural areas. When we want to appoint or promote people to these areas, this is when we have a problem. ✓ We do also appoint women from the targeted communities to the stations there and so we do have this strategy. ✓ This is easier for us, strategically. So, we do address this but it was also a changed approach as we did not do this in the past.
6	<p>Commissioner Nare: This is a problem for deploying teachers and other professionals too. Rural areas lack infrastructure and are not always ideal for families. We need partnerships with the Public Services Administration. They need to come to the table to help us.</p>	

10.2 The Department of Education

An attempted presentation was rejected. *It was unacceptable by the GCE, because the Head of Department was not present and would be subpoenaed.* Mr. GT Pharasi, HOD, Northern Cape, authored the written submission. Present on 'Day One' were: (a) Assistant Manager, Mr. Itumeleng Morwanyane; (b) Tay Matseliso from Human Resources; and (c) Goleli Lemang Mogorosi. On 28 November, the Head of the Gender Unit apologised for the HOD, who could not attend. They had not prepared a presentation but the speaker said he would talk through the document and answer questions. He was stopped in order to find out what had happened to the Head of Department: "The Head of Department went to another meeting. He left yesterday and was supposed to be there for two days."

The Chair of the Commissioners Panel, Commissioner Nare, made an adverse order against the Department of Justice. The Commissioner advised that the CGE will subpoena the HOD of the Department of Justice.

10.2.1 Submissions on standard questions and testimony

	STANDARD REVIEW QUESTIONS	TESTIMONY (WITH REFERENCE TO SUBMISSION IF RELEVANT OR AVAILABLE)	COMMENTS AND/OR FINDINGS
1	EMPLOYMENT EQUITY PLAN: In terms of section 20 of the Employment Equity Act No. 55 of 1998, a designated employer must prepare and implement an Employment Equity Plan. Does your institution have an Employment Equity Plan? If so kindly provide a copy.	<p>Submission:</p> <ul style="list-style-type: none"> ✓ DRAFT PLAN 2012-2014 (Annexure A). ✓ There is an Employment Equity Forum (Annexure H) <p>Testimony:</p> <ul style="list-style-type: none"> ✓ None. 	Draft
2	SEX AND DISABILITY DISAGGREGATED DATA OF YOUR TOP MANAGEMENT AND SENIOR MANAGEMENT POSITION.	<p>Submission:</p> <p>Females</p> <ul style="list-style-type: none"> ✓ Top management – 1 African female. ✓ Senior management – 26 females. ✓ Professionals – 2,201. ✓ Total permanent: 11,928. <p>Disability</p> <ul style="list-style-type: none"> ✓ 2 Africans, 1 coloured – females. ✓ 4 males. ✓ “Some may have failed to declare their disabilities.” <p>Testimony:</p> <ul style="list-style-type: none"> ✓ 12,000 employees and 9,000 are educators. 	
3	MEASURES. What measures have been put in place to promote gender transformation and to increase women’s representation in senior management and top management at your institutions?	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Still in planning. ✓ Gender Policy 2002 submitted as Annexure C. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ None. 	

4	WHO is responsible for implementing and overseeing gender transformation at your institution?	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Human Resources Management and Chief Directorate School Management. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ None. 	
5	PERFORMANCE REVIEW. Does implementation of gender transformation measures form part of the performance review of senior managers? If no, kindly provide reasons for this.	<p>Submission:</p> <ul style="list-style-type: none"> ✓ In process. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ None. 	
6	RESOURCE ALLOCATIONS. What resources have you allocated to support gender transformation as mentioned above? If no resources have been allocated, why?	<p>Submission:</p> <ul style="list-style-type: none"> ✓ The Department has established a Gender Unit with personnel at head office and districts and have allocated a budget to initiate gender programmes in the department. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ None. 	
7	WOMEN WITH DISABILITIES. What mechanisms or systems are in place to track the movement of women with disabilities to senior management or top management priorities at your institutions?	<p>Submission:</p> <ul style="list-style-type: none"> ✓ The employment equity plan guides the department on recruitment. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ None. 	

8	<p>RECRUITMENT POLICY. Do your recruitment policies specifically target men and women for disabilities for recruitment to senior positions? If so, please provide us with a copy of your recruitment policy which makes provision for this. If not, kindly provide reasons why.</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ “Yes—Department does have an Approved Recruitment Policy—see Annexure D” <p>Testimony:</p> <ul style="list-style-type: none"> ✓ None. 	
9	<p>MENTORSHIP AND/OR CAPACITY BUILDING. Are there programmes aimed at accelerating women and disabled people’s progression to senior and top management positions? If not, why not? Kindly provide reasons.</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ None. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ None. 	
10.	<p>CHILDCARE. Does your institution provide childcare facilities and/or flexi-time or working from home to balance family responsibilities with work? Please provide evidence thereof.</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ None – no child care facility. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ None. 	
11	<p>AWARENESS. What steps have you taken to initiate awareness on gender equality and discrimination in the workplace? Who has been targeted with these measures and what success has been achieved thus far?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Information sessions on gender mainstreaming. ✓ Men and Women’s Forums to deal with issues of transformation in the departments and at schools. ✓ Targets: Personnel and senior management. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ None. 	

12	<p>GENDER DISCRIMINATION & SEXUAL HARASSMENT POLICIES. Kindly provide us with copies of these policies. How effectively have these policies been utilised? If there are no policies in place or you have not utilised these polices, what explains this?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Copies attached. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ None. 	
13.	<p>In terms of section (19)(1) of the Employment Equity Act, a designated employer must collect information and conduct an analysis of all relevant employment policies, practices, procedures and the working environment in order to identify employment barriers which adversely affect people from designated groups. Kindly provide these policies. (See next table.)</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Annexure D-Recruitment and Selection Policy and Succession and Career Pathing. ✓ Annexure E-Disciplinary and Grievance Procedure. ✓ Annexure F- Code of Good Practice. ✓ Retirement Planning—integrated into GEPE. ✓ Annexure G-Promotions and Remuneration. ✓ Annexure H-Minutes from Employment Equity Forum. ✓ None – Uniform and Protective Clothing; Training and Development, HIV/AIDS Policy, Sexual Harassment Policy. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ None. 	
14.	<p>SUCSESSES AND CHALLENGES</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ 46% women in senior management since 2004. ✓ 8 principles plan monitored by chief director. ✓ Gender sub-directorate with staff (4 people at head office and gender focal person in all districts. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ None. 	

