



SOUTH AFRICAN HUMAN RIGHTS COMMISSION

Annual Report 2003/2004

Ms Baleka Mbete, MP
Speaker of the National Assembly

Pursuant to the provisions of Section 40(1)(e) of the Public Finance Management Act (Act No. 1 of 1999), I am pleased to submit the Eighth Annual Report of the South African Human Rights Commission for the period 1 April 2003 – 31 March 2004.

Please find, annexed to the report, the Commission's Annual Report as per section 83(1)(b) and 84 of the Promotion of Access to Information Act (PAIA) (Act No. 2 of 2000).

A handwritten signature in black ink, appearing to read "L. Mokate".

Lindiwe Mokate
CHIEF EXECUTIVE OFFICER



South African Human Rights Commission

Eighth Annual Report

April 2003 – March 2004

List of Abbreviations

Aids	Acquired Immuno-deficiency Syndrome
CBO	Community Based Organisation
CCANI	Coordinating Committee of African National Human Rights Institutions
CGE	Commission on Gender Equality
CIDA	Canadian International Development Agency
CPPCRLC	Commission for the Promotion and Protection of Cultural, Religious and Linguistic Communities
CSO	Child Sexual Offences
DHRE	Democracy and Human Rights Education
FAO	Food and Agriculture Organisation of the United Nations
GCIS	Government Communication and Information System
GIED	Gauteng Institute for Educational Development
HIV	Human Immuno-deficiency Virus
ICC	International Coordinating Committee
IEC	Independent Electoral Commission
IT	Information Technology
LHR	Lawyers for Human Rights
LRC	Legal Resources Centre
MTEF	Medium Term Expenditure Framework
NACHRET	National Centre for Human Rights Education and Training
NGO	Non-governmental Organisation
NQF	National Qualifications Framework
NSB	National Standards Body
ODAC	Open Democracy Advice Centre
PAIA	Promotion of Access to Information Act
PANSALB	Pan South African Language Board
PEPUDA	Promotion of Equality and Prevention of Unfair Discrimination Act
PFMA	Public Finance Management Act
PP	Public Protector
SAHA	South African History Archive
SAHP	South African History Project
SAHRC	South African Human Rights Commission
SAPS	South African Police Service
SAQA	South African Qualifications Authority
SGB	Standards Generating Body
UNHRC	United Nations Human Rights Commission

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Overview by the Chairperson

The South African Human Rights Commission (SAHRC or Commission) has the honour of submitting this, its Eighth Annual Report, for the period April 2003 to March 2004.



The year under review has been a busy, productive and extremely challenging one for the Commission. This report sets out in greater detail the work we have been involved in and the challenges that such work presented. From the report it will be evident that work around social and economic rights as well as equality has been our central focus.

As we enter the second decade of our democracy, the SAHRC has matured into a well-established and effective state institution supporting constitutional democracy. In line with the national agenda, we have articulated our primary objectives to focus on contributing to poverty alleviation and the achievement of equality. The *Strategic Business Plan* for the year under review reflects the integration of these objectives into the operations of the Commission. Our work in relation to poverty alleviation hinges on our mandate to monitor economic and social rights; build capacity on reporting on economic and social rights; and educate communities about economic and social rights. We continue to be at the forefront of dealing with issues of equality. We have used the Equality Courts with creativity and imagination, not only taking the first few cases before such Courts, but also assisting in the development of progressive equality jurisprudence. We remain concerned, however, about the low levels of public knowledge of the Equality Act and the Equality Courts, but are liaising with the Justice Department to assist in addressing this issue.

The Report on the *Inquiry into Human Rights Violations in Farming Communities* was launched in September 2004, and was generally well received. We have developed an implementation strategy for the findings and recommendations of the report, and are working closely with government and farming communities to give effect to this.

Consistent with the objective of taking our work closer to the communities most in need, we have opened an office in Upington and plan to hold an enquiry into the rights of the Khomani San community later this year. We have also increased and improved our reach into rural communities, in addition to sustained education and training interventions.

We have made good progress in terms of building relationships, and have been active in talking with traditional leaders, government and civil society on a variety of human rights related matters. In the same vein, we hold regular roundtables on critical matters such as crime and human rights, initiation schools, equality, human rights and culture, thereby locating the Commission at the forefront of human rights debates in our country, and also creating the necessary space for dialogue on such contested matters.

Our international profile remains positive. Members and staff of the Commission have assisted and continue to assist in important international initiatives, including the drafting of the United Nations Disability Convention as well as the United Nations Report on Cultural Liberty. We also continue to play a supportive role to other national human rights institutions on the continent, through hosting the Secretariat for African National Human Rights Institutions.

The report card on our progress as a country in relation to human rights development over the last 10 years reflects both the strides that have been made and the immense challenges that lie ahead. The Commission has readied itself to play an even greater and more effective role in the next year and beyond, to contribute to sustainable democracy and the provision of a mechanism for all to access, exercise and enjoy their rights in the pursuit of human dignity and equality.

In conclusion, we would like to express our thanks to all those who assisted in making the work of the Commission possible and relevant in the past year - including government, parliament, civil society, the donor community and the people we serve.



Narandran Jody Kollapen
Chairperson

Introduction by the Chief Executive Officer



The Eighth Annual Report documents the main activities and performance of the South African Human Rights Commission (SAHRC) for the period April 2003 to March 2004. Reflected in the report are successes achieved and challenges met, with regards to the priorities, objectives and targets defined by the Commission in the Strategic Business Plan.

An effective process of monitoring economic and social rights and communicating information is essential for improving service delivery and eradicating poverty. Towards this end, remarkable progress has been achieved by the Commission in the monitoring and reporting on economic and social rights. As the Commission extends and deepens its role in this area of its mandate, it has committed itself to continuing to explore better approaches to sourcing information and presenting results in more accessible forms. Engagement with government and civil society in the production of the report has also improved significantly.

The Commission is consolidating its functioning in terms of the Promotion of Equality and Prevention of Unfair Discrimination Act (PEPUDA) and Promotion of Access to Information Act (PAIA). In October 2003, the Commission established a focal point for equality matters in the Research and Documentation Programme. In order to make recommendations for the development of PAIA, the Commission undertook an extensive review, including national stakeholder consultation, the hosting of the Second International Conference of Information Commissioners and the National Conference on PAIA, and a study tour of Canada. The legislatively required annual report on PAIA is included in this report.

In 2003 the SAHRC reviewed its structures and operations in relation to the promotional functions of advocacy, education and training. To ensure a more streamlined, effective and efficient delivery of these services, the Advocacy Programme's campaigns and public education functions were reallocated to the Education and Training Programme, and a Media and Communications Programme was established to handle the publications and media functions. The Commission reaches a large number of people through the media, and is regularly sourced by journalists for expert opinion. The website has become an important communication tool, with a 39% increase in the number of hits this financial year.

The education and training activities of the SAHRC have grown from 357 interventions in 2002-2003 to 422 in 2003-2004, with the Commission reaching 41 812 people. The Commission's capacity to reach rural and marginalised communities across the country has increased, with the consolidation of the Omnibus Training approach, whereby the Commission conducts several week-long visits in an area. There were an average of 8 interventions per month in rural areas. Human Rights Week was celebrated with an intensive programme in Mpumalanga, culminating in the Community Voices Forum, which facilitated community members voicing their human rights concerns directly to government. The Commission continues in its commitment to the institutionalisation of human rights education.

The number of complaints of human rights violations received by the Commission has increased by 78% this financial year, testifying to the growing knowledge of human rights in the country and the success of the Commission's public awareness and educative initiatives. The Commission released the *Report on the Inquiry into Human Rights*

Violations in Farming Communities in September 2003, and the *Report: Site Visits and Investigations, Eastern Cape Hospitals* in June 2003. Important judgements were secured with regard to hate speech, access for people with disabilities, and the amendment of the Electoral Act to allow nationals outside the country to vote in the general elections.

The Commission is committed to improving the management of its resources. Several initiatives have been put in place during the current financial year:

- The outsourced internal audit function has started operating in terms of its functions as envisaged in the Public Finance Management Act (PFMA).
- The recruitment process for the Chief Financial Officer is underway. Short-term contractual arrangements are in place.
- Finance policies and procedures have been reviewed and updated.
- A draft document on Delegations of Responsibilities to relevant officials as prescribed by Treasury, is awaiting adoption.

The Commission's participation in the international arena continues to grow and requests for assistance from international human rights institutions and fellow National Institutions have also increased. In February of 2004 the South African Human Rights Commission hosted a successful meeting of the Coordinating Committee of African National Human Rights Institutions (CCANI). This was the second major project of the Secretariat for African National Human Rights Institutions since it was opened at the premises of the SAHRC.

The Eighth Annual Report attests to the fact that the SAHRC is maturing in the fulfillment of its mandate to promote, monitor and protect the human rights of all who live in South Africa.



Lindiwe Mokate
Chief Executive Officer

Governing Principles

The SAHRC is one of the institutions established by Chapter 9 of the South African Constitution to support constitutional democracy in South Africa. The governing principles of such institutions are contained in section 181 of the Constitution:

- (a) These institutions are independent and subject only to the Constitution and the law, and they must be impartial and must exercise their powers and perform their functions without fear, favour or prejudice.
- (b) Other organs of state, through legislative and other measures, must assist and protect these institutions to ensure the independence, impartiality, dignity and effectiveness of these institutions.
- (c) No person or organ of state may interfere with the functioning of these institutions.
- (d) These institutions are accountable to the National Assembly, and must report on their activities and the performance of their functions to the Assembly at least once a year.

The Mandate of the Commission

The functions and powers of the SAHRC as contained in section 184 of the Constitution are the following:

Functions

- (a) promote respect for human rights and a culture of human rights;
- (b) promote the protection, development and attainment of human rights; and
- (c) monitor and assess the observance of human rights in the Republic.

Powers

- (a) to investigate and to report on the observance of human rights;
- (b) to take steps to secure appropriate redress where human rights have been violated;
- (c) to carry out research;
- (d) to educate; and
- (e) to require relevant organs of state to provide the Commission with information on the measures that they have taken towards the realisation of the rights in the Bill of Rights concerning housing, health care, food, water, social security, education and the environment.

The Commission has the additional powers and functions prescribed by national legislation.

Mission Statement

The SAHRC is a national institution established to entrench constitutional democracy through the promotion and protection of human rights by:

- Addressing human rights violations and seeking effective redress for such violations
- Monitoring and assessing the observance of human rights
- Raising awareness of human rights issues
- Educating and training on human rights.

Introduction

In order to fulfil its mission to be an effective institution for the promotion and protection of human rights, the Commission defined the following key objectives:

- To establish the Commission as a resource and a focal point for human rights in South Africa;
- To raise awareness of human rights and the role of the Commission;
- To investigate individual and systemic complaints of human rights violations and provide appropriate redress;
- To provide a comprehensive research and documentation facility designed to advance human rights, through the monitoring and assessment of the observance of human rights; especially social and economic rights;
- To develop a sustainable culture of human rights through education and training; and
- To maintain and continue to implement an integrated human resource management strategy and system.

These key objectives correspond to the SAHRC programmes and are elaborated in the outputs, service delivery indicators and targets defined in the Commission's Strategic Business Plan for the period. The Strategic Business Plan guides the Commission's work and it is against the outputs planned here that the Commission measures its performance in its Annual Report. This chapter reports on the performance of the Commission per programme in relation to the Strategic Business Plan 2003/4 – 2005/6.

The Commission has chosen as its focus areas in its second term the promotion of equality and the alleviation of poverty, and its work reflects this choice.

Structure and Functioning

Under the guidance and authority of Commissioners and the Chief Executive Officer, the work of the SAHRC is conducted from offices of the Secretariat. The Secretariat at head office consists of Management, the Legal Services Programme; the Education and Training Programme; and the Research and Documentation Programme. In addition, the Secretariat had 6 provincial offices during 2003-2004, which served to raise awareness and deal with violations of human rights at a local level. A seventh office in the Northern Cape was established after 31 March 2004, and while there are currently no offices in Mpumalanga and the North West province, Commissioners and Departments at head office served these areas through some of their programmes.

In addition to day-to-day communication, the Commission strives to integrate its work through structured interactions including: quarterly plenary meetings (of Commissioners and the Secretariat), management meetings, and meetings of inter-departmental committees, which are chaired by a Commissioner. There is a Complaints Committee, an Equality Committee, and a Promotion of Access to Information Committee.

Programme 1: Commissioners

Objectives

- To raise the profile of the Commission by engaging with various stakeholders, including government and civil society on issues relating to human rights;
- To ensure strategic interventions on various human rights issues such as policy development;
- To contribute to the creation of a human rights body of knowledge; and
- To ensure the fulfilment of the Commission's constitutional and statutory mandates.

Main activities

The Commissioners help develop the policy and priorities for the Commission. They provide guidance and assistance and oversee significant aspects of the work of the Commission, including work in terms of PAIA, PEPUDA and the socio-economic rights mandate of the Commission. Commissioners also exercise the oversight role required by the Human Rights Commission Act.

Commissioners represent the SAHRC nationally and internationally within the human rights community, giving presentations and engaging in networking and advocacy. They write articles on human rights matters and generally engage with the media. Their work includes policy development and monitoring legislative developments. Commissioners undertake provincial work, and preside over public hearings, inquiries and mediations.



Deputy Chairperson Zonke Majodina, Commissioner Charlotte McClain-Nhlapo and Chairperson Narandran Kollapen at the launch of Human Rights Week

Outputs and service delivery trends

Outputs	Service delivery indicator and target	Actual performance against target
Consultative meetings with government ministries, statutory bodies and members of civil society	<p>Established presence of Commission and improved promotion, protection and monitoring of human rights in the provinces and nationally. Networking and partnering with relevant stakeholders.</p> <p>Section 5 Committees - advising the Commission on particular human rights issues and contributing to the policy development of the Commission.</p>	Meetings with members of Cabinet, the Presidency and Statutory Bodies; roundtables with stakeholders such as traditional leaders and NGOs; regular interaction with other Chapter 9 Institutions.
Strategic interventions on human rights	<p>Number of interventions in the focus areas of child rights, disability, older persons, non-nationals, NGO/CBOs, international standards, HIV/Aids, etc.</p> <p>Written reporting mechanisms within the Commission on human rights issues for publication, to establish a human rights body of knowledge.</p>	Visits to Lindela Repatriation Centre; meetings with traditional leaders on initiation schools; visits concerning prisoners with disabilities; visits to detention facilities for children; roundtable discussions on key issues (hate speech, hate crimes, culture, equality).
<p>Attendance of meetings and reports to CCANI, UNHRC and ICC</p> <p>Reports on monitoring of treaty obligations and country reports</p>	<p>Effective participation in and reporting to regional and international human rights institutions and bodies and promoting the work of the African Commission.</p> <p>Continuous monitoring of international treaty obligations and country reports of the South African Government.</p>	Meeting of CCANI; drafting of the international disability convention; meeting of FAO and meeting of UNHRC in Geneva.



Consultative meetings

This year saw the Commission strengthening its engagement with other constitutional institutions. The Commission was involved in ongoing consultation with the Department of Justice, Public Protector (PP) and the Commission on Gender Equality (CGE) with regard to overlapping areas of work, and the relationship between Chapter 9 institutions, the Department of Justice, and Parliament. The Commission has also interacted with the Pan South African Language Board (PANSALB) and the Commission for the Promotion and Protection of Cultural, Religious and Linguistic Communities (CPPCRLC), and was involved in interviewing and nominating candidates for appointment to the latter.

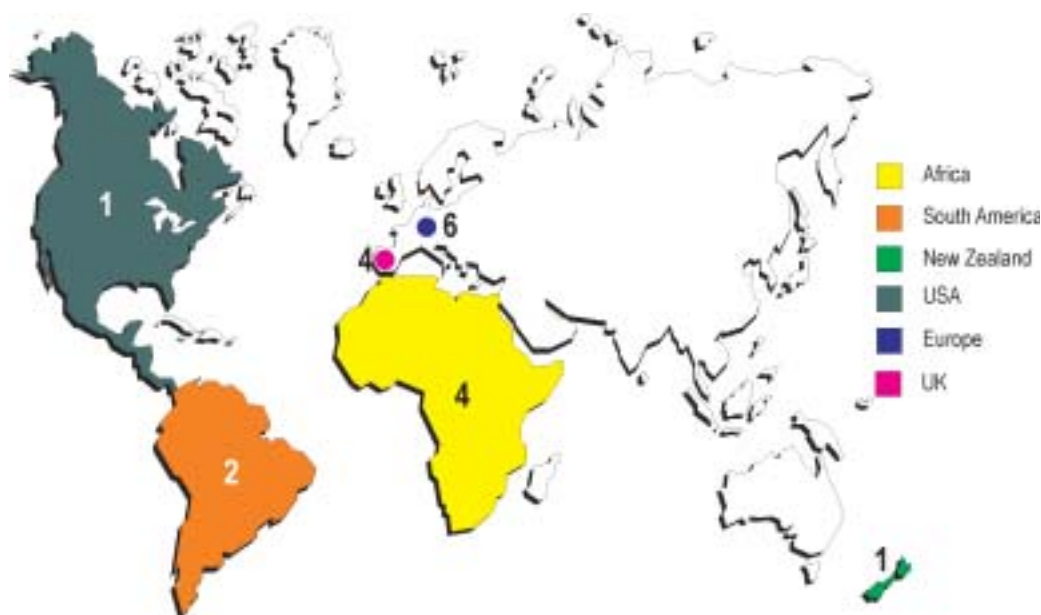
Following the release of the *Fourth Economic and Social Rights Report*, the Commission had productive meetings with the relevant government departments. Channels of communication with government have been opened, and the Commission and government have begun to meet regularly in the course of compiling the report to share views.