15.	ADDITIONAL SUPPORT NEEDED	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Institutionalisation and mainstreaming of gender in departmental programmes to ensure that all groups are addressed. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ None. 	
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11. Findings and recommendations: Private Companies

11.1 Eskom

The scheduled speaker was Miss Mpho Mphephu, General Manager, Human Resources and Transformation but she did not attend the hearing.

The oath was taken by Natasha John, Acting Senior Manager for Organisational Effectiveness. Also on the panel was: Mrs. Gwen Esakala, Eskom's Governance and Compliance Manager; and Mr. Alfred Khaziwa, the Human Resources Manager for the Northern Cape. Mr. Khaziwa was the one who submitted the documentation and also attended.

Mrs John thanked the Commission for the opportunity to present. She had a PowerPoint presentation containing 10 points (not in the standard review order which allowed for some gaps, see table below), which started with the storyline of Eskom ("to offer the context around the environment at Eskom for women and disabled people"). She said, "We have changed our operating manual and framework. Government expectations and plans are in line with a new operating model that will be discussed in terms of an integrated eco-system to address women development." She promised also to review the policies that had been requested. Hard and soft copies of the submissions are available.

In the past, Eskom was decentralised with different services being delivered in different ways. Mrs John said that she used to work in the construction area of Eskom and drove around with a hard hat, safety boots and even safety socks. She had to learn how to work in an intensively male dominated environment. She found this to be an interesting opportunity.

We develop and distribute electricity and indeed have running plants and power stations but that is not all that we do, we are very much a construction company too! People underestimate the challenges in terms of recruitment of women and accommodating disabled individuals.

Previously we were decentralised and there was not much need to know what the other person was doing and this was not a sustainable method of working. It fostered divisions and environments where people could be left out. Now we have a new operating model that informs practices. This is a more horizontally integrated manner of operating. The 'Eskom House' has strategic functions, line functions and service functions. We are much more centralised than previous models and are busy putting in new structures and policies.

One of the criticisms of Eskom is that we had pockets of excellence but it was not throughout the organisation.

Below are Eskom's responses to the standard review questions but some were addressed in more detail than others and some glossed over. The presenter 'skipped around' such that many standard review questions had to be repeated during questioning following the presentation. It was later found in analysis that Eskom were not as compliant as they first appeared to be.

11.1.1 Submission on standard questions and testimony presented

	STANDARD REVIEW QUESTIONS	TESTIMONY (WITH REFERENCE TO SUBMISSION IF RELEVANT OR AVAILABLE)	COMMENTS AND/OR FINDINGS
1	EMPLOYMENT EQUITY PLAN: In terms of section 20 of the Employment Equity Act No. 55 of 1998, a designated employer must prepare and implement an Employment Equity Plan. Does your institution have an Employment Equity Plan? If so kindly provide a copy.	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Targets are based on economically active population and not on 50/50 targets and so the target for women is 34.2% African, 5.2% coloured, 1.1% Indian, and 5.5% white. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ People and a governance board subcommittees exist, that reports directly to the board and they in turn report to the Department of Labour. 	Note: Eskom's targets are nationally focused (not Northern Cape) and in terms of the Economically Active Population (EAP) nationally.

<p>2</p>	<p>SEX AND DISABILITY DISAGGREGATED DATA OF YOUR TOP MANAGEMENT AND SENIOR MANAGEMENT POSITION.</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Female: 7 of 34 (21%) in top management. ✓ Female: 115 of 442 (26%) in senior management. ✓ Disability: 0 of 34 in top management. ✓ Disability: 3 of 443 (0.6%). <p>Testimony:</p> <ul style="list-style-type: none"> ✓ “In terms of women development and disability we have a target and plan. By 2020 we want Eskom to reflect the profile of the country. Three year cycle ends in 2013, and we are busy with a review.” ✓ “Eskom has already achieved the 2013 target—we achieved 26.2% at senior management level as women’s representation.” ✓ We use a scoring card to track all this too—monitoring and evaluation—as follows: <ul style="list-style-type: none"> • On disability we have white males at senior management but no disabled. • Low representation at senior and top management—so when we look at this level, the representation is not high. • However, according to EAP national targets, we are targeting an aggregate. • At an aggregate level 2.43% of people with disabilities in the entire workforce. • Do we need to break disability down per occupation level? Because we do have 2.43% on the entire workforce. ✓ Disabled people do not want to say they are disabled and so we may have more disabled people than we can show. ✓ We adhere to EAP targets. ✓ With disability—we are doing well but there is room for improvement. ✓ Proposal on disability—we have six pillars of transformation—we are doing a proper analysis of the environment (who is disabled?). We do not have a process right now where people feel comfortable declaring their disability. We need to source and recruit more here and do surveillance 	
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<p>3</p>	<p>MEASURES. What measures have been put in place to promote gender transformation and to increase women's representation in senior management and top management at your institutions?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ The 2012/2013 scorecard as a key performance indicator against which all managers will be assessed. ✓ There are gender targets in hiring and promotion. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ Employment Equity and Skill Development Initiative is taking place. ✓ We do transformation recruitment and are trying to deepen our transformation. We want to ensure that the transformation agenda is achieved. ✓ We want to move beyond just numbers—we want to deepen this. Deepening transformation means thinking differently about transformation and moving beyond the numbers into an integrated eco-system. It starts with strategic workforce planning, which we are attempting to do but are not fully there. We are looking at: <ul style="list-style-type: none"> · Strategic workforce planning · People Sourcing · Skills Development · Income and Performance Differentials · Women Development ✓ "Women development—Workforce Planning' is an important foundational component and this will allow us to close the gap. We have had an increase in female employees of 20% since 1990." ✓ We have a model to address women's development that includes establishing a women's forum and having awards for things like women of the year. We also have a charter and I would like to be personally involved in this. 	
<p>4</p>	<p>WHO is responsible for implementing and overseeing gender transformation at your institution?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ General Manager-Human Resources. ✓ Senior Manager, Operations and Maintenance. ✓ Senior Manager, Works Planning and Centralised Services. ✓ Senior Manager (Kendal power Station). <p>Testimony:</p> <ul style="list-style-type: none"> ✓ Employment Equity and Skill Development Initiative is taking place. 	