The expertise and guidance of the Commission have been sought by various statutory bodies on which members of the Commission serve, including the South African Law Commission and the Council on Correctional Services. The Commission continues to chair the Equality Review Committee, established in terms of PEPUDA.

The SAHRC enjoys international regard, with Kenya, Germany, Portugal, Mexico, Switzerland, India, China, Uganda, England, Ireland, Hungary and Slovakia being just some of the countries that have sought advice. The Commission has hosted delegates from human rights organisations in Brazil, Indonesia, Norway and Ghana.

Commissioners' Presentations: International

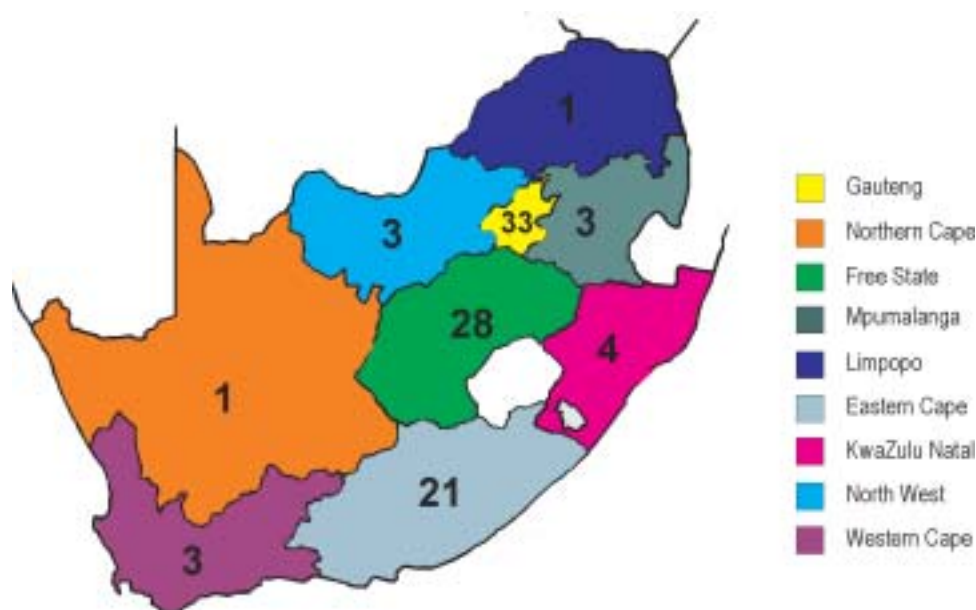
Total: 18



Commissioners are sought after to give papers and presentations on human rights issues nationally. Numerous provincial visits were undertaken in order to consolidate the Commission's relations with government, civil society, traditional leaders and other role-players at local level, as well as to support the work of the Commission in the provinces. Visits to schools, hospitals and other institutions were also conducted. These included visits to Manguang prison, Baysvlei police station, Grootveli prison, and Dyambu youth centre for juvenile offenders awaiting trial in Krugersdorp. The Commission has begun to extend existing relationships with government, parliament and civil society to engage with the private sector on human rights matters.

Commissioners' Presentations: National

Total: 97



Strategic interventions

Subsequent to the launch of the *Report on the Inquiry into Human Rights Violations in Farming Communities* in September 2003, the Commission has developed a draft plan for the implementation of the recommendations in the report, and an intern has been employed to assist with the implementation of the plan.

The Commission has been involved in the evolution of the new immigration legislation through various submissions on drafts of the Bill. Work to safeguard the rights of non-nationals continued through the monitoring of the Lindela Repatriation Centre for undocumented immigrants, training workshops for immigrants and police officers and collaboration with various local and international civil society organisations. The Commission is also engaged in work to secure education for refugee children, with a focus on Gauteng.

Commissioners conducted an investigation into the treatment of prisoners with disabilities in Barberton Prison and an investigation into child-rape in Sterkfontein Care Facility.



Programmes

The SAHRC has been part of the development of sectoral anti-racism programmes, including involvement in the National Forum Against Racism and National Anti-Discrimination Forum. The judgment that the phrase 'Kill the farmer kill the boer' constitutes hate speech will be the first decision of the Commission to be published in the Law Reports, and has led to the development of important benchmarks in terms of free speech in relation to dignity and tolerance. The SAHRC has also engaged with the issue of hate crimes, drafting a background paper and convening a seminar on 3 September 2003.

A workshop on corporal punishment was hosted by the SAHRC on 21 October 2003, resulting in the establishment of a corporal punishment forum. The Commission has made submissions and comments on the Anti-Terror Bill, the Communal Land Rights Bill and the Traditional Leadership and Governance Framework Bill, amongst others.

There is continued involvement in the task team drafting policy and legislation for older persons and the Commission has been instrumental in forming a South African chapter of the African Gerontological Society. The Commission continues to focus on securing economic and social rights for older persons.

Participation in regional and international human rights bodies and monitoring of treaty obligations

The Commission is participating in the development of a United Nations Convention on the Rights of Persons with Disabilities, a specific, comprehensive and integrated international instrument to protect the rights of peoples with disabilities. Commissioners were part of the South African delegation to Rome to attend the Food and Agriculture Organisation of the United Nations (FAO) working meeting on the development of voluntary guidelines on the right to food.

The SAHRC is playing host for a three-year period (2002-2004) to the Secretariat for African National Human Rights Institutions, and hosted the Meeting of CCANI from the 23 - 24 February 2004.

Programme 2: Management

Objectives

- To provide efficient, effective, transparent and economical corporate services;
- To develop and implement an integrated human resource management strategy;
- To maintain and develop high-level information and communication technology systems;
- To develop financial, administrative and procurement systems in line with the Public Finance Management Act (PFMA) and Treasury prescripts and regulations; and
- To provide administrative and management support services to the Commission's provincial offices.

Main activities

This programme consists of the Office of the Chief Executive Officer, that is constituted of the Office of the Deputy Chief Executive Officer, responsible for the management of provincial offices, Human Resources, Information Technology, and Finance and Administration. Its primary focus is on ensuring the proper and efficient management of public resources. It provides vital corporate services to enable the Commission to meet its objectives and targets. Primary activities include but are not limited to strategic planning, spearheading projects, interaction with local and international stakeholders and organisations, securing donor funding, system support, payroll management, employee relations, internal audit, procurement, financial reporting, and budgeting.

Human Resources focuses on the continuous development and implementation of an integrated human resource management strategy and includes the following:

- Capacity building and organisational development;
- Remuneration management;
- Employee well-being;
- Human resources administration and management;
- Labour relations and employment equity;
- Benefit administration; and
- Management of policies and procedures.

The provision of efficient financial services to the SAHRC remains a core function of this programme and relates to:

- Review of IT master systems plan;
- Installation of a data recovery and back-up system;
- Management of IT systems and network and complaints handling system;
- Monitoring IT security systems; and
- Maintaining hardware and software.

The provision of efficient financial services to the SAHRC remains a core function of this programme and relates to:

- Auditable input for the compilation of the Annual Financial Statements within two months after the end of the financial year;
- Implementation and strict adherence to policies and procedures;
- Internal and external audit procedures;
- Compilation of the Commission's operational and capital budget;
- Compilation of monthly management reports to National Treasury per prescribed transcripts;



Programmes

- Compilation of internal and provincial monthly management reports per cost centre with variance analysis and commentary;
- Reconciling, compiling and housing accounting records for donor-funded projects, with the distribution of quarterly reports to donors;
- The submission of the three-year Medium Term Expenditure Framework (MTEF);
- Processing and administering payments, invoices, claims and requisitions;
- Controlling petty cash; and
- Monitoring and implementing a risk and fraud prevention plan.

The procurement and administrative support services include the following:

- Finalising internal tender procedures;
- Maintaining a computerised fixed assets register;
- Ensuring proper utilisation and maintenance of Commission resources;
- Developing and maintaining tendering and procurement procedures;
- Ensuring safety and security for the Commission; and
- Undertaking procurement and provisioning processes.

The Information Technology division of this programme deploys information technology (IT) and system support to assist the SAHRC in its functioning. The following activities are undertaken:

- Review of IT Master Systems Plan;
- Installation of a data recovery and back-up system;
- Management of IT systems and network and complaints handling system;
- Monitoring IT security systems; and
- Maintaining hardware and software.

Outputs and service delivery trends

Outputs	Service delivery indicator and target	Actual performance against target
Human resource management strategy	To further develop and refine human resource strategies by developing appropriate policies, systems and structures. The following strategies will constitute a nucleus of work: <ul style="list-style-type: none"> • Job evaluation • Performance management • Management development • Staff development • Career planning and management. 	Equate Job Evaluation System implemented. Performance Management Agreements and performance evaluations completed. Training needs analysis reports completed and relevant training is being conducted. Substantial number of policies, systems and structures implemented. D-Bit Leave System installed.

Outputs and service delivery trends (cont.)

Outputs	Service delivery indicator and target	Actual performance against target
Financial management and administration systems	<p>Timely finalisation of annual financial statements for auditing by the Auditor-General in terms of the PFMA.</p> <p>MTEF budget submission for the 2004/05 - 2005/06 period to National Treasury by 30 June 2004.</p> <p>Preparation of monthly expenditure reports by 10th of each month to Accounting Officer for submission to Executive Authority and National Treasury by the 15th of each month in terms of the PFMA provisions.</p> <p>Review financial policy and procedure by 30 June 2004.</p> <p>Integration of Pastel accounting system with D-Bit payroll system.</p>	<p>AFS submitted on the 7 July 2004 to the Auditor-General's Office.</p> <p>Achieved.</p> <p>Major improvement in the accuracy of reports.</p> <p>Done.</p> <p>Work in progress.</p>
Information and communications technology systems	<p>Development and maintenance of systems, programmes, hardware and software in terms of the Commission's IT Security Policy and Master Systems Plan. Charms system support and maintenance.</p>	<p>Video conferencing facility has been extended to all provincial offices.</p> <p>Advanced upgrades to the server completed.</p> <p>CHARMS in the process of being replaced by a local system.</p> <p>Network system in the Northern Cape office has been established.</p> <p>WAN and internet/email have been upgraded.</p> <p>CCTV and access control system has been installed.</p>
External and Internal audit services	<p>Full implementation of internal audit function in terms of Treasury requirements (including 4 meetings for the internal audit committee).</p>	<p>Outsourced internal audit function in place.</p> <p>Audit committee met at least 4 times.</p>

Human resources

The Job Evaluation Committee has been established and committee members were trained in terms of the Equate Job Evaluation System. Various positions have been evaluated and the committee is in the process of ratifying the information for implementation. The Employment Equity Committee has been constituted and the



Programmes

Employment Equity policy and plan has been implemented. The Commission is in compliance with the Employment Equity Act. An electronic D-Bit Leave System has been implemented to facilitate accurate recording and utilization of leave. Performance agreements for Senior and Middle Management have been implemented, in terms of which performance is being evaluated. More structured and regular meetings with the trade union are being conducted in order to enhance harmonious labour relations. A new competitive medical aid scheme has been introduced as part of the improvement of employee well being.

Finance and administration

The internal audit function in terms of Treasury requirements and the PFMA has been implemented and the internal audit committee meets regularly. Risk assessments have been done and a risk management strategy is being developed. The computerised fixed assets register is updated and maintained. Verified monthly financial reports are submitted to internal and external recipients timeously. Asset tagging is being procured to identify and record assets. The internal procurement policy has been implemented and the supply chain management processes and procedures are being incorporated.

Information and communications technology

The Master Systems Plan is used to ensure the effective expansion and upgrade of the support system, to meet the business requirements of the Commission. Video conferencing facilities have been installed in the national office and in most provincial offices. The Commission has acquired a new server to upgrade the exchange server and replaced the hub with a switch to ensure efficient and sustainable information technology systems. A disaster recovery plan has been implemented in conjunction with Metrofile, an offsite document and data storage company.

Office of the Chief Executive Officer

In addition to the core support services, this programme further raises the Commission's profile through making various strategic interventions into human rights issues. Among other activities, this Office:

- Coordinates the activities of the Secretariat of African National Human Rights Institutions (ANHRI);
- Actively participates in the strategic direction and support of the ANHRIs;
- Attends and participates in the meetings of International Human Rights Institutions, including the United Nations;
- Makes presentations on human rights issues nationally and internationally; and
- Exercises overall management and oversight of all programmes within the Commission.



CEO Lindiwe Mokate and HOD Education and Training Andre Keet at capacity building for African National Human Rights Institutions



A delegation from Sri Lanka visiting the Commission



Deputy CEO Bongani Khumalo speaks at the Launch of the Fourth Economic and Social Rights Report, April 2003



Programme 3: Advocacy

Objectives

- To establish a communication-friendly environment within the Commission and with external stakeholders/role-players;
- To promote human rights awareness by implementing an effective and efficient communications strategy;
- To promote the work and corporate image of the Commission through campaigns and public relations initiatives; and
- To promote specific campaigns and messages on the rights of children, disabled and older persons, non-nationals and people living with HIV and AIDS.

Note

In 2003 the SAHRC reviewed its structures and operations in relation to the promotional functions of advocacy, education and training. To ensure a more streamlined, effective and efficient delivery of these services, the Advocacy Programme's campaigns and public education functions were reallocated to the Education and Training Programme, and a Media and Communications Programme was established to handle the publications and media functions.

This restructuring process resulted in the revision of the outputs defined for the Advocacy Programme in the Strategic Plan 2003/4 - 2005/6. As a consequence, the following section reports against the objectives of the newly formed Media and Communications Programme, and the functions of the Advocacy Programme now performed by the Education and Training Programme are contained in the relevant section. The fact that the Media and Communication Unit was formed 6 months into the financial year, and required the development of new systems and the recruitment of staff, should be taken into consideration.

Media and Communications

Objectives

- To establish a communication friendly environment within the Commission and with stakeholders / role-players;
- To promote human rights awareness by implementing an effective and efficient communications strategy; and
- To promote the work and corporate image of the Commission through public and media relations initiatives.

Main activities

The programme develops a network of contacts in the mainstream and alternative media to ensure coverage of the SAHRC. It works to ensure ongoing media coverage of the SAHRC as well as organising event-specific coverage. The programme obtains coverage in all mediums: television, print, commercial and community radio. In addition, the media is monitored daily to track the representation of the SAHRC and human rights issues in general. On the basis of this monitoring, strategic interventions into press coverage are made. A weekly dispatch, tracking key trends in the media with regards to human rights issues, is circulated within the Commission.

Promotional materials for corporate branding and for specific campaigns are conceptualised, designed and sourced. The programme is responsible for the editing, design, layout and distribution of occasional reports of the SAHRC, and the Annual Report. It updates and develops the Commission’s website, produces the Commission’s newsletter, calendar, greetings cards, and other communication material as needed.

Outputs and service delivery trends

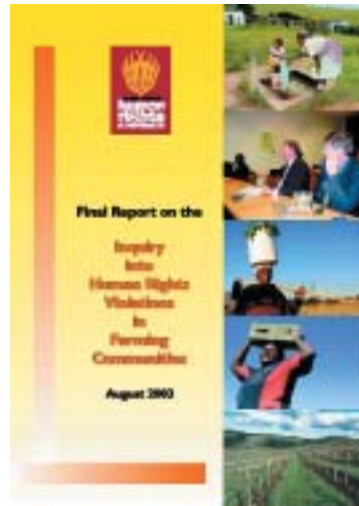
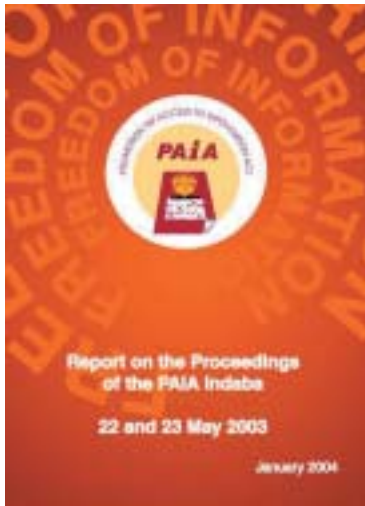
Outputs	Service delivery indicator and target	Actual performance against target
Publications, promotional materials, website, and Intranet	<p>Intranet to improve internal communications. Targeted distribution of the following publications: <i>Kopanong</i>; <i>My Rights Your Rights</i>.</p> <p>Targeted distribution of the following promotional materials: SAHRC General Poster; SAHRC Diary; SAHRC Annual Calendar.</p>	<p>Implementation of Intranet planned for 2004/5. <i>Kopanong</i> is being reconceptualised. <i>My Rights Your Rights</i> is in the process of production. <i>Report on the Inquiry into Human Rights Violations in Farming Communities</i> and <i>Report on the Proceedings of the PAIA Indaba</i> were produced.</p> <p>Produced and distributed a Calendar to commemorate 10 years of democracy. Various posters and publications were distributed.</p>
Annual Report	Production, publication and distribution of annual report in terms of PFMA requirements to Parliament, Office of the Auditor General and National Treasury.	The Annual Report was produced.
Media liaison, media statements and articles, and media monitoring	Quarterly Report on Commission’s media coverage. Improved coverage of the Commission in national and provincial media.	The work of the Commission is covered across a fair range of media (32 newspapers carried 197 articles during the year under review). There was also wide coverage in the broadcast media. The Commission is accessed for comment on average 3 times a day.
Corporate and Public Relations Initiatives	Improved corporate image of the Commission. 2 Corporate Profiles of the Commission in leading magazines.	1000 utility buckets and 1000 eco-friendly bags were produced for the annual Human Rights Week celebrations and distributed to community members.