5	<p>PERFORMANCE REVIEW. Does implementation of gender transformation measures form part of the performance review of senior managers? If no, kindly provide reasons for this.</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Top and senior management performance reviews include gender targets in line with the organisational corporate plan. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ As above. 	
6	<p>RESOURCE ALLOCATIONS. What resources have you allocated to support gender transformation as mentioned above? If no resources have been allocated, why?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Supervisors and managers are developed (regardless of gender). ✓ Women in Leadership, a new Eskom Initiative for 2013-2014—targets women for leadership positions. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ No clear data on this provided in testimony. (The speaker did not take the questions in order but skipped around, missing this one.) 	
7	<p>WOMEN WITH DISABILITIES. What mechanisms or systems are in place to track the movement of women with disabilities to senior management or top management priorities at your institutions?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ No specific strategies. <p>Oral Testimony</p> <ul style="list-style-type: none"> ✓ “We are developing this and working to meet legislative requirements.” ✓ “We have exceeded the government target but have not met our own target in terms of 3%.” ✓ “We are also working on authentic practices where we can grow our numbers.” 	
8	<p>RECRUITMENT POLICY. Do your recruitment policies specifically target men and women for disabilities for recruitment to senior positions? If so, please provide us with a copy of your recruitment policy which makes provision for this. If not, kindly provide reasons why.</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Recruitment Policy. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ No data. 	

<p>9</p>	<p>MENTORSHIP AND/OR CAPACITY BUILDING. Are there programmes aimed at accelerating women and disabled people's progression to senior and top management positions? If not why not? Kindly provide reasons.</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Women's Legotla focusing on work/life balance, mentoring and coaching, and self-development. ✓ CEO's Women's Programme: Women in science recruited to get engineering degrees. ✓ Women in Leadership: Developing women for leadership positions. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ Initiatives to support women development. ✓ Women development forums. ✓ CEO programme to develop women as engineers. ✓ Women development programme being launched. ✓ Sent school girls to the United Nations. ✓ We do things for Women's Day / events / month. ✓ Much of this happens on an ad hoc basis but we must help divisions to strategise better. They need targets and calendars. 	
<p>10.</p>	<p>CHILDCARE. Does your institution provide childcare facilities and/ or flexi-time or working from home to balance family responsibilities with work? Please provide evidence thereof.</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ No childcare facilities. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ We have no childcare facility at Eskom. We have been criticised for this. A power station environment is not necessarily conducive. ✓ We do have a concierge kind of approach. Any employee can get information at any time about crèches in the areas that they work in. ✓ We need to improve this. We want women to work at Eskom and we do not expect them to be men in a highly technical environment. 	
<p>11</p>	<p>AWARENESS. What steps have you taken to initiate awareness on gender equality and discrimination in the workplace? Who has been targeted with these measures and what success has been achieved thus far?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ A Women's Legotla focusing on work/life balance, mentoring and coaching, and self-development. ✓ CEO's Women's Programme. ✓ 4 schoolgirls sponsored to visit United Nations . <p>Testimony:</p> <ul style="list-style-type: none"> ✓ As above. 	

<p>12</p>	<p>GENDER DISCRIMINATION & SEXUAL HARASSMENT POLICIES. Kindly provide us with copies of these policies. How effectively have these policies been utilised? If there are no policies in place or you have not utilised these policies, what explains this?</p>	<p>Submission:</p> <ul style="list-style-type: none"> ✓ Code of Good Practice Policy. ✓ Employment Equity. ✓ Sexual Harassment Policy. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ Addressed in the submission only. 	
<p>13.</p>	<p>In terms of section (19) (1) of the Employment Equity Act, a designated employer must collect information and conduct an analysis of all relevant employment policies, practices, procedures and the working environment in order to identify employment barriers which adversely affect people from designated groups. Kindly provide these policies. (See next table.)</p>	<p>Submissions:</p> <ul style="list-style-type: none"> ✓ Resourcing Policy (submitted as Recruitment and Selection Policy). ✓ Disciplinary and Grievance procedure. ✓ Code of Ethics (Code of Good Practice). ✓ Safety Rules Enforcement (Uniform and Protective Clothing). ✓ Human Resources Development Policy and Learning Development Procedure = Training and Development Policy. ✓ Health and Wellness Policy . ✓ HIV/AIDS Policy. ✓ Talent, Succession and Career Management Procedure (submitted in lieu of Succession Policy/Career Pathing. ✓ DRAFT Eskom Retention Framework (as staff retention policy). ✓ Procedure on Exit Management (submitted as policy pertaining to retirement planning). ✓ Sexual harassment policy (as Procedures on Industrial Relations—Sexual Harassment). ✓ Policies pertaining to Remunerations and Benefits. ✓ Minutes from the Employment Equity Forum. <p>Testimony</p> <ul style="list-style-type: none"> ✓ No retrenchment strategy. 	

14.	SUCCESES AND CHALLENGES	<p>Submission:</p> <ul style="list-style-type: none"> ✓ 26.2% women representation at senior management level. ✓ 38.8% of all hires are women. ✓ People with disability are 2.43% of workforce. <p>Testimony:</p> <ul style="list-style-type: none"> ✓ Not covered (the speaker skipped around from topic to topic). 	
15.	ADDITIONAL SUPPORT NEEDED	<p>Testimony:</p> <ul style="list-style-type: none"> ✓ Not covered (the speaker skipped around from topic to topic). 	

10.1.2 Questions and Comments

	QUESTION	RESPONSE
1	Mr Wallace Mgoqi comments: I like the notion of not being quantity driven and the importance of deepening a culture and the CGE is also about this. We do not want to just throw up numbers.	<ul style="list-style-type: none"> ✓ No comment.
2	Mr Mgoqi: It is easy to paint a glossy picture. We need to monitor and verify your accomplishments as well. How do you measure your compliance?	<ul style="list-style-type: none"> ✓ Verification of performance differentials. We do look at income differentials in terms of our reports on gender transformation. In terms of performance differentials. ✓ The performance of employees is not consistent. We have evaluated differently on different people and the graph gets skewed. We measure compliance on how the business is performing in connection with how people are managing. ✓ We want to have a collaborative teamwork approach but it has just been introduced and the transformation is painful. Teams have to work together in order to perform but historically, individuals were high fliers. We are going through a cultural shift and people have to come to terms with this. ✓ We are trying to link performance to strategic objectives and we now have key performance indicators and individual ones (20%) and performance indicators in terms of team performance. This is a paradigm shift and we do mid-term reviews.

3	Is this the Northern Cape that you are presenting or is this a centralised view?	✓ "I gave you an Eskom presentation and not a Northern Cape presentation. You may need a divisional presentation"
4	Sexual harassment – How many cases? How many cases closed?	✓ "I do not have details on sexual harassment cases that have opened and closed."
5	The EE committee – Do they meet in terms of gender transformation?	✓ "On the EESD committee, is gender foremost on the agenda? I take that point and thank you for that and we will have to raise this with the EESD committee. We have had relationship building issues here and with colleagues in organised labour. Today an Employment Equity Plan was presented and there is an on-going discussion. No manual submission of this in November because we are trying to consult. Information was ready but we are working with these people and need to submit by 15 January."
6	A gender statement is not integrated into the values and principles of the organisation.	✓ "We have six values and gender is not mentioned here. No harm, Ubuntu, Integrity, Excellence, Innovation, and perhaps Customer Satisfaction. Gender is not specifically mentioned. We do not have a value called transformation"
7	Around disability and the targets, this is not at a top level. It is great that you have your own milestone throughout the workforce. It should also be at the higher level. You must strive to achieve the higher level.	✓ "On disability, we have not beat government targets. We are guided by occupational levels and have achieved something but we lack guidelines on disability. We have made efforts but not consistently across the different levels."
8	At the UN, did you send women on bursaries for learning about gender?	✓ "On the UN tour—what made for the gender makeup there? I don't know."
9	How do you attract women into Eskom?	✓ No comment was made (some 20 questions were posed at once and some questions got skipped, forgotten or were not noted).
10	Take us through your sexual harassment policy. Who are you supposed to go to? A manager? What is the routine here? An individual who is sexually harassed should not try to sort it out personally and you had this in your documents. This is a serious offence.	✓ "On sexual harassment—is it not weighted strongly? In terms of policy and practice, we follow a normal grievance and disciplinary procedure. We have these processes and they have been submitted. What if it is your manager, where do you go? Maybe they can go to a different senior manager".
11	Where are the women in your company? Give us the accurate percentages now.	<p>✓ Where are women positioned in the business and what are their challenges? Not all positions available are in office bound environments and we also have shift work and work off site. Difference is, women are mainly in support functions and are office bound.</p> <p>✓ Note: This question was glossed over and so Commissioner Nare repeats it again further below.</p>
12	What are the challenges?	✓ No response.

13	Kamraj: It is commonly known that Eskom provides bursaries to scholars. What is the gender breakdown of this?	<ul style="list-style-type: none"> ✓ “Bursaries to scholars? —We will get back to you. No statistics.” ✓ “We are focusing more on girls. We have 18 schools in the rural areas where girls are reluctant to do maths and science. We bring them on board to give them a future. We interest them in maths. This programme is more about girls than boys”.
14	Kamraj: From statistics provided we see 327 males vs. 115 females at senior management. At top management 25 males and 8 females. From 1998 to now would be well over 20 years – this is a very slow pace of transformation. We agree that there has to be meaningful transformation but this landscape shows up in the statistics! What are the barriers to progress?	<ul style="list-style-type: none"> ✓ The management landscape—is it transformed? We have stats and this may change before our March 2013 target. ✓ We have done a strategic review and transformation is now part of the 8 strategic imperatives. Setting up for success (restructuring), elevating transformation (this is now in there). There is no maturity here because this is in the beginning phases.
15	The ACT requires equity across all economic levels and this is not negotiable. From your presentation, I get the idea that you are getting equity across the workforce but not at each level.	<ul style="list-style-type: none"> ✓ In our submission to DOL this year, incomes across different demographics exist and we are attempting to correct this. We are in process. We do not have a signed off document that has gone through EXCO yet but we know it needs to be sorted out.
16	Commissioner Nare: Where are the women in your top management? What is the plan? (This repeats an earlier question that did not obtain a response.)	<p>At top and senior management level women are not well represented:</p> <ul style="list-style-type: none"> ✓ At top and senior management—for females we have a target of top managers of 9.52% and we sit on 12.5% for African females ✓ Women in senior management are at 25% and males are at 75%. ✓ Top management has 5 females: 4 African females, 1 white female. This is 25% of top management. ✓ Top management – African female target is 15.9% and we are sitting on 12%. ✓ Coloured females – target 7.6% and at end of September 3.3%. ✓ Indian females at top management. Target is 4.76% and we are at 3.1%. ✓ White 4.76% target and we sit at 3.13%. ✓ Coloured female target for senior managers is 3.9% and now on 2.94%. ✓ Indian females are 3.27% target and now on 4.07%. ✓ White female SM target is 5.32%. In September we had 6.33%.