Programmes

Publications, promotional materials, website and Intranet

Because of the restructuring, the main publications produced were occasional reports of the Commission. In addition, a number of posters were reprinted. A calendar celebrating 10 years of democracy was produced and distributed to key stakeholders of the Commission. The publications of the SAHRC continue to be much sought-after and used in various contexts by diverse role-players. These are some publications of the SAHRC:



Further, the restructuring process impacted on the capacity to distribute materials. The following table refers only to materials printed in 2003.

Distribution of Materials

Publication	Number printed	Number distributed
Report on the Inquiry into Human Rights Violations in Farming Communities	1 650	1 200
Calendar 2004	1 000	825
Bill of Rights Poster	6 000	5 143
Disability Poster	6 000	3 700
Child Rights Poster	10 000	5 050
Economic and Social Rights Poster	2000	1952
TOTAL	26 650	17 045

The website is growing as a vehicle for people to access information about human rights and the SAHRC, with a 39% increase in the total number of hits per year. The website data on PAIA continues to be the most accessed, showing the importance of the site in implementing the Commission's mandate in terms of the Act. In 2003, the website was completely revamped. In addition, a website for the Secretariat of African National Human Rights Institutions, currently hosted by the Commission, was developed.

Hits on the Website per Month



Media liaison, media statements and articles, and media monitoring

The Commission continues to reach a large number of people through the media. An independent study by the Media Monitoring Project revealed that the Commission is covered by a fair range of media and tends to be covered more extensively in daily media. This shows that the Commission has become a reliable and expert source for journalists; the number of media enquiries received by the Commission is also evidence of this. The Commission receives very positive coverage of its work.

Media outreach

Type of media liaison	Performance
Press Conferences	3
Press Releases	24
Press enquiries and interviews	1 241
Feature articles	4

Corporate and public relations initiatives

The Commission produced innovative promotional material, in the form of buckets and eco-friendly shopping bags, to tie in with the work at community level during Human Rights Week.

Programme 4: Legal Services

Objectives

- To investigate individual and systemic complaints of human rights violations
- To provide appropriate redress and resolve disputes regarding violations

Main activities

The Legal Services Programme screens complaints, refers many to bodies and institutions that are more appropriately equipped to deal with them, advises some complainants of their rights, negotiates and mediates the resolution of complaints, and undertakes litigation where appropriate. In some instances, subpoena hearings are held. The Commission identifies systemic or widespread human rights violations in an area or vulnerable group, which form the focus of public inquiries. The programme monitors serious cases of human rights violations and their progress through the courts. The SAHRC also receives referrals from the Equality Courts and other constitutional bodies.

All of the above involve the reading of complaints, interviewing complainants, correspondence with respondents, consultation with parties, meetings within the Commission to debate methods, meetings with, and providing statistics to, organs of state and stakeholders.

The work of the Legal Services Programme includes the development of reports and recommendations with regard to human rights violations, and giving effect to such recommendations. In appropriate cases, Legal Services will compel compliance by way of litigation, which contributes to the development of human rights jurisprudence. This has the effect of giving the force of law to some of the Commission's findings. In addition, the Legal Services Programme advises the Commission on legal issues affecting the Commission. Through the internship programme, it mentors and trains interns.

Outputs and service delivery trends

Outputs	Service delivery indicator and target	Actual performance against target
Complaints handled	<p>Increase number of complaints handled by 20-30% per annum over the MTEF period.</p> <p>To successfully investigate, mediate and conclude at least 50% of complaints received within 90 days of receipt.</p>	<p>78% increase in complaints handled.</p> <p>Objective not fully achieved due to lack of resources.</p>



Outputs and service delivery trends (cont.)

Outputs	Service delivery indicator and target	Actual performance against target
Litigation	<p>Discrimination based on disability.</p> <p>Discrimination in intestate succession as it relates to African Customary Law.</p> <p>Fair administration process in pension/disability cases.</p> <p>Discrimination in the insurance industry based on HIV/Aids.</p> <p>Discrimination based on age.</p> <p>Other cases considered for litigation as and when they arise.</p>	<p>Negotiations to settle out of court took place in order to bring about a policy change in all national airlines with regard to the way they provide for passengers with disabilities. In addition, litigation was considered where licensed drivers blind in one eye were required to change their licenses, but later abandoned on advice.</p> <p>Argument was made to the Constitutional Court on the principle of excluding African women generally from intestate succession. Judgment is awaited</p> <p>In partnership with the LRC, litigation was considered to ensure efficient payment of disability pensions, but complainants did not pursue the matter.</p> <p>A workshop was conducted with the insurance industry. The SAHRC plays an ongoing facilitation role.</p> <p>The SAHRC considered litigation on behalf of struggle veterans, but the complainants did not pursue the matter.</p> <p>Successful litigation was carried out to bring about amendment to the Electoral Act and to ensure the accessibility of courts to persons with disabilities.</p>
PAIA	On-going general assistance within the Commission and with stakeholders; facilitating requests in terms of Section 83; assist Research Department.	Assistance to the public on identified PAIA matters, by engaging the relevant stakeholders and referring cases to NGOs for litigation where appropriate.

Outputs and service delivery trends (cont.)

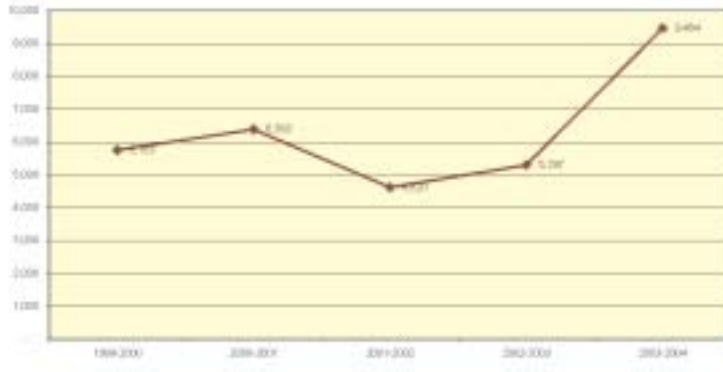
Outputs	Service delivery indicator and target	Actual performance against target
PEPUDA	Implement obligations in terms of the Act – receive referrals from Equality Court and other Constitutional bodies; assess cases and attempt resolution.	6 cases lodged with courts. Equality Courts monitored with Research and Documentation Programme.
Hearings on human rights in Farming Communities	Finalise complaints in Free State, Northern Cape, Eastern Cape. Assist Advocacy in provincial workshops.	All provinces were covered, recommendations made, and a follow-up is scheduled.
Complaint regarding lack of health care in the Eastern Cape Province	Conduct inspections and interviews at hospitals and provincial governmental offices during human rights week: produce report.	A comprehensive report was concluded and recommendations made. A follow-up is planned.
Non nationals/Lindela	Joint effort with LHR. Fortnightly visit to Lindela.	Fortnightly visits to Lindela Repatriation Centre for undocumented immigrants.
Investigation into sexual offences against children	Implement CSO workshop recommendations.	The plan to implement the recommendations is being refined.
Investigation into the conditions of hospitals in all provinces	Conduct inspections and interviews at hospitals and provincial governmental offices: produce a report.	Following the investigation into Eastern Cape hospitals, visits have begun to Mpumalanga hospitals, and Eastern Cape hospitals have been revisited. The report is not yet available.

Complaints

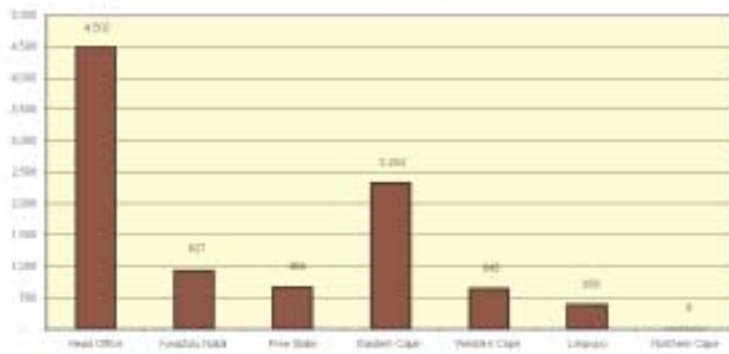
The head office received 4 502 complaints and the aggregate of complaints received by the five provincial offices was 4 962. The 78% increase in complaints received is attributable to increased public awareness of the Commission, achieved through media, promotional, education and training initiatives. Head office dealt with 475 complaints, and the aggregate of complaints dealt with by all provincial offices was 2 403. Objectives with regards to complaints-handling were not fully achieved due to insufficient resources.



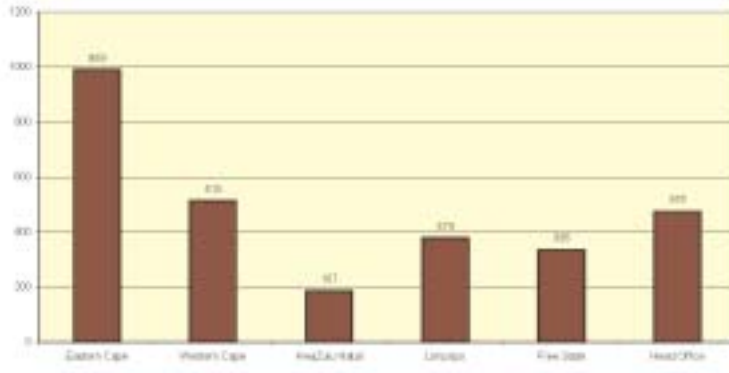
Number of Complaints Received (last five years)



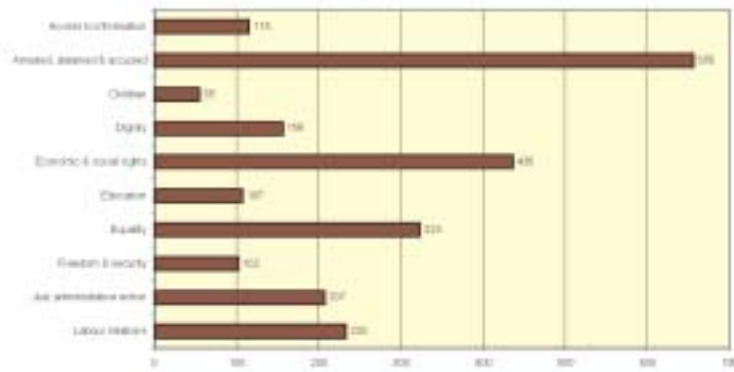
Total Number of Complaints Received per Office



Complaints Dealt with per Office



Top 10 Typical Complaints (All Offices)



The approach to complaints-handling has been refined to also focus on mediation as a tool to resolve complaints, as opposed to what has been perceived as an adversarial approach. The latter can make perpetrators defensive, and the resolution of complaints is prolonged as a consequence.

Numerous requests from stakeholders for complaints statistics have necessitated the appointment of a Case Manager to compile statistical reports. The Case Manager also enables more controlled handling of complaints. Legal Officers and interns in the Legal Services Programme will be able to take advantage of the Commission's status as a law clinic, which enables the SAHRC to register candidates for Articles of Clerkship. These measures will improve the SAHRC's ability to deal effectively with complaints.

Litigation

In terms of the SAHRC's interventions to ensure airways transport people with disabilities with dignity, meetings with Airport Company South Africa were held, and an out of court settlement reached whereby the company is willing to take measures to address the issue. Legal Services had aimed for successful litigation to ensure that drivers who are blind in one eye are able to apply for Code 4 licenses when they switch to the new licensing format. This litigation was dropped on expert advice, although public awareness on the issue was raised considerably.

The Legal Services Programme, working with the Women's Legal Centre, sought a Constitutional Court ruling to address the hardship caused by African customary inheritance practices, to female spouses, common law wives, girl children, children born out of wedlock, and younger sons. In March 2004, arguments were made to the Constitutional Court asking the Court to strike down sections of the Black Administration Act and Intestate Succession Act as discriminatory based on race and gender. A judgment is still awaited.

The Commission is working with the insurance and banking sector to change financial practices with regards to persons living with HIV/Aids. On the 21 May 2003, the Commission convened a joint workshop for insurers, bankers, actuaries and the Banking Council to address issues related to insurance and bonds for persons living with HIV/Aids.

The programme took action in two additional areas. Submissions from the Commission enabled successful amendment of the Electoral Act in order to allow nationals outside the country to vote in the general election. Accessibility of courts to disabled persons was also the subject of successful litigation with the Equality Court settlement in favour of Esthe Muller.

Promotion of Access to Information Act

Information Officers from public bodies in Gauteng, Mpumalanga and Limpopo were addressed on PAIA. The programme also assisted with the development of the SAHRC guidelines to PAIA.

Promotion of Equality and Prevention of Unfair Discrimination Act

Legal Services has lodged 6 cases with the Equality Courts, since its recent inception. In its monitoring of the Equality Courts, the Commission has noted problems with the implementation of PEPUDA. The public is not aware of the Equality Courts and the public is turned away if they go to the courts without an attorney. Magistrates and clerks of the Equality Court need in-depth training on the Act; as opposed to the few days



Programmes

training they have received. There has been insufficient publicity and public education on the procedures for lodging a complaint. Thus a simple guide to these procedures is being developed by the Legal Services and Research and Documentation Programmes. Furthermore, there are still many districts without Equality Courts.

Hearing on human rights in farming communities

The *Report on the Inquiry into Human Rights Violations in Farming Communities* was released in September 2003. A key recommendation made by the SAHRC is the formation of a forum for dialogue between the three major partners in farming communities: farm dwellers, farm owners and government. An intern has been appointed to follow-up the recommendations. Increased awareness resulting from the farming communities inquiry has increased the number of complaints made to the Commission from these communities.

Complaint regarding lack of health care in the Eastern Cape province

The *Report: Site Visits and Investigation, Eastern Cape Hospitals, March-May 2003* was released on 24 June 2003. This reported findings and recommendations from the investigation into nine hospitals in the Eastern Cape, and largely confirmed the media and complainants' allegations with regard to the poor state of health services in this province. The hospitals and relevant organs of state have been asked to respond to the report. The Eastern Cape provincial office is undertaking the necessary follow-up.

Non-nationals

The programme continues with its concern for the protection of the rights of refugees, migrants, asylum seekers and foreign nationals, and conducts monitoring visits to Lindela Repatriation Centre for undocumented immigrants.

Investigation into sexual offences against children

The Legal Services and Education and Training Programmes jointly formulated a plan to implement the recommendations of the *Report on the Enquiry into Sexual Violence against Children*, April 2002. At present the plan is being refined as per the Complaints Committee recommendations.

Investigation into the health situation in other provinces

Visits have begun to hospitals in the Mpumalanga province and Eastern Cape hospitals have been revisited, as part of the nationwide investigation into the state of hospitals and lack of resources in the health services sector.

Programme 5: Research and Documentation

Objectives

- To monitor and assess the observance of economic and social rights;
- To monitor and assess the observance of human rights, including the right equality and the right to information; and
- To maintain a leading human rights library and documentation centre.

Main activities

The focus of this programme is realising the Commission's constitutional and legislative mandates with regard to economic and social rights, PAIA and PEPUDA, but the programme also assesses the observance of human rights in the country in general.

The programme provides advisory services and briefings to government and civil society organisations nationally and internationally, and convenes workshops and seminars on human rights themes. The programme contributes towards human rights discourse on legislative developments, through the coordination of a Section 5 Committee on Government and Parliamentary Liaison and monitoring national and provincial legislation. Submissions are made to Parliament, government departments, the South African Law Commission and other relevant legislative structures. The Research and Documentation Programme makes a key contribution to debate on the interpretation and achievement of human rights, nationally and internationally. It maintains a leading human rights library and documentation centre.

Outputs and service delivery trends

Outputs	Service delivery indicator and target	Actual performance against target
Socio-economic rights reports, protocols and workshops	<p>Production of the 5th ESR report.</p> <p>Refine the economic and social rights monitoring process in terms of section 184(1) and (3) of the Constitution.</p> <p>Build capacity for members of civil society and government officials by conducting 9 provincial workshops. Conduct 6 economic and social rights seminars.</p>	<p>The final draft of the 5th ESR report was completed by 31 March 2004 for adoption by the Commission, printing and distribution in 2004/2005.</p> <p>Substantial refinements were made to the economic and social rights monitoring process to improve the quality of monitoring and to raise awareness of economic and social rights.</p> <p>2 economic and social rights seminars were held, in addition to 20 other presentations and briefings for government and civil society.</p>



Outputs and service delivery trends (cont.)

Outputs	Service delivery indicator and target	Actual performance against target
Annual Report on Equality	Production of report to Parliament, in terms of PEPUDA, on the extent to which unfair discrimination on the grounds of race, gender and disability persists in South Africa, the effects thereof and recommendations on how best to address the problems. Conduct 2 equality workshops.	Regulations in terms of PEPUDA requiring a report from the Commission are not yet in place. 4 workshops conducted.
Annual Report on Access to Information	Production of report to Parliament, in terms of PAIA, with recommendations for the development, improvement and modernisation, reform or amendment of the Act and procedures in terms of which public and private bodies make information electronically available.	Report submitted to Parliament as part of the Commission's Annual Report.
Development and maintenance of library	Acquisition and maintenance of human rights materials in terms of subscription contracts and providing quarterly reports on new acquisitions.	The library obtained a total of 1 217 publications of all kinds, excluding newspapers and the Government Gazette.

Socio-economic rights reports, protocols and workshops

The *Fourth Economic & Social Rights Report*, covering the period 1 April 2000 – 31 March 2002, was launched in April 2003. Difficulty in obtaining information from organs of state delayed the finalisation of the report. The report was launched in all nine provinces, which enabled the Commission to present the contents of the report to civil society and government and receive feedback on the Commission's monitoring and reporting function. Over 50 participants attended the national launch held in Johannesburg, and an average of 40 participants attended each remaining provincial launch.