17.	Commissioner Nare (repeating the question): What are your plans?	<p>✓ We have EAP targets year on year to get to the employment profile we want. See Section Two of the submission. We want 34% African females by 2020. See the submission</p> <p>✓ Sep 2013---not likely to be in line with EAP targets</p>
18.	Why the slow pace of gender transformation? This is a concern. The CGE has been many years in existence and you have 75% males in top management. Also I have not seen the analysis and the gaps. You need to say what you need to do to accelerate this!	<p>✓ No comment.</p>
19.	Your sexual harassment policy is non-compliant. There is really nothing here. "Eskom encourages employees to deal with sexual harassment informally. If the informal approach fails, a grievance should then be launched with the manager" This is inadequate.	<p>✓ "We do not want to come across as uncaring as women and men can both be harassed. Our safety policy may be well thought-through because we have had serious issues with regard to this. We will take your comments back and will not ignore other important areas and policies."</p>
20.	Your safety rules policy is just a set of guidelines.	<p>✓ No comment.</p>
21.	Commissioner Nare: You are being gender insensitive.	<p>✓ "On the formal and informal attempts to resolve this... on any kind of issue, I might have an idea of racism on your part and this could owe to misperception."</p>
22.	Natasha: You are not concentrating on the core of the matter and your gender policy is insensitive. You cannot report to the manager and put the entire onus on the one who has been violated. This is your employee. You need a gender unit and gender policies and you have presented evidence that this is not there.	<p>✓ No comment.</p>
23.	Commissioner Nare: You have 25% of the women in the workforce because you are not taking care of them. You seem unconcerned about gender transformation. It does not appear to be one of your values. Your policies need revision and more detailed discussions of how you are going to transform the organisation.	<p>✓ No comment.</p>
24.	Commissioner Nare: You are very slow and not moving with the times. You are a parastatal and we will present to Parliament that we are concerned about Eskom not conforming to the policies that are there.	<p>✓ No comment.</p>

25.	Your attention framework, Section 15 of the Employment Equity Act should make provision for retaining designated groups like black women and people with disabilities and you are not speaking about this at all. You are not compliant with section 15 of the Employment Equity Act. You charge people a lot for electricity, and so therefore you can do your work properly!	✓ No comment.
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Further comments from the floor and the Commissioners Panel

Comments from the floor and Commissioners		Observations, responses, notes
1	✓ Jasmine Mohamed, Agriculture: Firstly, when it comes to gender equality, I am very sensitive. We are 18 years into a democracy and Eskom is not gender sensitive. People do not even understand the meaning of abuse. Secondly, what are we doing as women in leadership positions? Thirdly, when it comes to creating a 'conducive environment', even the toilet has to be gender sensitive and yet there is no policy on gender sensitivity in your organisation. We need this, otherwise the law is not protecting us. On the 8 principles of government, this is good guidance on gender and Eskom should work with government on this. It is not so good to work in silos. Every policy Eskom has must be gender sensitive and you need a Gender Unit. HR is not good enough. It is policy that protects us and yours is lacking.	(The general feeling from the respondents was that ESKOM had presented national data and not provincial data and that what was presented was not gender sensitive.)
2	✓ A Commissioner: You have given us national data and not provincial data.	ESKOM: "We can provide provincial data."
3	✓ On salary discrepancies, please explain these.	ESKOM: We do an analysis of this every year and we send this to provincial to give them the necessary corrections. We look for this in terms of men and women doing the same job.
4	CGE: We want gender disaggregated information. This is a requirement. You need this data in order to connect the dots. We have raised the alarm with Eskom. You are broad and general and not focused on the details. What is happening in the Northern Cape? We needed this information. What is the unit here, doing? What are the cases in the Northern Cape? That is what we wanted to have and we asked you for this provincial information.	

5	Commissioner Nare: There appears to be no gender unit then in the province. The level of seniority of the person, is important. This is a senior position. The gender focal person and a budgetary allocation is needed. This is a constitutional and legislative issue. This has to do with compliance with the constitution and the law.	
6	Comment of GCE (Kamraj): It has been raised many times in the course of many hearings that a weak point in the process of gender transformation in the workplace may be the Gender Focal Points. There appears to be a need to also conduct research into the levels, budget, and challenges of the Gender Focal Person who are most often at too low a level in an organisation to make impact and are also under-resourced. Recommendations out of this research could be employed to craft legislation that defines the powers, functions and budgets of the Gender Focal Points.	
7	Eskom is departing.	Eskom—we welcomed the suggestions today and hopefully we do not just see each other at hearings and we appreciate the guidance from you and other industries.

12. A summary from Commissioner Wallace Amos Mgoqi (Western and Northern Cape)

These are not findings or rulings as these are still to come. Yesterday we stated the purpose of the hearings on employment equity. This is to assess what is happening in the public and private sector insofar as transformation is concerned with gender equality. We have been busy with that process and more often than not we state this as an enquiry process. Those requested to appear, must partake and present facts and evidence as to what is happening in their departments and companies.

Yesterday we had some presentations by the Department of Justice and others. The trend right across and up to the last presentation is that at the top management level you do not find many women. The Department of Justice is an example of this and yet they are a custodian of matters of justice and equity. They even have a review committee to look at the structures and processes that are in place.

In terms of disabled people, we see large room for improvement.

Yesterday we heard a sexual harassment matter and we heard this without camera so as not to infringe on the current case. (An application was made to withhold the matter from the camera and was granted.)

The Department of Social Development—many matters were raised here too and we emphasised the need to monitor this department very closely and they need further assistance to become gender compliant.

The Department of Education was required to come before us and they defaulted. The HOD did not appear and sent a junior official to appear in his place. We will respond to this default. (See Department of Education data below.)