Researchers visited Nkomazi District, Mpumalanga during Human Rights Week as part of the on-the-ground monitoring of economic and social rights



Staff of Research and Documentation, conducting fieldwork with a CBO

Of the 2000 copies of the report printed, approximately 1 673 have been distributed to government departments, the National Assembly, organs of civil society, and directly to the public. *Socio-Economic Rights* booklets, designed to raise public awareness of these rights, were produced in 5 languages (funded by the Foundation for Human Rights). Of the 20 000 copies printed 16 190 were distributed.

The process of producing the *Fifth Economic and Social Rights Report* has been revised, in line with suggestions from government and civil society. By 17 December 2003, all organs of State had submitted their protocol responses or provided valid reasons for their lack of response.

A national input workshop for 79 people from civil society and government was hosted on the 27 - 28 January 2004 to facilitate comments on the Draft Fifth Economic and Social Rights Report. Comments were reviewed and inputs incorporated into the revision of the report. Wordsmiths was contracted to edit the revised reports and a second draft of the reports was then sent to the Director Generals of the relevant departments for a final set of comments in March 2004.

A total of 22 sessions were held for parliamentarians, government officials and civil society representatives on economic and social rights. This includes 7 presentations to different Portfolio Committees in parliament, a briefing to the Kenya National Commission on Human Rights, 9 presentations to provincial departments and stakeholders, a briefing to the Defence Force College, 2 presentations to Non-governmental Organisations (NGOs)/Trade Unions, as well as 2 workshops with delegates from government and civil society. A workshop on traditional leadership and economic and social rights was held on 28 August 2003 to openly discuss the institution of traditional leadership, the implementation of economic and social rights, and gender.

Annual report on equality

This programme discharges the Commission's legislative mandate in terms of PEPUDA. In order to ensure the fulfilment of these obligations, a focal point for equality issues was established within the Research and Documentation Programme in October 2003. The programme conducts Equality Court inspections, is involved in legislative reform and captures the latest developments around equality issues. Once the promotional aspect of the Act comes into place, the programme will receive and analyse Equality Plans, request regular reports relating to the number of cases adjudicated by the Equality Courts, and submit an annual report to Parliament.



Programmes

The programme held 4 seminars and workshops on equality issues, reaching 127 people, including a workshop on Equality, Culture and Religious Rights, a seminar on PEPUA regulations, and a seminar on cultural initiation schools.

Annual report on access to information

This programme works to fulfil the legislative mandate of the SAHRC in terms of PAIA. The programme assesses whether public bodies comply with PAIA in terms of Section 32, gives assistance to public bodies and private bodies to implement the Act, assists the public in general in making requests to access information, or assists with complaints regarding access to information.

The Commission monitors the submission of manuals by public and private bodies and files them for viewing. To date, more than 196 Section 14 manuals have been received from private and public bodies. Comparative research is also conducted to assess how other jurisdictions ensure the right of access to information.

In order to provide a report to Parliament, in terms of PAIA, with recommendations for the development, improvement, modernisation, reform or amendment of the Act, a three-phase review was undertaken. The first phase was national stakeholder consultation, through an Indaba from the 22 - 23 May 2003. The programme has published a report on the proceedings of the Indaba. The second phase was an international comparative study. This included hosting the Second International Conference of Information Commissioners in Cape Town, from the 1 – 3 February 2004, where the Commission benefited from the experience of Information Commissioners from 15 different countries. The third phase was the hosting of the National Conference on PAIA on 4 February 2004, where national stakeholders reviewed progress made in implementation of PAIA since the Indaba of May 2003. In addition, from the 13 - 23 February 2004, delegates from the SAHRC, Parliament and the Department of Justice and Constitutional Development embarked on a one-week tour of Canada to study the information regime there.



Tseliso Thipanyane, then HOD Research and Documentation, at the National Conference on PAIA, 4 February 2004

Development and maintenance of library

The Library and Documentation Centre within this programme provides a core support function to the SAHRC and the general public. It provides an information service at the cutting edge of human rights developments, which informs the strategies of the Commission. The library acquired the following material during the 2003-2004 financial year:

Material	Quantity
Journals	297
Books	118 purchased 163 donated
Law reports	60
CD roms	9
Loose leaf updates	196
Reports/annual reports	22 reports and 65 annual reports
Newspapers	The library subscribes to 3 daily and 4 weekend papers
Magazines/newsletters	287
Government Gazettes	Weekly



Programme 6: Education and Training

Objectives

- To develop training materials on human rights education and training, especially equality and anti-discrimination and human rights training methodology;
- To conduct training, workshops, seminars, presentations and capacity building programmes on equality, economic and social rights, promotion of access to information, farming communities and the SAHRC's focus areas and responding to requests for training from organisations, communities, etc;
- To provide in-house capacity building for the Commission on the equality legislation, access to information and general human rights training methodology;
- To ensure the institutionalisation of Human Rights Education and provide for system of quality assuring the education and training programmes of the SAHRC;
- To implement human rights education projects in line with the strategic objectives of the Commission, nationally and regionally; and
- To quality assure the education and training initiatives of the Commission.

Main activities

The main activities of the programme include workshops, training programmes, seminars, talks and presentations, as well as sustained work to infuse human rights into education. The programme also quality assures the education and training initiatives of the SAHRC, and builds capacity in-house for effective training on PEPUDA, PAIA and human rights in general.

Since August 2003, the functions of the Advocacy Programme have been divided between the Education and Training and Media and Communications Programmes. Education and Training now includes the campaign and public education functions of the Advocacy Programme, and activities of this type are reported on in this section. Public education is conducted to promote specific campaigns and messages, with a focus on the rights of the child, disabled and older persons, non-nationals and people living with HIV/Aids. This programme organises Human Rights Week activities.

The National Centre for Human Rights Education and Training (NACHRET) is primarily responsible for the implementation of this programme. However, the education and training activities of all departments, provinces, Commissioners and the Office of the CEO are also reflected under this programme in the graphs. Many of the provincial education and training interventions are conducted in collaboration with NACHRET.

Outputs and service delivery trends

Outputs	Service delivery indicator and target	Actual performance against target
Seminars and Roundtable discussion	6 seminars on equality, human rights education, other human rights issues and access to information (once every 2 months).	Conducted under Research and Documentation programme.

Outputs and service delivery trends (cont.)

Outputs	Service delivery indicator and target	Actual performance against target
Training programmes and workshops	114 national education and training interventions (9.5 per month) on: <ul style="list-style-type: none"> • Socio-economic rights, • Equality and anti-discrimination, • Access to information, • SAHRC and human rights, • Response to requests, • Community Omnibus training, • Disability, • Aged, • Children. 	120 interventions, exceeding service delivery indicators.
Training manuals, materials and equipment	1 manual on Equality, 1 manual on Access to Information, 2 sets of Training Materials, 2 sets of Training Equipment, 3 sets of Training Resources	Manual on access to information completed/ Manual on equality in process/ Training materials and resources developed as per workshop requirements/ Training equipment acquired.
In-house capacity building	1 x Access to Information, 1 x Training Methodologies, 2 x Quality Assurance/ Trainer's Meetings	Completed according to service delivery indicators.
Institutionalisation of Human Rights Education	<p>Convening Forum on DHRE (twice a year/co-ordination and networking).</p> <p>Curriculum and NQF project. SAQA representation and co-ordination (SGB for Peace, Human Rights and Democracy Education) – once a semester for co-ordination/quarterly NSB and SGB workshops.</p> <p>Celebrating Difference Campaign (monthly newspaper pull-outs/ 6 workshops per year).</p> <p>Convening Forum on Racism in Education</p> <p>GIED/SAHP/Education Rights Project/Social Justice Project (advisory/co-ordination/meetings once every 2 months).</p>	<p>Forum on DHRE completed.</p> <p>NQF project is ongoing.</p> <p>Celebrating Difference Campaign completed.</p> <p>Forum on Racism in Education terminated.</p> <p>Education Rights Project/ Social Justice Project terminated.</p>



Outputs and service delivery trends (cont.)

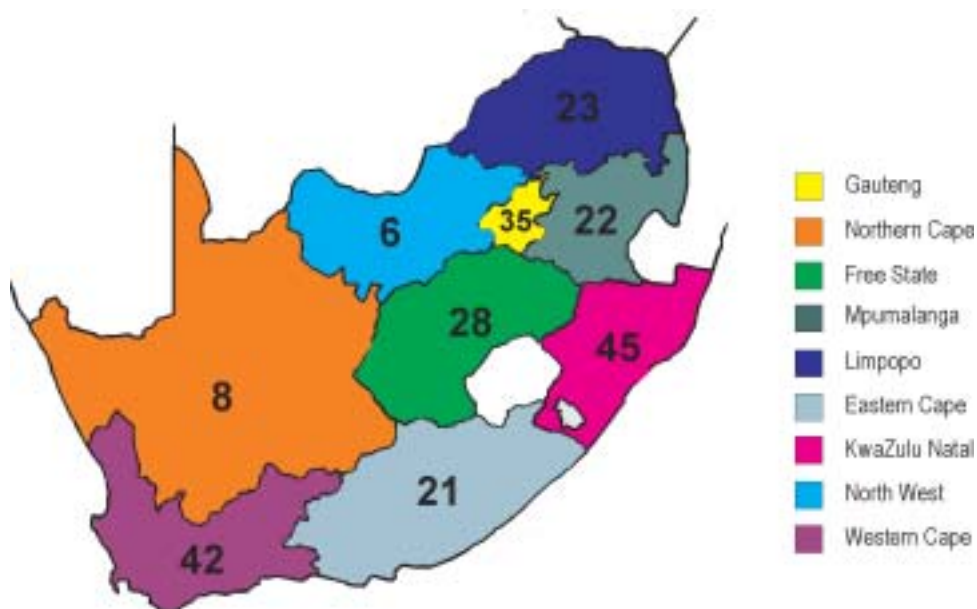
Outputs	Service delivery indicator and target	Actual performance against target
Quality assurance and co-ordination system for education and training work of the Commission	1.5 quality assurance and co-ordination activity every 2 months.	Completed and report with recommendations compiled.
Training programme for African National Institutions	A 5-day training programme for national institutions before November 2003 <i>(Subject to availability of donor funds).</i>	A 3-day programme completed.

Training programmes and workshops

The total number of educational interventions (workshops, training programmes, seminars, presentations) is 422 and 41 812 people were reached through these activities. This amounts to an average of 35.15 interventions per month and exceeds the service delivery indicators and targets of the Commission across all programmes.

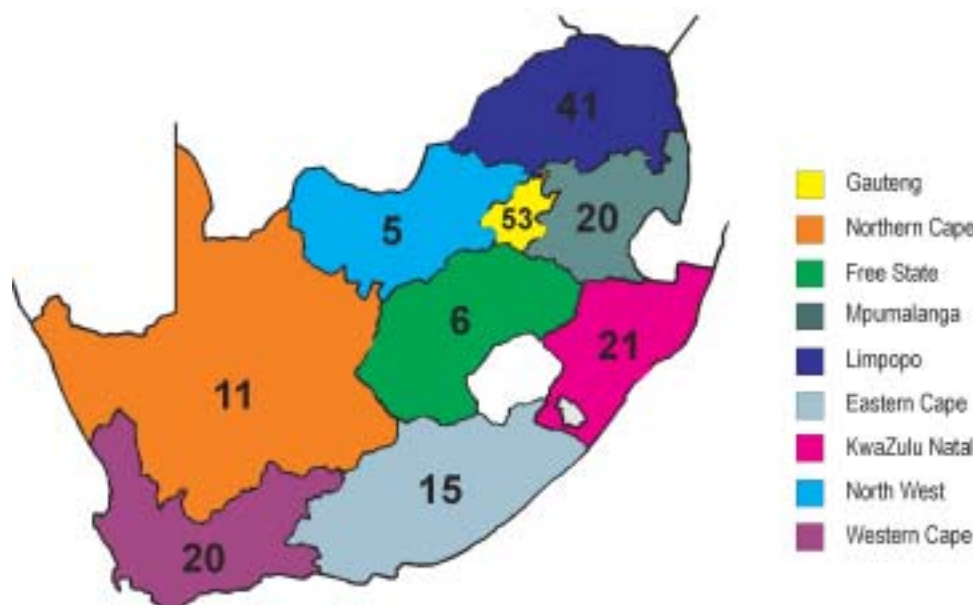
Educational Interventions:
Workshops/Training per Province

Total: 230



**Educational Interventions:
Seminars/Presentations per Province**

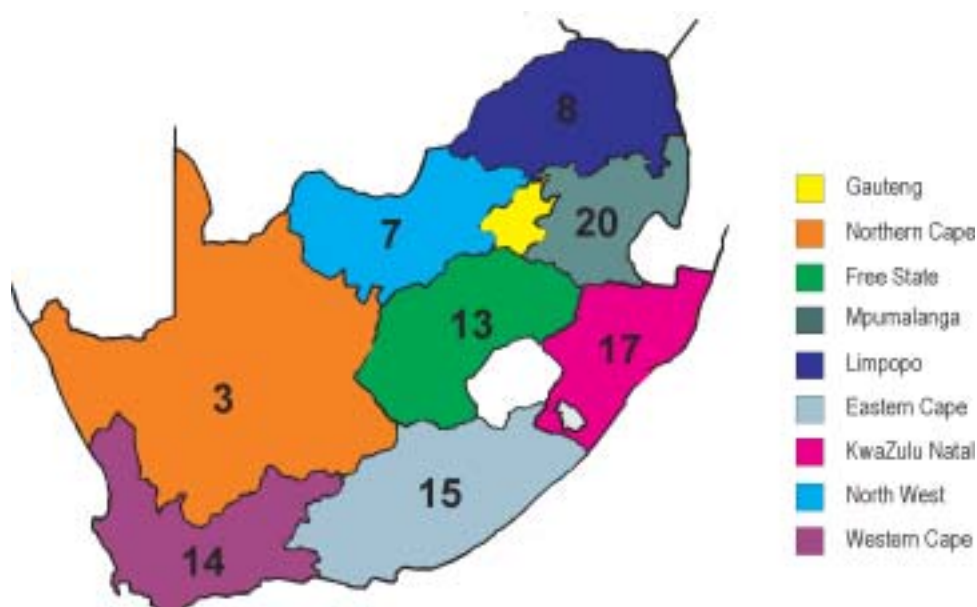
Total: 192



Omnibus Training enables the Commission to effectively reach rural and disadvantaged communities through sustained week-long programmes; 26 of these have been conducted. There were a total of 97 rural educational interventions, including those from provincial offices, reaching 7 682 people. This amounts to an average of 8 interventions per month in rural areas.

Rural Interventions: Seminars/Presentations per Province

Total: 97
Participants: 4 502



Programmes

The themes and target groups for all educational interventions are reflected in the table below:

Themes	Total number of educational interventions	Target Groups
Equality	89	Public Officials
The Elderly	4	The Elderly
People with Disabilities	6	Private Sector
Human Rights and the SAHRC	86	Youth/ Learners
Children	34	Women
Human Rights Education	48	Communities/ Rural Areas
Economic and Social Rights	47	Civil Society
Omnibus	27	People with Disabilities
Access to Information	23	Judiciary
Gender	13	Traditional Leaders
HIV/AIDS	20	Educators/ School
Other	25	Governing Bodies
		Children/ Youth

Public education and community outreach

Public education and community outreach programmes, inherited from the Advocacy department, include the omnibus initiatives, Human Rights Week, community radio strategies and educative publications. Human Rights Week 2004 was successfully celebrated with an intensive programme targeting the rural Enhlanzeni district in the Nkomazi area of Mpumalanga. The programme included site visits, and workshops with communities, traditional leaders and professional groupings. The highlight of the week was the Community Voices Forum, which brought together community members and provincial and local government.



Local performers at the Community Voices Forum during Human Rights Week



Site visit to Nkomazi Community Development and Advice Office, Mpumalanga



Participants at the Human Rights Week launch listen to community 'voices' speak about the human rights issues in the area

Training manuals, materials and equipment

The development of training materials is ongoing and in-house capacity programmes have dealt with the professional development of education and training staff.

Institutionalisation of human rights education

The focus on the institutionalisation of human rights education resulted in the adoption of a human rights aligned curriculum for Further Education and Training (schools) and the Commission continues to collaborate with education authorities on the delivery of human rights education within educational institutions, including higher education. Advisory interventions with education service providers are ongoing. The Commission conducted a successful workshop for African National Human Rights Institutions on training methodology, in conjunction with the British Council and Centre for Conflict Resolution. In addition, the Commission co-hosted a conference on human rights education for countries within Southern Africa with the Electoral Institute of Southern Africa and the National Department of Education.



Programmes

Quality assurance and coordination system for the education and training work of the Commission

To ensure quality assurance in the education and training activities of the Commission is a strategic objective of NACHRET. In order to reach this objective, an integrated quality assurance and support strategy has been instituted, which has been implemented in the year under review.



Community training in Mpumalanga



Workshop for health care workers



A training officer speaks to commuters about human rights



The SAHRC conducts community training

Programme 7: Provincial Offices

Objectives

- To enhance the accessibility of human rights services to ordinary people at a local level;
- To promote human rights and create awareness among all stakeholders; and
- Investigation of individual and systemic complaints of human rights violations, at the point of occurrence and to provide appropriate redress.

Main activities

The Commission currently has six provincial offices, situated in Limpopo, Free State, the Western Cape, KwaZulu Natal, Northern Cape and the Eastern Cape, with the head office situated in Gauteng. The Northern Cape office was established late in the 2003-2004 financial year. Preparation is underway for the establishment of an office in Mpumalanga. Provincial offices assist in the servicing of adjacent provinces that do not as yet have offices of their own.

The provincial offices serve as an extension of the activities of the programmes managed at head office, and detailed reporting on their work is included under the main Commission programmes. The provincial offices investigate complaints of individual and systemic violations of human rights, at the point of occurrence, and seek appropriate redress. They monitor the implementation of recommendations made by the Commission. Provincial offices also conduct training and education on human rights through workshops, seminar information sessions, media interviews, dissemination of information and participation in joint activities with other relevant stakeholders.

Although provincial offices operate in line with the strategic objectives and thematic areas of the Commission, they do so within particular socio-economic and political contexts that influence their promotion, protection and monitoring functions. The provincial offices engage with the peculiarities of the provinces and challenge context-specific human rights violations. The training and education programmes are also tailored to provincial needs and requirements.

Outputs and service delivery trends

Outputs	Service delivery indicator and target	Actual performance against target
Complaints handled	Recommending at least 2 cases for litigation to the Complaints Committee in terms of set criteria and strategic focus areas of Commission. Successfully resolving at least 50% of complaints received within 90 days of receipt. Audit of old (unresolved) cases.	Achieved. See programme 4.



Outputs and service delivery trends (cont.)

Outputs	Service delivery indicator and target	Actual performance against target
Training programmes, workshops, information sessions and seminars. Responding to requests for training	A 2-day workshop per province per month on focus areas. A 1-day workshop per province per month on request. 2 education and training interventions.	Achieved. See programme 6.
Public awareness programmes	Effective synergy with national projects and targets.	Achieved.



Training Officer with participants in a SAHRC community training intervention



Schoolchildren dance during Omnibus Training in Mpumalanga

Human Resources Management

TABLE 3.1 - Personnel costs by programme, 2003/04¹

Programme	Total Expenditure (R'000)	Personnel Expenditure (R'000)	Training Expenditure (R'000)	Professional and Special Services (R'000)	Personnel cost as a percent of total expenditure	Average personnel costs per employee (R'000)
Commissioners	3,390	3,020	-	-	89%	431
Management	12,788	4,774	-	-	30%	221
Advocacy	1,468	906	-	-	62%	906
Legal Services	2,024	1,864	-	-	92%	155
Research and Documentation	3,442	2,595	-	-	75%	153
Education and Training	1,943	1,428	223	-	74%	143
Provinces	4,403	3,743	157	-	85%	139
Total	29, 458	18,330	380	-	57%	185

TABLE 3.2 - Personnel costs by salary bands, 2003/04

Salary Bands	Personnel Expenditure (R'000)	% of total personnel cost	Average personnel cost per employee (R'000)
Lower skilled (Levels 1-2)	962	5%	28
Skilled (Levels 3-5)	434	2%	87
Highly skilled production (Levels 6-8)	5,483	30%	128
Highly skilled supervision (Levels 9-12)	6,777	37%	212
Senior management (Levels 13-16)	4,674	25%	425
Total	18,330	100%	143

¹ The Media and Communications Programme is reflected throughout the Human Resources section under management. See restructuring explanation under programme 3.



Human Resources Management

The following tables provide a summary per programme (Table 3.3) and salary bands (Table 3.4), of expenditure incurred as a result of salaries, overtime, homeowners allowance and medical assistance. In each case, the table provides an indication of the percentage of the personnel budget that was used for these items.

TABLE 3.3 - Salaries, Overtime, Home Owners Allowance and Medical Assistance by programme, 2003/04

Programme	Salaries		Overtime		Home Owners Allowance		Medical Assistance	
	Amount (R'000)	Salaries as a % of personnel cost	Amount (R'000)	Overtime as a % of personnel cost	Amount (R'000)	HOA as a % of personnel cost	Amount (R'000)	Medical Assistance as a % of personnel cost
Commissioners	2,563	14%	0	0	43	0%	85	0%
Management	4,498	25%	0	0	139	1%	296	2%
Advocacy	-	0%	0	0	-	0%	-	0%
Legal Services	1,702	9%	0	0	51	0%	109	1%
Research and Documentation	2,724	15%	0	0	98	1%	195	1%
Education and Training	1,670	9%	0	0	61	0%	122	1%
Provinces	3,481	19%	0	0	166	1%	329	2%
Total	16,637	91%	0	0	559	3%	1,135	6%

TABLE 3.4 - Salaries, Overtime, Home Owners Allowance and Medical Assistance by salary bands, 2003/04

Salary Band	Salaries		Overtime		Home Owners Allowance		Medical Assistance	
	Amount (R'000)	Salaries as a % of personnel cost	Amount (R'000)	Overtime as a % of personnel cost	Amount (R'000)	HOA as a % of personnel cost	Amount (R'000)	Medical Assistance as a % of personnel cost
Lower skilled (Levels 1-2)	815	4%	0	0	49	0%	97	1%
Skilled (Levels 3-5)	343	2%	0	0	31	0%	61	0%
Highly skilled production (Levels 6-8)	4,824	26% 0%	0	0	221	1%	438	2%
Highly skilled supervision (Levels 9-12)	6,227	34% 0%	0	0	184	1%	365	2%
Senior management (Levels 13-16)	4,427	24%	0	0	73	0%	174	1%
Total	16,637	91%	0	0	559	3%	1,135	6%



The following tables summarise the number of posts in the establishment, the number of employees, the vacancy rate, and whether there are any staff that are additional to the establishment.

TABLE 3.5 - Employment and vacancies by programme, 31 March 2004

Programme	Number of vacant posts	Number of posts filled	Total number of posts	Vacancy Rate	Number of posts filled additional to the establishment
Commissioners	0	7	7	0%	0
Management	3	22	25	12%	0
Advocacy	0	0	0	0%	0
Legal Services	5	12	17	29%	0
Research and Documentation	8	17	25	32%	0
Education and Training	0	10	10	0%	0
Provinces	7	27	34	21%	0
Total	23	95	118	19%	0

TABLE 3.6 - Employment and vacancies by salary bands, 31 March 2004

Salary Band	Number of vacant posts	Number of posts filled	Total number of posts	Vacancy Rate	Number of posts filled additional to the establishment
Lower skilled (Levels 1-2)	0	8	8	0%	0
Skilled (Levels 3-5)	3	5	8	37%	0
Highly skilled production (Levels 6-8)	7	39	46	15%	0
Highly skilled supervision (Levels 9-12)	12	32	44	27%	0
Senior management (Levels 13-16)	1	11	12	8%	0
Total	23	95	118	19%	0

TABLE 3.7 - Annual turnover rates by salary band for the period 1 April 2003 to 31 March 2004

Salary Band	Number of employees per band as on 1 April 2003	Appointments and transfers into the Commission	Terminations and transfers out of the Commission	Permanent Employees	Turnover Rate
Lower skilled (Levels 1-2)	9	0	0	9	0%
Skilled (Levels 3-5)	8	1	0	9	0%
Highly skilled production (Levels 6-8)	27	14	8	33	24%
Highly skilled supervision (Levels 9-12)	27	15	9	33	27%
Senior Management	13	1	3	11	27%
Service Band A	0	0	0	0	0%
Senior Management	0	0	0	0	0%
Service Band B	0	0	0	0	0%
Senior Management	0	0	0	0	0%
Service Band C	0	0	0	0	0%
Senior Management	0	0	0	0	0%
Service Band D	0	0	0	0	0%
Total	84	31	20	95	21%



The following table identifies the major reasons why staff left the Commission.

TABLE 3.8 - Reasons why staff are leaving the Commission

Termination Type	Number	% of total
Death	1	5%
Resignation	17	85%
Expiry of contract	0	0%
Dismissal - operational changes	0	0%
Dismissal - misconduct	0	0%
Dismissal - inefficiency	0	0%
Discharged due to ill-health	1	5%
Retirement	1	5%
Transfers	0	0%
Other	0	0%
Total	20	100%
Total number of employees who left as a % of the total employment		21%

TABLE 3.9 - Recruitment for the period 1 April 2003 to 31 March 2004

Occupational Bands	Male				Female			
	African	Coloured	Indian	White	African	Coloured	Indian	White
Top management	0	0	0	0	0	0	0	0
Senior Management	0	0	0	1	0	0	0	0
Professionally qualified and experienced specialists and mid-management	6	0	1	2	4	1	0	2
Skilled technical and academically qualified workers, junior management, supervisors, foreman and superintendents	4	0	0	0	8	0	0	1
Semi skilled and discretionary decision making	0	0	0	0	1	0	0	0
Unskilled and defined decision making	0	0	0	0	0	0	0	0
Total	10	0	1	3	13	1	0	3
Employees with disabilities	0	0	0	0	0	0	0	0



TABLE 3.10 - Promotions for the period 1 April 2003 to 31 March 2004

Occupational Bands	Male				Female			
	African	Coloured	Indian	White	African	Coloured	Indian	White
Top management	0	0	0	0	0	0	0	0
Senior Management	0	0	0	0	0	0	0	0
Professionally qualified and experienced specialists and mid-management	1	0	0	0	2	1	0	2
Skilled technical and academically qualified workers, junior management, supervisors, foreman and superintendents	0	0	0	0	4	0	0	1
Semi skilled and discretionary decision making	0	0	0	0	1	0	0	0
Unskilled and defined decision making	0	0	0	0	0	0	0	0
Total	1	0	0	0	7	1	0	3
Employees with disabilities	0	0	0	0	0	0	0	0

TABLE 3.11 - Terminations for the period 1 April 2003 to 31 March 2004

Occupational Bands	Male				Female			
	African	Coloured	Indian	White	African	Coloured	Indian	White
Top management	0	0	0	0	0	0	0	0
Senior Management	1	0	0	0	0	1	0	0
Professionally qualified and experienced specialists and mid-management	1	0	1	0	4	0	1	1
Skilled technical and academically qualified workers, junior management, supervisors, foreman and superintendents	4	0	0	0	3	2	0	1
Semi skilled and discretionary decision making	0	0	0	0	0	0	0	0
Unskilled and defined decision making	0	0	0	0	0	0	0	0
Total	6	0	1	0	7	3	1	2
Employees with disabilities	0	0	0	0	0	0	0	0



TABLE 3.12 - Performance Rewards by salary bands for personnel below Senior Management Service, 1 April 2003 to 31 March 2004

Salary Band	Beneficiary Profile			Cost		
	Number of beneficiaries	Total number of employees in the group	% of total within salary bands	Cost (R'000)	Average cost per employee	Total cost as a % of the total personnel expenditure
Lower skilled (Levels 1-2)	6	8	75%	1	0	0%
Skilled (Levels 3-5)	2	5	40%	1	0	0%
Highly skilled production (Levels 6-8)	17	39	44%	21	1	0%
Highly skilled supervision (Levels 9-12)	9	32	28%	13	1	0%
Senior Management	5	6	83%	29	6	0%
Commissioners	0	5	0%	0	0	0%
Total	39	95	41%	65	2	0%

TABLE 3.13 - Sick leave, 1 April 2003 to 31 March 2004

Salary Band	Total days	% days with medical certification	employees using sick leave	employees using sick leave	Average days per employee	Estimated cost (R'000)
Lower skilled (Levels 1-2)	44	8	6	67%	7	1
Skilled (Levels 3-5)	12	5	4	44%	3	1
Highly skilled production (Levels 6-8)	122	39	20	61%	6	8
Highly skilled supervision (Levels 9-12)	70	32	13	39%	5	10
Senior Management (Levels 13-16)	7	6	2	18%	4	3
Commissioners	3	5	2	18%	2	3
Total	258	95	47	49%	5	26

TABLE 3.14 - Annual leave, 1 April 2003 to 31 March 2004

Salary Bands	Total days taken	Number of employees	Average per employee
Lower skilled (Levels 1-2)	105	8	13
Skilled (Levels 3-5)	127	5	25
Highly skilled production (Levels 6-8)	682	39	17
Highly skilled supervision (Levels 9-12)	417	32	13
Senior Management (Levels 13-16)	39	6	7
Commissioners	97	5	19
Total	1,467	95	15



Audited Financial Statements

For the year ended 31 March 2004

The annual financial statements, as required by the Public Finance Management Act (PFMA) and the Treasury Regulations, are published in this report and consist of the following:

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SOUTH AFRICAN HUMAN RIGHTS COMMISSION

Report of the Audit Committee

Our report for the financial year ended 31 March 2004 is set out below.

Audit Committee Members and Attendance:

The Audit Committee consists of the members listed hereunder who meet a minimum of four times per annum in terms of the proposed Audit Committee Charter. During the year under review four (4) meetings were held.

Name of Member	Number of Meetings Attended
Carin Strickett	4
Alan Mackenzie	4
Tshiamo Sedumedi	4
Lindiwe Mokate	4

Audit Committee Responsibility

The Audit Committee reports that it has not been able to comply with all its responsibilities arising from section 38 (1)(a) of the PFMA and Treasury Regulation 3.1.13, due to the limited scope of internal audit work performed. The internal audit function was outsourced during November 2003. The Audit Committee also reports that it proposed formal terms of reference as its Audit Committee charter, however this document had not been approved at year-end.

The Effectiveness of Internal Control

The system of internal control is of concern to the Audit Committee. A risk assessment was performed during the financial year under review. Many matters considered to be a high risk were highlighted, however the internal audit plan does not adequately address all of these matters in the short term.

The Audit Committee has sympathy for the CEO, who is hampered by skills shortages that have led to a deterioration in the financial management capacity of the SAHRC and this will take time to correct through the filling of vacancies and by training. The CEO has dealt with this matter in her report and the Audit Committee concurs with the necessity for her plans to address this matter.

Evaluation of Financial Statements

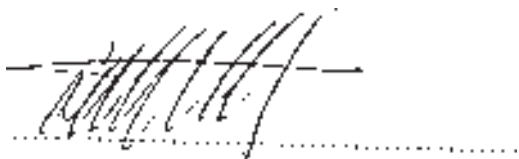
The Audit Committee has:

- Reviewed, suggested amendments where appropriate and discussed with the Auditor-General and the Accounting Officer the audited annual financial statements to be included in the annual report;
- Reviewed the Auditor-General's management letter and the management response thereto;
- Reviewed all audit adjustments recommended and effected;



Audited Financial Statements

- The Audit Committee accepts the conclusions of the Auditor-General on the Annual Financial Statements and is of the opinion that the audited Annual Financial Statements be accepted and read together with the report of the Auditor-General.

A handwritten signature in black ink, appearing to be 'M. M. M.', is written over a solid horizontal line. Below the solid line is a dotted horizontal line.

Chairperson of the Audit Committee


1 October 2004



**APPROVAL OF FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31 MARCH 2004**


The financial statements of the South African Human Rights Commission are the responsibility of the Accounting Officer of the Commission, which she fulfils primarily by established and maintained accounting systems and practices that are adequately supported by systems of internal control. Such controls provide assurance that the assets of the Commission are safeguarded, and transactions are executed in accordance with the Commission's policies and procedures and that the financial records are reliable.

The financial statements appear on pages 70 to 82



07/07/2004

Mr Narandran Kollapen
CHAIRPERSON



07/07/2004

Ms Lindiwe Mokate
CHIEF EXECUTIVE OFFICER



A U D I T O R - G E N E R A L

REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON THE FINANCIAL STATEMENTS OF THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION FOR THE YEAR ENDED 31 MARCH 2004

1. AUDIT ASSIGNMENT

The financial statements as set out on pages 70 to 82, for the year ended 31 March 2004, have been audited in terms of section 188 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), read with sections 3 and 5 of the Auditor-General Act, 1995 (Act No. 12 of 1995) and section 16(2) of the Human Rights Commission Act, 1994 (Act No. 54 of 1994). These financial statements, the maintenance of effective control measures and compliance with relevant laws and regulations are the responsibility of the accounting officer. My responsibility is to express an opinion on these financial statements, based on the audit.

2. NATURE AND SCOPE

The audit was conducted in accordance with Statements of South African Auditing Standards. Those standards require that I plan and perform the audit to obtain reasonable assurance that the financial statements are free of material misstatement.

An audit includes:

- examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements,
- assessing the accounting principles used and significant estimates made by management, and
- evaluating the overall financial statement presentation.

Furthermore, an audit includes an examination, on a test basis, of evidence supporting compliance in all material respects with the relevant laws and regulations, which came to my attention and are applicable to financial matters.

I believe that the audit provides a reasonable basis for my opinion.

3. AUDIT OPINION

In my opinion, the financial statements fairly present, in all material respects, the financial position of the South African Human Rights Commission at 31 March 2004 and the results of its operations and cash flows for the year then ended, in accordance with South African Statements of Generally Accepted Accounting Practice and in the manner required by the Public Finance Management Act, 1999 (Act No. 1 of 1999) as amended.

4. EMPHASIS OF MATTER

4.1 Late submission of the financial statements

In terms of section 40(1)(c)(i) of the Public Finance Management Act, 1999 (Act No. 1 of 1999) (PFMA) the accounting officer must submit financial statements within two months after the financial year to the Auditor-General for audit. The financial statements were only submitted on 7 July 2004.

4.2 Reconciliations

General ledger reconciliations in respect of bank and cash balances, salaries and wages, accounts receivable, accounts payable, fixed assets and projects were not prepared on a monthly basis throughout the period, and were only compiled subsequent to the year-end.

4.3 Staff advances

For the year under review, the staff advance policy was not adhered to. Some deviations from the policy were:

- Staff loans were repaid in more than three instalments.
- In certain instances the advances granted exceeded the net salary of the recipient.
- Employees were not taxed on fringe benefits received.
- Staff members received more than one advance during the year under review.