We had a presentation by De Beers in the afternoon and had a robust engagement.

Pikwane came and the head of the organisation was not present and therefore we did not conduct an entire proceeding with them.

The Acting Provincial Commissioner for SAPS took us through a range of documents but again top management and disabled posed challenges.

There is a culture of non-compliance and also of just ticking the boxes and thinking that the matter ends there. We have to go beyond just compliance but one must comply and it is our job to monitor this. It is important

and even more important, is changing the culture and practice and developing a new ethos of transformation in the minds and the hearts of people. Gender Equality is sometimes seen to be just about women and women transformation and not about changing the attitudes of males.

Government departments tend to work in silos and when they reach a Cul de Sac and are stuck they do not resolve the matter which could be resolved if they changed their approach by liaising with other departments and stakeholders.

Companies like De Beers are often inward focused rather than outward focused on social responsibility in terms of promoting gender equality. Conditions around mines are not always too good and women, children and people of disabilities really suffer here.

We have to strengthen knowledge about gender equality and move to implementation. People do not move to this stage even though it is in our constitution and in our laws.

What is this about? We need a culture of accountability so that all of us in both public and private spaces come to realise that we have to act in a more accountable way and explain what we do and what we do not do. The pace of transformation is slow overall and it shows a lack of commitment. Now we have to increase the pace to create throughout society a more conducive environment so that all people can fulfil their potential including those discriminated against by gender oppression.

13. Closing Comments

Commissioner Nare: Advocate, please outline what we should do about the Department of Education.

Advocate: The Commissioner can subpoena them and make them cover the costs to repeat their appearance.

Commissioner Nare: We had to do this with Pikwane Diamonds because they did not come voluntarily.

CCMA: A comment on sexual harassment. There are problems here because one presentation or workshop cannot address this issue. There is also resistance when we invite people to attend these. Please attend and let us help you.

Speaker from the audience: Thank you for handling the departments that do not comply. We struggle to get people involved and when you subpoena them it assists us in getting people to take these issues seriously. So the GCE has this value for us locally.

Member of audience: I am very impressed and happy with what the Commission is doing and can I ask that you do road shows to different departments. A lot of departments do not take gender very seriously. Institutions of management do not really know the significance of gender issues. Parliament is failing us too. There has been a Gender Equality Bill for long but it is not really enacted. The levels of the gender focal people are really low—at most deputy directors but it should be a director who can advise senior managers. You cannot be in a low position and make a difference.

Bigman Crutje, SA Local Government Association: We congratulate you on these events. Last time, the media had a field day asking, 'can the Commission bite or just bark!'. Now we see the corner has turned and you mean business but the media is no longer here. But the Commission can help us with another challenge—at the level of the municipalities. Deployments are at an ad hoc basis for gender focal persons—they are tasked with multiple jobs too. The units for gender and disability are in the mayor's office too and therefore you should take a look at this—they need to get serious too.

Commissioner Nare: The legal advocate is writing out a subpoena to the Department of Education and we will read it out too.

Kamraj: As delegated by the chairperson ruling is that under Section 111 Subsection 1 of Act 39 of 1996 we had scheduled a meeting in Kimberley on 28 and 29 November and all attendees were confirmed but the HOD did not attend the hearing as promised and we will make the HOD liable for costs and will subpoena him to appear on a date determined by the CGE.

14. Appendices

Appendix 1

The programme for Day One of the Hearing, Wednesday 28th of November 2012

TIME	EVENT	SPEAKER
0800-0900	REGISTRATION	
0900-0915	OPENING, WELCOME AND PURPOSE OF THE EMPLOYMENT EQUITY HEARINGS	COMMISSIONER WALLACE MGOQI
0915-0945	GENDER TRANSFORMATION IN THE WORKPLACE: EMPLOYMENT EQUITY FINDINGS AND RECOMMENDATIONS	COMMISSIONER JANINE HICKS
PRESENTATIONS WITH QUESTIONS BY CGE PANEL		
1000-1100	RESPONDENT ONE: DEPARTMENT OF JUSTICE	COMMISSIONER'S PANEL
1100-1200	RESPONDENT ONE: DEPARTMENT OF JUSTICE (SEXUAL HARRASSMENT CASE)	COMMISSIONER'S PANEL
1200-1300	RESPONDENT TWO: DEPARTMENT OF SOCIAL DEVELOPMENT	COMMISSIONER'S PANEL
BREAK FOR LUNCH 1330-1400		
1410-1500	REFLECTIONS ON DAY ONE WHILE AWAITING NEXT PRESENTATION (RESPONDENT THREE DID NOT APPEAR: DEPARTMENT OF EDUCATION MOVED TO DAY TWO ¹³)	(COMMISSIONER'S PANEL)
1505-1630	RESPONDENT THREE: DE BEERS	COMMISSIONER'S PANEL
1640-1700	RESPONDENT FOUR: PIKWANE DIAMONDS	COMMISSIONER'S PANEL
1700-1710	CLOSING REMARKS	COMMISSIONER'S PANEL

¹³The Director did not appear and sent HR person instead and so the Department of Education hearing was rescheduled for the next day

Appendix 2

Findings on the material submitted by the Department of Justice to the Commission for Gender Equality