4.4 Internal audit and audit committee

Section 38(1)(a)(ii) of the PFMA prescribes that the accounting officer is inter alia responsible for maintaining a system of internal audit under the control and direction of an audit committee. Our audit identified the following:

4.4.1 Internal audit

The internal audit function was not operational for the full period under review. An internal audit charter and audit plan could also not be submitted for audit purposes. No audit reports were issued during the period under review.

4.4.2 Audit committee

In addition to its responsibilities in terms of section 38(1)(a)(ii) the audit committee did not fulfill its mandate in terms of the draft audit committee charter:

- The audit committee charter was not approved.
- The audit committee did not evaluate the effectiveness of the internal audit for the period under review.

4.5 Supply chain management

In terms of section 76(4)(c) of the PFMA the National Treasury may make regulations or issue instructions applicable to all institutions to which this Act applies concerning the determination of a framework for an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost effective.

On 5 December 2003 the National Treasury issued regulations regarding a framework for supply chain management in terms of section 76(4)(c) of the PFMA (Government Gazette No. 25767). At 31 March 2004, the Commission did not develop and implement a framework for supply chain management.



5. APPRECIATION

The assistance rendered by the staff of the South African Human Rights Commission during the audit is sincerely appreciated.

**Imran Vanker
for Auditor-General**

**Johannesburg
4 October 2004**

MANAGEMENT REPORT for the year ended 31 March 2004

The Chief Executive Officer presents her report for the year ended 31 March 2004.

1. General Overview

1.1 The functions and powers of the South African Human Rights Commission (SAHRC) as contained in section 184 of the Constitution (Act No. 108 of 1996) are the following:

Functions:

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

Powers:

- To investigate and to report on the observance of human rights;
- To take steps to secure appropriate redress where human rights have been violated;
- To carry out research;
- To educate; and
- To require relevant organs of state to provide the Commission with information on the measures that they have taken towards the realization of the rights in the Bill of Rights concerning housing, health care, food, water, social security, education and the environment.

1.2 Vision

The South African Human Rights Commission (SAHRC) seeks to be an effective instrument for the promotion and protection of human rights, to be the focal point for human rights practice in South Africa and to be accessible to all South Africans.

1.3 Mission Statement

The South African Human Rights Commission (SAHRC) is a national institution established to entrench constitutional democracy through the promotion and protection of human rights by:

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



**MANAGEMENT REPORT
for the year ended 31 March 2004**

1.4 Key Objectives

To be an effective institution for the promotion and protection of human rights, the SAHRC will pursue the following primary objectives:

- To establish the SAHRC as a resource and a focal point for human rights in South Africa;
- To raise awareness of human rights and the role of the SAHRC;
- To investigate individual and systematic complaints of human rights violations and provide appropriate redress;
- To provide a comprehensive research and documentation facility designed to advance human rights, through the monitoring and assessment of the observance of human rights, especially social and economic rights;
- To develop a sustainable culture of human rights through education and training; and
- To maintain and continue to implement an integrated human resource management strategy and system.

1.5 Programme and output details for the year ended 31 March 2004

The SAHRC pursued the following objectives:

Programme 1: Commission

- To raise the profile of the SAHRC by engaging with various stakeholders including government and civil society on issues relating to human rights;
- To ensure strategic interventions on various human rights issues such as policy development;
- To contribute to the creation of a human rights body of knowledge; and
- To ensure the fulfillment of the SAHRC constitutional and statutory mandate.

Programme 2: Management

- To provide efficient, effective and economical corporate services;
- To develop and implement an integrated human resource management strategy;
- To maintain and develop high-level information and communications technology systems; and
- To develop financial, administrative and a procurement system in line with the PFMA and treasury pre-scripts and regulations.

Programme 3: Advocacy

- To establish a communication-friendly environment within the SAHRC and with external stakeholders / role players;
- To promote human rights awareness by implementing an effective and efficient communications strategy;
- To promote the work and corporate image of the SAHRC through campaigns and public relations initiatives; and
- To promote specific campaigns and messages on the rights of children, disabled and older persons, non-nationals and people living with HIV and AIDS.

Programme 4: Legal Services

- To investigate the individual and systemic complaints of human rights violations; and
- To provide appropriate redress and resolve disputes regarding violations.

MANAGEMENT REPORT for the year ended 31 March 2004

Programme 5: Research and Documentation

- To monitor and assess the observance of economic and social rights;
- To monitor and assess the observance of human rights, including the right to quality and the right to information; and
- To maintain a leading human rights library and documentation centre.

Programme 6: Education and Training

- To develop training materials on human rights education and training, especially equality and anti-discrimination and human rights training methodology;
- To conduct training, workshops, seminars, presentations and capacity building programmes on equality, economic and social rights, promotion of access to information, farming communities and the SAHRC focus areas and responding to requests for training from organizations, communities etc;
- To provide in-house capacity building for the SAHRC on the equality legislation, access to information and general human rights training methodology;
- To ensure the institutionalization of human rights education and provide for system of quality assuring the education and training programmes of the SAHRC;
- To implement human rights education projects in line with the strategic objectives of the SAHRC, nationally and regionally; and
- To ensure quality assurance in the education and training initiatives of the SAHRC.

Programme 7: Provinces

- To enhance the accessibility of human rights services to ordinary people at a local level;
- To promote human rights and create awareness among all stakeholders; and
- Investigation of individual and systemic complaints of human rights violations at the point of occurrence and to provide appropriate redress.

2. General review of the state of financial affairs

2.1 Policy Decisions

The SAHRC played a central role in the development of the Policy on Ageing and the formulation of the Older Persons Bill.

2.2 Significant events that have taken place during the year

Programme 1: Commission

- The SAHRC launched its report on the inquiry into human rights violations in the farming communities;
- The SAHRC made submissions on the Immigration Bill and hosted a workshop on the Bill with various stakeholders;
- The SAHRC continues to monitor the Lindela Repatriation Centre to promote the observance of human rights of detained non-nationals;
- The SAHRC made presentations on the development of a United Nations Convention on the Rights of Persons with Disabilities; and
- Training has been conducted on the Promotion of Equality and Prevention of Unfair Discrimination Act, that was primarily aimed at judicial officers.



**MANAGEMENT REPORT
for the year ended 31 March 2004**

Programme 2: Management

- The SAHRC has established internal strategies and procedures relating to human resource management, financial management and administration and information technology; and
- The internal audit function has been initiated, and intervention has been obtained from the audit committee, and external audit firms.

Programme 3: Advocacy

- The SAHRC restructured the Advocacy programme following a review of operations;
- A Media and Communications unit was established to deal with the internal and external communication functions;
- The public outreach and education functions were moved to the Education and Training programme;
- The Media and Communications unit has ensured public access to the SAHRC information materials through the placement of all major reports, publications and policy papers on the website;
- Various publications, posters and reports of the SAHRC have been distributed to members of the public, NGOs / CBOs and government departments; and
- The unit has also ensured that the work of the SAHRC was covered by all major national, regional and local print and electronic media.

Programme 4: Legal Services

- Case manager system was implemented to track complaints more effectively; and
- Resolved cases include access to a courtroom for a wheelchair bound attorney, and the right to vote for certain categories of South African citizens living abroad.

Programme 5: Research and Documentation

- The Fourth Economic and Social rights Report was launched in all provinces;
- A workshop was hosted on Traditional Leaders and Economic and Social Rights;
- The format of the draft Fifth Economic and Social Rights Report has been changed from one large omnibus publication to eight reports (one per right) with a common introductory chapter;
- The PAIA Committee was established to oversee its activities; and
- The Equality unit came into existence with a clear legislative objective of overseeing the effective implementation of the Promotion of Equality and Prevention of Unfair Discrimination Act.

Programme 6: Education and Training

- As a result of internal restructuring, the public education and outreach functions were added to the key objectives of this programme;
- The SAHRC played a central role in ensuring the centrality of human rights in the curricula for General and Further Education and Training;
- Two educational publications relating to the formal education system were released and the Standards Generating Body on Human Rights, Democracy and Peace Education developed unit standards for registration on the National Qualifications Framework;

MANAGEMENT REPORT
for the year ended 31 March 2004

- The outreach of the SAHRC with workshops and Omnibus Training surpassed the output of 357 educational interventions in the 2002/3 financial year, with more than 400 interventions; and
- During Human Rights Week, more than 15 workshops and visits to a variety of institutions and communities took place.

Programme 7: Provinces

The SAHRC has six existing provincial offices that serve as an extension of the activities at Head Office.

2.3 **Spending Trends**

Programme	Expenditure Outcome			
	Audited R'000 2000/01	Audited R'000 2001/02	Audited R'000 2002/03	Audited R'000 2003/04
Commission	9,229	6,175	5,922	3,390
Management	6,351	7,431	7,050	12,788
Advocacy	1,353	3,992	3,666	1,468
Legal services	1,432	2,614	2,607	2,024
Research and Documentation	1,949	2,957	2,896	3,442
Education and Training	1,038	2,444	2,317	1,943
Provinces	2,779	3,351	3,743	4,403
Total	24,131	28,964	28,201	29,458

Standard items of expenditure

Programme	Expenditure Outcome			
	Audited R'000 2000/01	Audited R'000 2001/02	Audited R'000 2002/03	Audited R'000 2003/04
Personnel	11,951	14,799	14,382	18,330
Administrative	5,526	3,336	3,102	2,005
Inventories	1,524	603	564	1,178
Equipment	823	480	282	3,093
Land and buildings	2,856	2,731	2,538	1,860
Professional services	1,451	7,015	7,333	2,992
Total	24,131	28,964	28,201	29,458
Baseline allocation	21,780	21,899	27,401	32,728



**STATEMENT OF RESPONSIBILITY
for the year ended 31 March 2004**

By the Chief Executive Officer

The financial statements have been prepared in accordance with the policies, which have been applied consistently in all material respects, unless otherwise indicated. However, where appropriate, meaningful, additional information has been disclosed to enhance the usefulness of the financial statements and to comply with the statutory requirements of the Public Finance Management Act, Act 1 of 1999 (as amended by Act 29 of 1999), the Treasury Regulations for Departments and Constitutional Institutions issued in terms of the Act, and Generally Accepted Accounting Practice (GAAP).

To the best of my knowledge, all representations made in the Annual Financial Statements are appropriate and valid.

Commissioners

The following persons have served as Commissioners during the period under review:

Name	Capacity
N Kollapen	Chairperson
Z Majodina	Deputy Chairperson
T Manthata	Commissioner
C McClain-Nhlapo	Commissioner
K Govender	Part-time Commissioner
L Wessels	Commissioner

Role and Function

The Chief Executive Officer is the accounting officer of the SAHRC in terms of the Public Finance Management Act (PFMA).

The Management Committee is responsible for the adoption of strategic plans, the monitoring of operational performance and management, the determination of policy and processes to ensure the integrity of the SAHRC risk management and internal controls.

Audit Committee Members	Number of Meetings Attended
Ms. C Strickett (Non-Executive)	4
Mr. AJ Mackenzie (Non-Executive)	4
Mr. T Sedumedi (Non-Executive)	4
Ms. L Mokate (Executive)	4

The audit committee is responsible for amongst other matters, improving management reporting by overseeing the audit function, internal controls and the financial reporting process.

Risk Management

The system of internal control is designed for the different components within the SAHRC, to tailor and adapt risk management processes to suit specific operational circumstances. The risk management strategy, which includes the fraud prevention plan, is used by all managers for continuous monitoring of risk and control processes.

Internal Audit

The internal audit function has been initiated with the assistance of the audit committee and an external firm of auditors.

**STATEMENT OF RESPONSIBILITY
for the year ended 31 March 2004**

Code of Ethics

A code of ethics has been developed and implemented requiring all employees to maintain the highest standards of behaviour. The code provides clear guidance on expected behaviour and has been complied with.

SAHRC Address

29 Princess of Wales Terrace
Private Bag 2700, Houghton, Johannesburg, 2041

Bankers

First National Bank, Parktown

Chief Executive Officer

The Chief Executive Officer during the year under review was Ms. L Mokate.

Property, plant and equipment

There have been no major changes to the property, plant and equipment held during the period under review nor have there been any changes in the policy relating to the use thereof.

Subsequent Events

There have been no facts or circumstances of a material nature that have occurred between the accounting date and the date of this report. The late submission of the annual financial statements is attributed to the high staff turnover experienced within the management of the financial section.

Auditors

Office of the Auditor-General

The annual financial statements for the year ended 31 March 2004 as set out on pages 70 to 82 were submitted for audit on 07 July 2004 and were approved by the accounting officer in terms of section 51(1)(f) of the Public Finance Management Act, 1999 (Act No. 1 of 1999) as amended, and is signed on behalf of the SAHRC by:



Ms. L Mokate
Chief Executive Officer

SOUTH AFRICAN HUMAN RIGHTS COMMISSION

BALANCE SHEET AS AT 31 MARCH 2004

ASSETS	Notes	2004 R	2003 R
Non-current assets			
Property, plant and equipment	2	4,205,536	2,069,155
Current assets			
Trade and other receivables	3	409,589	337,064
SAHRC Trust	4	203,249	203,315
Cash and cash equivalents	5	5,959,697	4,674,114
Total assets		10,778,071	7,283,648
EQUITY AND LIABILITIES			
Reserves			
Retained income		5,498,364	2,563,068
Current liabilities			
Trade and other payables	6	2,569,048	335,868
Own funded projects roll-over	7	211,150	-
Donated project funds roll-over	8	1,997,363	1,965,165
Provisions	9	502,146	2,419,547
Total equity and liabilities		10,778,071	7,283,648

SOUTH AFRICAN HUMAN RIGHTS COMMISSION

ABRIDGED INCOME STATEMENT FOR THE YEAR ENDED 31 MARCH 2004

	Notes	2004 R	2003 R
Operating income	14	33,774,202	28,212,349
Operating expenditure		29,458,174	28,201,016
Depreciation	2	956,750	870,784
Other operating expenditure	10	8,822,974	8,771,659
Projects	13	1,348,424	2,623,339
Staff cost	11	18,330,026	15,935,234
Surplus from operations		4,316,028	11,333
Financing cost		(202)	-
Net surplus for the year		4,315,826	11,333

STATEMENT OF CHANGES IN EQUITY FOR THE YEAR ENDED 31 MARCH 2004

	Notes	2004 R	2003 R
Accumulated surplus - beginning of year		2,563,068	1,566,995
Fundamental error	12	(1,380,530)	984,740
Restated accumulated surplus		1,182,538	2,551,735
Surplus for the year		4,315,826	11,333
Accumulated surplus - end of year		5,498,364	2,563,068



SOUTH AFRICAN HUMAN RIGHTS COMMISSION

CASH FLOW STATEMENT FOR THE YEAR ENDED 31 MARCH 2004

	Notes	2004 R	2003 R
Cash flows from operating activities	A	3,810,373	2,371,751
Interest income		568,542	485,093
Interest expense		(202)	-
Net cash inflow from operating activities		4,378,713	2,856,844
Cash flows from investing activities			
Acquisition of assets		(3,093,130)	(875,517)
Net cash outflow from investing activities		(3,093,130)	(875,517)
Cash flows from financing activities		-	-
Net increase in cash and cash equivalents		1,285,583	1,981,327
Cash and cash equivalents at beginning of year		4,674,114	2,692,787
Cash and cash equivalents at end of year		5,959,697	4,674,114

NOTES TO THE CASH FLOW STATEMENT FOR THE YEAR ENDED
31 MARCH 2004

A. Cash flows from operating activities

	2004 R	2003 R
Surplus for the year	4,315,826	11,333
Adjustment for the following		
Depreciation	956,750	870,784
Interest income	(568,542)	(485,093)
Interest expense	202	-
Fundamental error	(1,380,530)	984,740
Operating surplus before changes in working capital	3,323,706	1,381,764
Changes in working capital	486,667	989,987
(Increase) in debtors	(72,459)	(183,246)
Increase in creditors	559,126	1,173,233
Cash generated from operations	3,810,373	2,371,751

**NOTES TO THE ANNUAL FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31 MARCH 2004**

1. ACCOUNTING POLICIES

The financial statements have been prepared in accordance with the following policies, which have been applied consistently in all material respects, unless otherwise indicated. However, where appropriate, meaningful, additional information has been disclosed to enhance the usefulness of the financial statements and to comply with the statutory requirements of the Public Finance Management Act, Act 1 of 1999 (as amended by Act 29 of 1999) as well as the Treasury Regulations for Departments and Constitutional Institutions issued in terms of the Act, and Generally Accepted Accounting Practice (GAAP).

1.1 Basis of preparation

The annual financial statements of the South African Human Rights Commission are presented on the historical cost basis of accounting in conformity with South African Statements of Generally Accepted Accounting Practice (GAAP). Under the accrual method of accounting, transactions and other events are recognised when incurred and not when cash is received or paid.

1.2 Accounting policies

The accounting policies applied are consistent in all material respects with those applied in the previous financial year except where stated otherwise.

1.3 Revenue

Voted funds are the amounts appropriated to the SAHRC by National Treasury in accordance with the final budget.

1.4 Donor Aid

1.4.1 In terms of donor requirements contained in financial agreements with benefactors, unexpended donor funds ringfenced for specific projects are reflected as current liabilities in circumstances where such funds are repayable to donors in the event of the funds not being utilised on the specific project.

1.4.2 Unexpended donor funds that are not required to be repaid that relate to completed projects, are treated as operating income in the year that the projects are deemed completed.

1.5 Current Expenditure

Current expenditure is recognised in the income statement on an accrual basis.

1.5.1 Inventory

Inventory is purchased when required, and is expensed in the income statement.