Note: Most of the documentation is national and marked as not submitted if the provincial policies and documents could not be found.			
	Policy	Submitted?	Reference to document or annexure
1	Employment Equity Policy	No—a provincial plan was not submitted; the national plan was submitted along with a statement of Intent.	Annexure 2—see circular 54 on intent.
2	Recruitment and Selection Policy	No—a provincial plan was not submitted but a national recruitment and selection policy was submitted along with a recruitment and selection procedure manual.	Annexure 3
3	Disciplinary and Grievance Procedure	No—national ‘steps and processes as well as timelines to follow when dealing with a Complaint/Grievance’	Annexure 6
4	Code of Good Practice	No—National Code of Conduct submitted.	Annexure 5
5	Uniform and Protective Clothing	Nothing submitted.	No submission
6	Training and Development Policy	Nothing submitted	No submission
7	Employee wellness	No—National Employee Health and Wellness Policy was submitted.	Annexure 4
8	HIV/Aids Policy	Nothing submitted.	No submission
9	Succession Policy/ Career Planning	Nothing submitted.	No submission
10	Staff Retention Policy	Nothing submitted.	No submission; testimony said it was in draft and ‘very advanced’.
11	Retirement Policy	Nothing submitted.	No submission
12	Sexual Harassment Policy	No—National policy was submitted; See Sexual Harassment Case of Mrs Bulelwa Ngcapayi (further below).	Annexure 4; Annexure A
13	Promotions Policy	Nothing submitted.	No submission
14	Salary and Benefits Policy	Was not in original request.	Never requested
15	Employment Equity Forum (minutes)	Nothing submitted.	No submission
16	Gender Focal Point at DD Level	<i>Was not in original request.</i>	<i>Not in original request</i>

Appendix 3

Findings on the material submitted by the Department of Social Development to the Commission for Gender Equality

THE CDG TO REVIEW, COMPLETE AND APPROVE			
	Policy	Submission	Finding
1	Employment Equity Policy	None submitted	Draft is being circulated.
2	Recruitment and Selection Policy	YES	Signed copy found in the submissions.
3	Disciplinary and Grievance Procedure	NO	
4	Code of Good Practice	NO	
5	Uniform and Protective Clothing	NO	
6	Training and Development Policy	NO	
7	Employee wellness	YES	SIGNED COPY AND CHRONIC ILLNESS POLICY ALSO SUBMITTED.
8	HIV/Aids Policy	YES	SIGNED COPY.
9	Succession Policy/Career Planning	NO	DSD CLAIMS THIS WAS SUBMITTED AS TALENT MANAGEMENT.
10	Staff Retention Policy	NO	
11	Retirement Policy	NO	
12	Sexual Harassment Policy	NO	NATIONAL POLICY SUBMITTED INSTEAD.
13	Promotions Policy	NO	
14	Salary and Benefits Policy	Was not in original request	
15	Employment Equity Forum (minutes)	NO	
16	GFP at DD Level	Was not in original request	

Appendix 4

Findings on the materials submitted by De Beers Consolidated Mines to the Commission for Gender Equality

	Policy	Submission	Finding
1	Employment Equity Policy	YES	Annexure C: A 3 year employment equity plan covering 1 October 2011-30 September 2014 (this is a consolidated one because each mine also has one).
2	Recruitment and Selection Policy	YES	Annexure C—4.11
3	Disciplinary and Grievance Procedure	YES	Annexure C—4.2
4	Code of Good Practice	YES	Annexure C—4.5
5	Uniform and Protective Clothing	YES	Annexure C—4.6
6	Training and Development Policy	YES	Annexure C—4.7
7	Employee wellness	YES	Annexure C—4.8; See also Workplace Analysis
8	HIV/Aids Policy	YES	Annexure C—4.9
9	Succession Policy/Career Planning	NOT CLEAR FROM DOCUMENTS	Annexure C—4.10 as 'Global Talent Policy' and 'Job and Career Profiling Guide'
10	Staff Retention Policy	?	
11	Retirement Policy	YES	See Annex 4.11
12	Sexual Harassment Policy	YES	See Annex 4.12
13	Promotions Policy	YES	See Annex 4.13 Promotions and Remuneration Policy
14	Salary and Benefits Policy	Was not in original request	See Annex 4.13 Promotions and Remuneration Policy
15	Employment Equity Forum (minutes)	Yes- submitted as DBCM Employment Equity Policy Committee	Annexure A TOR was completed in October 2011; not signed.
16	GENDER FOCAL POINT at DD Level	Was not in original request	Mr Gerrit Lotz, Head of Human Resources (present at the hearing) was assigned on 5 August 2011 to the post of Gender Equity Manager.

Appendix 5

Findings on the materials submitted by Pikwane Diamonds to the Commission for Gender Equality

	Policy	Submission	Finding
1	Employment Equity Policy	No Policy	No policy
2	Recruitment and Selection Policy	No Policy	No policy
3	Disciplinary and Grievance Procedure	A PHOTOCOPIED, UNSIGNED. GENERIC MISCONDUCT POLICY	No policy
4	Code of Good Practice	No Policy	No policy
5	Uniform and Protective Clothing	No Policy	No policy
6	Training and Development Policy	No Policy	No policy
7	Employee wellness	No Policy	No policy
8	HIV/Aids Policy	A DOCUMENT WAS SUBMITTED	Inadequate 'AIDS Policy'
9	Succession Policy/Career Planning	No Policy	No policy
10	Staff Retention Policy	No Policy	No policy
11	Retirement Policy	No Policy	No policy
12	Sexual Harassment Policy	A DOCUMENT WAS SUBMITTED	Inadequate, not signed
13	Promotions Policy	No Policy	No policy
14	Salary and Benefits Policy	<i>Was not in original request</i>	No policy
15	Employment Equity Forum (minutes)	A DOCUMENT WAS SUBMITTED	Minutes are from October 2012, the month of the hearings.
16	GFP at DD Level	<i>Was not in original request</i>	

Appendix 6

The programme for Day Two of the Hearing, Thursday 29th of November 2012

TIME	EVENT	SPEAKER
0830-0900	REGISTRATION	
0900-0930	OPENING, WELCOME AND PURPOSE OF THE EMPLOYMENT EQUITY HEARINGS	COMMISSIONER WALLACE MGOQI
	REFLECTIONS: ISSUES EMERGING FROM DAY 1	
PRESENTATIONS WITH QUESTIONS BY CGE PANEL		
1015-1115	RESPONDENT ONE: SOUTH AFRICAN POLICE SERVICE	COMMISSIONER'S PANEL
1115-1215	RESPONDENT TWO: ESKOM	COMMISSIONER'S PANEL
	RESPONDENT THREE: DEPARTMENT OF EDUCATION (NO SHOW—WILL BE SUBPOENAED; SEE NOTES ON THIS IN SECTION THREE FURTHER BELOW)	COMMISSIONER'S PANEL
1300	REFLECTIONS: ISSUES EMERGING, PARTICIPANT FEEDBACK	COMMISSIONER'S PANEL AND PARTICIPANTS
1300	VOTE OF THANKS AND CLOSING REMARKS	COMMISSIONER'S PANEL
1315	CLOSURE	

Appendix 7

Findings on the materials submitted by the South African Police Services to the Commission for Gender Equality

	Policy	Submitted?	Reference to document or annexure
1	Employment Equity Policy	Yes	✓ Annexure A-both national and provincial employment equity plan.
2	Recruitment and Selection Policy	Yes	✓ Annexure B as 'Recruitment and Selection of Employees' including addition documents per post and on grade progression.
3	Disciplinary and Grievance Procedure	Yes	✓ Annexure C as Code of Conduct, Grievance Procedure, Disciplinary Code and Procedure, and Dress Order.
4	Code of Good Practice	Yes	✓ Submitted as 'SAPS Code of Conduct' and 'Discipline Regulations'.
5	Uniform and Protective Clothing	Yes	✓ Annexure B as health and safety management and Annexure C as Dress Order
6	Training and Development Policy	Yes	✓ See Education, Training and Development Policy in the SAPS.
7	Employee wellness	?	✓ Employment Equity Report and Employment Equity indicates progress.
8	HIV/Aids Policy	Yes	✓ See 'Employees of the SAPS living with HIV-Aids'.
9	Succession Policy/Career Planning	Yes	✓ See grade progression and promotion of employees attachment.
10	Staff Retention Policy	?	✓ See Annexure B as 'Recruitment and Selection of Employees' including addition documents per post and on grade progression.
11	Retirement Policy	?	✓ Annexure B as 'Recruitment and Selection of Employees' including addition documents per post and on grade progression.
12	Sexual Harassment Policy	Yes	✓ In attachments as 'Agreement on Sexual Harassment In the Workplace Policy (reviewed during 2011).
13	Promotions Policy	?	✓ See Annexure B as 'Recruitment and Selection of Employees' including addition documents per post and on grade progression.

14	Salary and Benefits Policy	<i>Was not in original request</i>	✓ <i>Never requested.</i>
15	Employment Equity Forum (minutes)	Yes	✓ See Consultative Forum Minutes; Northern Cape Employment Equity Report.
16	Gender Focal Point at DD Level	<i>Was not in original request</i>	✓ <i>Not in original request.</i>

Appendix 8

Findings on the materials submitted by ESKOM to the Commission for Gender Equality

	Policy	Submission	Finding
1	Employment Equity Policy	Yes	<ul style="list-style-type: none"> ✓ See 'Procedure for Deployment, Employment Equity', signed. ✓ Signed <i>procedure</i> and may be national.
2	Recruitment and Selection Policy	Yes	<ul style="list-style-type: none"> ✓ Annexure C including Resourcing Policy, Human Resource Development, Learning Development Procedure, Talent, Succession and Career Management and Retention Framework.
3	Disciplinary and Grievance Procedure	Yes	<ul style="list-style-type: none"> ✓ See ESKOM Grievance Procedures and Disciplinary Procedures.
4	Code of Good Practice	???	<ul style="list-style-type: none"> ✓ See ESKOM Code of Ethics, Grievance Procedures and Disciplinary Procedures.
5	Uniform and Protective Clothing	Yes	<ul style="list-style-type: none"> ✓ See details in submissions Health and Wellness, HIV and AIDS Policy, Procedures for Sexual Harassment, and Safety Rules Enforcement
6	Training and Development Policy	Yes	<ul style="list-style-type: none"> ✓ Annexure C including Resourcing Policy, Human Resource Development, Learning Development Procedure, Talent, Succession and Career Management and Retention Framework.
7	Employee wellness (although the safety rules are guidelines)	Yes	<ul style="list-style-type: none"> ✓ See Annexure B including Health and Wellness, HIV and AIDS Policy, Procedures for Sexual Harassment, and Safety Rules Enforcement. ✓ Some of the above are guidelines.
8	HIV/Aids Policy	Yes	<ul style="list-style-type: none"> ✓ See Annexure B including Health and Wellness, HIV and AIDS Policy, Procedures for Sexual Harassment, and Safety Rules Enforcement.
9	Succession Policy/Career Planning	Yes	<ul style="list-style-type: none"> ✓ Annexure C including Resourcing Policy, Human Resource Development, Learning Development Procedure, Talent, Succession and Career Management and Retention Framework.

10	Staff Retention Policy	Yes	✓ See annexure on: Resourcing Policy, Human Resource Development, Learning Development Procedure, Talent, Succession and Career Management and Retention Framework.
11	Retirement Policy	???	✓ See Procedure for Exit Management.
12	Sexual Harassment Policy	NO	<ul style="list-style-type: none"> ✓ This was deemed to be non-compliant by the Commission during the hearing. ✓ See CGE questions and responses further below (question 19). ✓ See Annexure on "Procedures for Sexual Harassment"
13	Promotions Policy	???	✓ See annexure on: Resourcing Policy, Human Resource Development, Learning Development Procedure, Talent, Succession and Career Management and Retention Framework.
14	Salary and Benefits Policy	Yes	✓ See Remuneration and Benefits Policy.
15	Employment Equity Forum (minutes)	???	<ul style="list-style-type: none"> ✓ See Comment 5 below in response to question 5. ✓ See minutes of the Consultative Forum where Employment Equity is discussed but it is not at all clear that this addresses gender equity specifically.
16	GFP at DD Level	<i>Was not in original request</i>	✓

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