1.6 Property, plant and equipment

Property, plant and equipment are shown at cost less accumulated depreciation. These assets are depreciated on the straight line basis at rates which will result in each asset being written off over its useful life.



**NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED
31 MARCH 2004**

Item	Write-Off period in years	Depreciation rate
Computer Equipment	3	33.3% pa
Office Furniture and Equipment	4	25% pa
Motor vehicles	5	20% pa
Library Material	Not depreciated	

The carrying value of property and equipment is reviewed for impairment when events or changes in circumstance indicate that the carrying amount may not be recoverable. If any such indication exists and where the carrying amount exceeds the estimated recoverable amount, the assets are written down to their recoverable amount. Impairment losses and the reversal of impairment losses are recognised in the income statement.

All assets valued at less than R1000.00 have been expensed during the year under review.

1.7 Receivables

Receivables are disclosed separately in the notes to enhance the usefulness of the financial statements.

1.8 Provisions

Provisions are disclosed separately in the notes to enhance the usefulness of the financial statements. A new provision for leave pay has been effected.

1.9 Accruals

This amount represents goods and services that have been delivered, but where no invoice has been received from the supplier at the year end, or an invoice has been received, but remains unpaid at year end.

1.10 Salaries and Wages

Short - Term Employee Benefits

The cost of the short-term employee benefits is expensed in the income statement in the reporting period that the payment is made.

1.11 Employee Benefits

1.11.1 Termination Benefits

Termination benefits are recognised and expensed only when the payment is made.

1.11.2 Retirement Benefits

The SAHRC provides retirement benefits for its employees through a defined contribution plan.

1.11.3 Medical Benefits

The SAHRC provides medical benefits for its employees through a defined contribution plan. These benefits are funded by both employer and employee contributions.

1.12 Comparative Figures

Where necessary, comparative figures have been adjusted to conform to changes in presentation in the current year. The comparative figures shown in these financial statements are as published in the last financial statements.

1.13 Projects

For the current year, unexpended donor funds relating to incomplete projects and SAHRC re-imbursive allowances are reflected as current liabilities.

SOUTH AFRICAN HUMAN RIGHTS COMMISSION

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2004

2. Property, plant and equipment

	Balances as at 01 April 2003		Current Year Movements		Balances as at 31 March 2004				
	Gross carrying amount R	Accumulated Depreciation R	Net carrying amount R	Additions R	Disposal R	Depreciation for the year R	Gross carrying amount R	Accumulated Depreciation R	Net carrying amount R
Motor vehicles	272,280	151,752	120,528	186,506	-	62,152	458,786	213,904	244,882
Computer equipment	3,247,869	2,726,754	521,115	1,057,727	-	423,591	4,305,596	3,150,345	1,155,251
Office equipment	595,791	521,695	74,096	1,322,412	-	207,495	1,918,203	729,190	1,189,013
Furniture and Fittings	2,089,933	1,832,917	257,016	526,485	-	263,512	2,616,418	2,096,429	519,990
Library Material	1,096,400	-	1,096,400	-	-	-	1,096,400	-	1,096,400
Total	7,302,273	5,233,118	2,069,155	3,093,130	-	956,750	10,395,403	6,189,868	4,205,536



SOUTH AFRICAN HUMAN RIGHTS COMMISSION
NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31
MARCH 2004

	2004 R	2003 R
3. Trade and other receivables	409,589	337,064
Deposit with Gensec (operating lease)	215,800	215,800
Other receivables	29,280	-
Staff loans	162,724	119,479
Department of Justice	1,785	1,785
<p>Staff loans are in terms of a staff loan policy, and are approved by the Chief Executive Officer.</p>		
4. SAHRC Trust	203,249	203,315
<p>The SAHRC Trust account is a bank account that operates as an independent trust with a Trust Deed. The SAHRC is the sole beneficiary of the SAHRC Trust.</p>		
5. Cash & cash equivalents	5,959,697	4,674,114
Current Account	156,748	(811,194)
Call Account	5,788,550	5,478,244
Petty Cash Control Account	14,399	7,064
6. Trade and other payables	2,569,048	335,868
Staff Hospitality fund	-	5,940
Other accruals / payables	2,569,048	329,928
7. SAHRC own funded projects roll-over	211,150	-
Reimbursive training projects	88,861	-
Farming community EU	122,289	-

Own funded projects were previously disclosed as operating activities, and an adjustment was made to the fundamental error as disclosed in note 12.5 and Annexure A to the financial statements. Reimbursive allowances include reimbursements for lectures on human rights given at various institutions. These allowances will be utilised to fund internal projects. The farming project was previously funded by the European Union. Donor funds have been utilised and this project is now funded by the SAHRC.

SOUTH AFRICAN HUMAN RIGHTS COMMISSION
NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31
MARCH 2004

	2004 R	2003 R
8. Donated project funds roll-over	1,997,363	1,965,165
Roll back Xenophobia	218,129	383,172
Secretariat of African National Institutions	24,709	335,772
National Conference on Racism	255,164	255,164
EU Human Rights Projects	-	150,692
Duma Nokwe	10,068	10,069
Vryburg Police Project	86,748	86,748
Socio Economic Rights	-	56,017
World Conference Against Racism	223,468	223,468
Death Penalty Project	-	90,000
Mott Foundation	245,479	232,184
EU Training Project	(21,031)	141,879
Evaluation of SAHRC / 10 Year Review	185,321	-
Equality Legislation Project	769,308	-

9. Provisions

9.1 Rental provision	-	2,419,547
Balance at the beginning of the year	2,419,547	1,597,390
Provision for rental - Department of Public Works (reversed)	(2,419,547)	-
Additional provision made during the year	-	822,157

Rental provisions relate to amounts paid by the Department of Justice on behalf of the South African Human Rights Commission. An amount for rental expenses was provided in the previous financial year. However, in the year under review, the Department of Public Works informed the SAHRC that the provision was no longer necessary since the actual payments were made on the SAHRC's behalf, and no re-imburement is applicable to the Department of Public Works.

9.2 Leave pay provision	502,146	-
Leave pay provision	502,146	-



SOUTH AFRICAN HUMAN RIGHTS COMMISSION
NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31
MARCH 2004

	2004 R	2003 R
10. Other operating expenditure	8,822,974	8,771,659
Audit fees	436,468	121,542
Operating lease payments:		
Land & buildings - rented services	1,860,023	3,034,178
Travel	883,515	1,324,255
Telephones	770,467	1,511,014
Consulting fees	930,529	161,643
Leasing & hiring	886,084	335,849
Other expenses (per detailed income statement)	3,055,888	2,283,178
10.1 Operating lease commitments		
The South African Human Rights Commission future lease commitments in respect of office buildings are as follows:		
Due within one year	13,010,500 3,252,625	16,263,125 3,252,625
Due within one and five years	9,757,875	13,010,500
11. Staff cost		
Staff cost amounting to include the following:	18,330,026	15,935,234
Commissioners remuneration	2,488,560	2,713,268
Basic salary	1,774,086	1,943,863
Other employment benefits		
Car allowance	460,383	500,903
Medical allowance	42,414	48,147
Housing allowance	7,161	7,048
Pension allowance	204,516	213,307
Senior management remuneration	2,226,460	2,675,367
Basic salary	1,501,746	1,776,198
Other employment benefits		
Car allowance	477,975	580,517
Medical allowance	60,256	76,003
Housing allowance	14,028	23,961
Pension allowance	172,455	218,688

SOUTH AFRICAN HUMAN RIGHTS COMMISSION
NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31
MARCH 2004

	2004 R	2003 R
12. Fundamental error	(1,380,530)	984,740
12.1 Rent over provision	-	1,597,390
12.2 Depreciation over provision - computer equipment	-	786,997
12.3 Reversal of stale cheques Reversal of own-funded projects	-	21,708
12.4 Current year	(1,633,416)	1,670,722
12.5 Previous year	-	(922,136)
12.6 Assets understated	-	(2,169,941)
12.7 Differences in bank account take-on balance	252,886	-

**12.4 Reversal of own funded projects
- current year**

(1,633,416)

The balance as at 31 March 2003 was reported as R 1,965,165, which included an adjustment of R1,633,416 for own funded projects that was reported as being part of the fundamental error correction in the previous year. In view of more information that is available in the year under review, project take-on balances were restated, and recatergorised according to the source of funds.

**12.7 Differences in Bank
account take-on balance**

Bank accounts with a total value of R 252,886 was omitted from the compilation of the previous year's financials.

Account Number	Closing Balance 31 March 2003 Pastel Record	Opening Balance 01 April 2003 First National Bank Statement	Reconciling Petty cash/ outstanding cheques	Differences in Bank account take-on balance
62009325178	-	(390)	-	(390)
62010228684	359,379	484,277	-	124,898
620120296692	-	251	27	278
62011606665	-	506	207	713
62028451516	-	945	(815)	130
62011468734	-	4,919	1,378	6,297
62010227579	-	120,960	-	120,960
62011609768	-	21	(21)	-
Total	359,379	611,489	776	252,886

13. Project expenditure

SAHRC - projects

	1,348,424	2,623,339
Legal	40,984	529,617
Research	380,986	915,728
Advocacy	534,328	468,779
Commissioners	6,746	-
Training	385,380	709,215



SOUTH AFRICAN HUMAN RIGHTS COMMISSION

14. DETAILED INCOME STATEMENT FOR THE YEAR ENDED 31 MARCH 2004

	2004 R	2003 R
Operating income	33,774,202	28,212,349
Donations income	100,236	286,411
Interest received	568,542	485,093
SA Government grant	32,785,000	27,401,000
Sundry income	320,424	39,845
Operating expenditure	29,458,376	28,201,016
Advertising	297,478	95,915
Audit fees	436,468	121,542
Bank charges	56,200	50,347
Book and subscription	7,212	11,749
Computer expenses	280,621	208,050
Conference and workshops	156,958	161,322
Consulting fees	930,529	161,643
Courier and postage	67,699	104,796
Depreciation	956,750	870,784
Provincial expenses	-	6,259
Legal fees	109,082	-
Subscription - library materials	379,937	-
Insurance	309,856	176,257
Interest paid	202	-
Lease and hire expenses	886,084	335,849
Motor vehicle expenses	133,066	181,871
Office relocation	463,824	796,600
Printing and stationery	429,838	273,512
Refreshments and catering	141,859	112,404
Rent and services	1,860,023	3,034,178
Repair and maintenance	41,228	62,398
Salaries and wages	18,330,026	15,935,234
Staff development	150,377	17,028
Staff relocation	30,653	24,670
Telephone, cell & fax	770,467	1,511,014
Translation and project cost	1,348,424	2,623,339
Travel & accommodation	883,515	1,324,255
Surplus for the year	4,315,826	11,333

**SOUTH AFRICAN HUMAN RIGHTS COMMISSION
ANNEXURE A
SCHEDULE OF DONOR FUNDED /OWN FUNDED PROJECT ROLL-OVER AS AT 31 MARCH 2004**

Donor Funded Projects	Balance Apr-03 R	Adjustment to opening balance R	Adjusted Balance Apr-03	Income Received R	Actual Expenses R	Balance Mar-04 R
941/008 Mott foundation (Forum on racism education)	232,185	(77,010)	155,174	-	(155,174)	-
941/010 NIHR (Socio economic rights)	56,017	-	56,017	-	(56,017)	-
941/014 UNHCR (Roll back Xenophobia)	383,173	(6,519)	376,654	1,122	(159,647)	218,129
941/001 Secretariat of African national institutions	335,772	-	335,772	25,172	(336,235)	24,709
941/002 Foundation for human rights SER2	150,692	-	150,692	-	(150,692)	-
941/012 World conference against racism	223,467	-	223,467	-	-	223,467
941/003 Duma Nokwe	10,069	-	10,069	-	-	10,069
941/007 National conference on racism	255,165	-	255,165	-	-	255,165
941/005 EU Training projects	141,879	(20,327)	121,553	-	(142,583)	(21,031)
941/009 Vryburg police project (NZ)	86,748	-	86,748	-	-	86,748
941/013 Death penalty project	90,000	-	90,000	-	(90,000)	-
941/015 PAIA funds	-	300,000	300,000	-	(300,000)	-
941/017 Mott foundation 200300731	-	-	-	245,479	-	245,479
941/011 Equality legislation project	-	811,479	811,479	-	(42,171)	769,308
941/006 Evaluation of SAHRC / 10 year review	-	400,988	400,988	50,000	(265,667)	185,321
Sub total	1,965,165	1,408,611	3,373,776	321,773	(1,698,186)	1,997,363
Transferred to roll-over account	1,965,165	1,408,611	3,373,776	321,773	(1,698,186)	1,997,363

**SOUTH AFRICAN HUMAN RIGHTS COMMISSION
ANNEXURE A
SCHEDULE OF DONOR FUNDED /OWN FUNDED PROJECT ROLL-OVER AS AT 31 MARCH 2004 (cont.)**

Own Funded Projects	Balance Apr-03	Adjustment to opening balance	Adjusted Balance Apr-03	Income Received	Actual Expenses	Balance Mar-04
941/004 Own funded training project 4	-	91,960	91,960	-	(3,099)	88,861
941/016 Farming community EU	-	132,845	132,845	-	(10,556)	122,289
Own funded projects	-	224,805	224,805	-	(13,655)	211,150

Total projects	Balance Apr-03	Adjustment to opening balance	Adjusted Balance Apr-03	Income Received	Actual Expenses	Balance Mar-04
Projects sub-total	1,965,165	1,633,416	3,598,582	321,773	(1,711,841)	2,208,513
Projects total	1,965,165	1,633,416	3,598,582	321,773	(1,711,841)	2,208,513

The balance as at 31 March 2003 was reported as R 1,965,165, which included an adjustment of R1,633,416 for own funded projects that was reported as being part of the fundamental error correction in the previous year. In view of more information that is available in the year under review, project take-on balances were restated, and recategorised according to the source of funds.

PAIA Annual Report to Parliament



Part 1

1. Introduction

This is the second annual report of the South African Human Rights Commission (hereinafter, the Commission) to the National Assembly as contemplated in sections 83(1)(b) and 84 of the Promotion of Access to Information Act 2 of 2000 (hereinafter, PAIA or the Act). This report covers the period from April 2003 to March 2004.

The content of this report is guided by section 84, which stipulates what should be included in the report; mainly the statistics on how public bodies have dealt with requests for access to information submitted in terms of PAIA during the reporting period, and recommendations on the modernisation and improvement of the Act.

2. Review of the Act

This being the third anniversary of the coming into operation of PAIA, and the Commission's second reporting cycle to the National Assembly, the Commission took a decision to embark on a process of reviewing the Act and the Regulations, starting during the 2003-2004 reporting period. The review process was divided into two phases, the consultation phase and the research phase. A separate comprehensive report will be compiled at the end of the review process.

2.1 The consultation phase

The consultation phase commenced with the hosting of the National Indaba on PAIA on 22 and 23 May 2003. This was followed by the hosting of the Second International Conference of Information Commissioners on 2 and 3 February 2004 and the National Conference on PAIA on 4 February 2004.

2.1.1 National Indaba on PAIA

The Commission held the National Indaba on PAIA at the Parktonian Hotel in Johannesburg on 22 and 23 May 2003. The Indaba was a national gathering of access to information stakeholders from government, civil society and representatives of the business fraternity. The objective of the Indaba was to discuss problems pertaining to the implementation of PAIA. The Commission tabled a discussion paper highlighting the following burning issues: availability of manuals; fees; interpretation of the definition of an information officer at provincial level; exemption from the provisions of section 51 of the Act; access to courts; non-compliance with the provisions of the Act; and enforcement mechanisms.

The Commission compiled a report on the National Indaba, containing transcripts of the Indaba and copies of research reports subsequently commissioned from the South African History Archive (SAHA), Open Democracy Advice Centre (ODAC) and Bowman Gilfillan¹.

¹ A law firm based in Sandton, Johannesburg.

2.1.2 Second International Conference of Information Commissioners

The Second International Conference of Information Commissioners was hosted on 2 and 3 February 2004 at the Mount Nelson Hotel in Cape Town. The International Conference of Information Commissioners is an annual gathering of information commissioners from all over the world to share information and ideas on the implementation of the right to freedom of information in their respective jurisdictions. The Chairperson of the Commission opened the Conference at an informal meeting on the evening of 1 February 2004. Her Worship the Honourable Mayor of the City of Cape Town, Ms Nomaindia Mefeketho, welcomed the information commissioners to South Africa and to the City of Cape Town at a gala dinner hosted by the Commission on the 2 February 2004.

The Conference provided the Commission with an opportunity to interact with approximately 30 information commissioners from 25 countries. While participation in the Conference was limited to information commissioners, the Commission, as the organiser and host of the Conference, extended an invitation to Members of Parliament, the Department of Justice and Constitutional Development (hereinafter, the Department of Justice) and non-governmental organisations (NGOs) active in the field of freedom of information in South Africa to attend as observers.

2.1.3 National Conference on PAIA

On 4 February 2004, immediately following the closure of the International Conference of Information Commissioners, the Commission hosted a National Conference on PAIA at the Mount Nelson Hotel in Cape Town. Most of the delegates at the National Conference had been part of the International Conference as observers. The conference followed up on issues discussed at the National Indaba in May 2003. ODAC was afforded the opportunity to table and discuss its comparative study of the implementation of freedom of information legislation in other jurisdictions.

2.2 Research

As mentioned above, after the discussions at the National Indaba in May 2003, ODAC, SAHA and Bowman Gilfillan were commissioned to conduct research on various issues related to PAIA that had been raised at the Indaba and needed further investigation. In addition, representatives of the Commission, Department of Justice and Parliamentary Portfolio Committee on Justice undertook a tour of Canada from 13 to 22 February 2004, to study the information regime there.

2.2.1 Commissioned research

Bowman Gilfillan was commissioned to conduct research on the exemption of certain private bodies from the requirement to produce manuals in terms of section 51 of the Act. Amongst other things, the research had to determine categories of private bodies that should be exempted; time frames for exemption (how long should private bodies be exempted); and any other issue related thereto.

SAHA and ODAC were both commissioned to research and/or evaluate the Commission's performance in terms of its obligations under PAIA, with particular focus on whether the Commission, as a constitutional body responsible for human rights, is best placed to champion the right of access to information as enshrined in PAIA.

The terms of reference for SAHA included an investigation into whether the Commission would need to restructure if the conclusion was reached that the Commission is best placed to champion the right of access to information.

ODAC was briefed to investigate the possibility of establishing an Office of the Information Commissioner², either as an independent office or as part of one of the Chapter 9³ institutions, if the conclusion was reached that the Commission is not best placed to champion the right of access to information.

After studying the three research reports, the Commission organised a one-day workshop with ODAC, SAHA, Bowman Gilfillan and the Department of Justice on 18 June 2003. The Commission met on 24 July 2003 to consider the reports further and to make preliminary recommendations based on the findings of the reports. The meeting noted the following:

- That the Commission welcomes open and constructive debate on the issue of the possibility of establishing an Office of the Information Commissioner; however, such debates should also take into consideration the enactment of data protection legislation.
- That the issue of whether the country has reached a stage where it needs to consider establishing an Office of the Information Commissioner needs to be investigated further.
- That such investigation should take into consideration the danger of proliferating under-resourced commissions, as opposed to channelling resources to existing institutions in order to ensure that they are empowered to carry out their respective mandates effectively.
- While the Commission was not opposed to the proposed exemption of small private bodies, it noted that the success of the exemption policy rests on two pillars:
 - Firstly, firm policy should be formulated and the content of that policy itself should have only two categories: those covered by the exemption and those not covered by the exemption.
 - Secondly, the Act should be amended to parallel the exemption.

Three reasons were noted for this ‘firm policy plus amendment’ route. First, the Commission only has recommendation powers. It depends upon the Minister of Justice and Constitutional Development (hereinafter, the Minister of Justice) and Parliament to take binding legal action with respect to PAIA and the Regulations. Thus the Commission’s recommendations are most likely to be respected and listened to if the policies are clear. Second, the section 51(4) exemptions option is not the appropriate place for these decisions to be made. The section 51(4) exemption power exercised by the Minister of Justice should not be used to permanently change Parliament’s choices with respect to the coverage of the Act, but rather to aid implementation and address individual instances of exemption. Third, from the point of view of those subject to PAIA, a policy that is not firm coupled with a further extension would damage respect for the PAIA regime.

² The Office of the Information Commissioner is an independent office, with or without order making powers, responsible for trying to settle PAIA complaints before they are forwarded to court.

³ Chapter 9 of the Constitution.

The Commission made the following preliminary recommendations:

- That the Commission will continue to handle PAIA related complaints through its normal complaint-handling procedures, including mediating between parties where necessary.
- That the Commission would investigate the possibility of an amendment to PAIA in order to allow the Commission to play a role with respect to PAIA similar to the role it is empowered to play with respect to the Promotion of Equality and Prevention of Unfair Discrimination Act (PEPUDA), which includes the ability to receive and prosecute equality complaints and to mediate in equality matters.
- That the Commission would investigate the possibility of an amendment to the regulations to minimise the costs of the distribution of the Section 10 Guide.
- That some categories of indigent people should be exempted from paying access fees when requesting information from public and private bodies.
- That the Minister of Justice should use his powers in terms of section 51(4) of the Act to exempt some categories of private bodies from submitting manuals for a period of two years.
- That the two-year exemption period should provide the Department of Justice with enough time to consider the exemption policy as a whole; additionally, that the two-year exemption period is adequate for exempted private bodies to prepare themselves for compliance with section 51 once the exemption period has expired.

The Commission accordingly forwarded some of the aforementioned recommendations to the former Minister of Justice, including that he use his powers in terms of section 51(4) of PAIA to exempt small private companies for a period of two years, until 2005. The Minister published a notice in the Government Gazette⁴ in which he granted exemption to private companies other than public companies⁵ from publishing manuals from 1 September 2003 to 31 September 2005. The exemption of private bodies from publishing the section 51 manuals did not mean a total exemption from other provisions of the Act, including the duty to provide information to requesters.

2.2.2 Canadian Study Tour

The week-long Canadian Study Tour, sponsored by the Canadian International Development Agency (CIDA) from 13 to 22 February 2004, was part of the broader comparative study and review of PAIA by the Commission, in cooperation with the Department of Justice and the Parliamentary Portfolio Committee on Justice. The tour delegation was composed of Adv Johnny de Lange (then Chairperson of the Parliamentary Portfolio Committee on Justice), Ms Fatima Chohan (then Deputy Chairperson of the Parliamentary Portfolio Committee on Justice), Ms Marilyn Raswiswi from the Department of Justice, Dr Leon Wessels (Commissioner responsible for the right of access to information in the Commission), Adv Mothusi Lepheana (Manager of the PAIA Unit in the Commission), Mr Andre Keet (member of the PAIA Committee in the Commission) and Adv Tseliso Thipanyane (former Deputy Information Officer in the Commission). Ms Sheila Camerer (Member of Parliament, Democratic Alliance) had to withdraw from the delegation.

Visiting Canada was particularly advantageous in that their implementation of freedom of information legislation is unique. The delegation had the opportunity to observe three different models functioning within the country:

⁴ Regulation 7 756 published in the Government Gazette on 29 August 2003.

⁵ Other than public companies in terms of the Companies Act 61 of 1973.

- The Federal Information Commissioner model, where the commissioner does not have order making powers;
- The provincial system (Ontario Province), where one Information Commissioner's office (with order making powers) is responsible for both the right to privacy and access to information; and
- The Federal Privacy Commissioner, without order making powers.

2.2.2.1 Some observations

Very few countries can provide the opportunity to observe all these models in operation. The one country that comes close to the Canadian situation is Australia; the Commission is considering a study tour of Australia as the last part of the interactive research phase of the review process. While information on the Canadian system could be obtained through desk research, this would not compare to the experience of discussion with people directly involved in the implementation of the legislation.

The delegation and the institutions that were represented remain indebted to CIDA for their financial support. The delegates were humbled by the warm reception they received from the people of Canada, particularly the Office of the Information Commissioner, the Honourable Mr John Reid, who hosted the delegation for the duration of the tour.

Part 2

3. Amendments to the Act and notices

During the reporting period the Minister of Justice published regulations and notices in terms of section 92 of PAIA pertaining to the amendment of the Act and the Regulations. The following is a list of Government Notices that were published in this regard:

3.1 Government Notice No. R493

Date: 11 April 2003

Subject: Exemption of the National Intelligence Agency from compiling, publishing and making available the section 14 manual for the period 2003 to 2008.

3.2 Government Notice No. 1263

Date: 11 April 2003

Subject: Amendments to Regulation 187 with regard to availability of manuals from private bodies.

3.3 Government Notice No. 678

Date: 23 May 2003

Subject: Determination of the National Prosecuting Authority as separate public body under section 13(c)(i) of PAIA.

3.4 Government Notice No. R 887

Date: 20 June 2003

Subject: Publication of Section 15 Notices (Information readily available from public bodies) by the Minister.

3.5 Government Notice No. R 888

Date: 20 June 2003

Subject: Determination that the Office of Auditor-General forms part of the Auditor-General in terms of section 13(a) of PAIA.



3.6 Government Notice No. 938

Date: 27 June 2003

Subject: Designating all Magistrates Courts as courts to hear both applications and appeals generally or in respect of a specified class of decisions in terms of PAIA, within whose area of jurisdiction the decision of the information officer, or relevant authority of the public body or the head of a private body, has been taken.

3.7 Government Notice No. 25282

Date: 30 July 2003

Subject: To provide a summary of the Judicial Amendment Bill relating to the amendment of PAIA, so as to extend the period within which the Commission must compile a guide to assist persons who wish to gain access to information.

3.8 Government Notice No. 1243

Date: 29 August 2003

Subject: Exemption of private companies from compiling manuals as from 1 September 2003 to 31 August 2005.

3.9 Government Notice No. 1244

Date: 22 September 2003

Subject: Amendment to Regulation 187 with regard to availability of manuals by public and private bodies; substitution of regulations 4(1) and 9.

3.10 Government Notice No. 38

Date: 16 January 2004

Subject: Proposed amendment to PAIA by Clause 25 of the Judicial Matters Second Amendment Bill, which seeks to amend section 92(4) of PAIA by the addition of subsection (4) thereto. 'In terms of the proposed amendment any person who contravenes a provision thereof or fails to comply therewith is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding two years'.

Part 3

4. Section 32 reports

The statistical component of the report is divided into four sections consisting of the national sphere, which refers to national government departments; the provincial sphere, which refers to provincial government departments; the local sphere, which refers to municipalities; and Chapter 9 institutions and parastatals. Section 4 refers to other public bodies.

4.1 Section 32 report statistics

The following reports were submitted by public bodies in terms of section 32 of the Act. The reports cover the period 9 March 2003 to 8 March 2004.

NATIONAL SPHERE

National Government Departments

Department	Date Submitted	Number of requests for access received	Number of requests for access granted in full	Number of requests for access granted in terms of section 46	Number of requests for access: a)refused in full b)refused partially c)number of times each provisions of the Act was relied on to refuse access in full or partially	Number of cases in which the periods stipulated in section 25(1) were extended in terms of section 26 (1)	Number of internal appeals a)lodged with the relevant authority b)number of cases in which as a result of an inter-national appeal access was given	Number of internal appeals which were lodged on the ground that a request for access was regarded as having been refused in terms of section 27	Number of applications to a court which were lodged on the ground that an internal appeal was regarded as having been dismissed in terms of section 77 (7)	Such other matters as may be prescribed
	2004				a) b) c)		a) b)			
1. Agriculture	15/03/04	(12)	(9)	(0)	(1) (2) (0)	(4)	(1) (1)	(0)	(0)	(0)
2. Foreign Affairs	15/04/04	(15)	(7)	(0)	(8)	(0)	(2) (0)	(0)	(0)	(0)
3. Home Affairs	19/04/04	(730)	(714)	(2)	(14) (0) (0)	(0)	(6) (0)	(0)	(0)	(0)
4. Housing	22/04/04	(0)	(0)	(0)	(0) (0) (0)	(0)	(0) (0)	(0)	(0)	(0)
5. Justice and Constitutional Development	23/03/04	(49)	(13)	(0)	(8) (0) 11)	(1)	(1) (1)	(7)	(0)	(0)
6. Land Affairs	12/03/04	(3)	(1)	(0)	(0) (2) (0)	(0)	(0) (0)	(0)	(0)	(0)



PROVINCIAL SPHERE

Eastern Cape	Date Submitted	Number of requests for access received	Number of requests for access granted in full	Number of requests for access granted in terms of section 46	Number of requests for access: a)refused in full b)refused partially c)number of times each provisions of the Act was relied on to refuse access in full or partially	Number of cases in which the periods stipulated in section 25(1) were extended in terms of section 26 (1)	Number of internal appeals lodged with the relevant authority b)number of cases in which as a result of an inter-national appeal access was given	Number of internal appeals which were lodged on the ground that a request for access was regarded as having been refused in terms of section 27	Number of applications to a court which were lodged on the ground that an internal appeal was regarded as having been dismissed in terms of section 77 (7)	Such other matters as may be prescribed
	2004				a) (b) (c)		(a) (b)			
1. Office of the Premier	13/11/03	(0)	(0)		(0) (0) (0)	(0)	(0) (0)	(0)	(0)	(0)
2. Treasury	13/11/03	(1)	(0)	Still under consideration	(0) (0) (0)	(0)	(0) (0)	(0)	(0)	(0)
3. Social Development	13/11/03	(2)	(2)	(0)	(0) (0) (0)	(0)	(0) (0)	(0)	(0)	(0)
Free State										

PROVINCIAL SPHERE (cont.)

Gauteng																			(0)	
1. Agriculture, conservation and environment	2/06/04	(15)	(10)	(0)	(5)	(0)	(0)	(0)	(1)	(1)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	
Eastern Cape																				
Limpopo																				
1. Department of Finance and Economic Development	6/04/04	(9)	(9)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	
2. Health Department	11/02/04	(1)	(1)	(1)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	
North West																				
1. Local Government and Housing	31/10/03	(1)	(0)		(0)	(0)	(1)	(1)	(1)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	
Western Cape																				
1. Parliament	8/03/2004	(5)	(5)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	

Provincial Government Bodies and Institutions

Institution	Date Submitted	Number of requests for access received	Number of requests for access granted in full	Number of requests for access granted in terms of section 46	Number of requests for access: a)refused in full b)refused partially c)number of times each provisions of the Act was relied on to refuse access in full or partially	Number of cases in which the periods stipulated in section 25(1) were extended in terms of section 26 (1)	Number of internal appeals a)lodged with the relevant authority b)number of cases in which as a result of an internal appeal access was given	Number of internal appeals which were lodged on the ground that a request for access was regarded as having been refused in terms of section 27	Number of applications to a court which were lodged on the ground that an internal appeal was regarded as having been dismissed in terms of section 77 (7)	Such other matters as may be prescribed
	2004				(a) (b) (c)		(a) (b)			
1. Gauteng Gambling Board	12/12/03	(1)	(1)	(1)	(0) (0) (0)	(0)	(0) (0)	(0)	(0)	(0)
2. Northern Province Gambling Board	28/08/03	(0)	(0)	(0)	(0) (0) (0)	(0)	(0) (0)	(0)	(0)	(0)



LOCAL SPHERE

Municipalities	Date Submitted	Number of requests for access received	Number of requests for access granted in full	Number of requests for access granted in terms of section 46	Number of requests for access: a)refused in full b)refused partially c)number of times each provisions of the Act was relied on to refuse access in full or partially	Number of cases in which the periods stipulated in section 25(1) were extended in terms of section 26 (1)	Number of internal appeals lodged with the relevant authority a)number of cases in which as a result of an internal appeal access was given	Number of internal appeals which were lodged on the ground that a request for access was regarded as having been refused in terms of section 27	Number of applications to a court which were lodged on the ground that an internal appeal was regarded as having been dismissed in terms of section 77 (7)	Such other matters as may be prescribed
	2004				(a) (b) (c)		(a) (b)			
Gauteng										
1. City of Johannesburg		(35)	(33)	(0)	(1) (0) (0)	(2)	(0) (0)	(0)	(0)	(0)
KwaZulu-Natal										
1. eThekweni Metropolitan	8/04/04	(5)	(0)	(0)	(0) (2) (0)	(1)	(0) (0)	(0)	(0)	(0)
2. Mbonambi Municipality	18/05/04	(0)	(0)	(0)	(0) (0) (0)	(0)	(0) (0)	(0)	(0)	(0)

LOCAL SPHERE (cont.)

3. iLembe District Municipality	15/09/03	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)
Western Cape																			
1. Theewaters-kloof Municipality	24/03/04	(10)	(10)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)
2. Bergrivier Municipality	10/03/04	(0)	(0)																



CHAPTER 9 INSTITUTIONS

Institution	Date Submitted	Number of requests for access received	Number of requests for access granted in full	Number of requests for access granted in terms of section 46	Number of requests for access: a)refused in full b)refused partially c)number of times each provisions of the Act was relied on to refuse access in full or partially	Number of cases in which the periods stipulated in section 25(1) were extended in terms of section 26 (1)	Number of internal appeals lodged with the relevant authority a)number of cases in which as a result of an internal appeal access was given	Number of internal appeals which were lodged on the ground that a request for access was regarded as having been refused in terms of section 27	Number of applications to a court which were lodged on the ground that an internal appeal was regarded as having been dismissed in terms of section 77 (7)	Such other matters as may be prescribed
	2004				(a) (b) (c)		(a) (b)			
1. Public Protector	28/04/04	(0)	(0)	(0)	(0) (0) (0)	(0)	(0) (0)	(0)	(0)	(0)
2. South African Human Rights Commission	04/03/04	(0)	(0)	(0)	(0) (0) (0)	(0)	(0) (0)	(0)	(0)	(0)

PARASTATALS

Institution	Date Submitted	Number of requests for access received	Number of requests for access granted in full	Number of requests for access granted in terms of section 46	Number of requests for access: a)refused in full b)refused partially c)number of times each provisions of the Act was relied on to refuse access in full or partially	Number of cases in which the periods stipulated in section 25(1) were extended in terms of section 26 (1)	Number of internal appeals a)lodged with the relevant authority b)number of cases in which as a result of an inter-national appeal access was given	Number of internal appeals which were lodged on the ground that a request for access was regarded as having been refused in terms of section 27	Number of applications to a court which were lodged on the ground that an internal appeal was regarded as having been dismissed in terms of section 77 (7)	Such other matters as may be prescribed
	2004				(a) (b) (c)		(a) (b)			
Armaments Corporation of South Africa (ARMSCOR)	5/04/04	(13)	(0)	(9)	(0) (9) (9)	(0)	(0) (0)	(0)	(0)	One withdrawn; One in process.



OTHER PUBLIC BODIES

Institution	Date Submitted	Number of requests for access received	Number of requests for access granted in full	Number of requests for access granted in terms of section 46	Number of requests for access: a) refused in full b) refused partially c) number of times each provisions of the Act was relied on to refuse access in full or partially	Number of cases in which the periods stipulated in section 25(1) were extended in terms of section 26 (1)	Number of internal appeals a) lodged with the relevant authority b) number of cases in which as a result of an internal appeal access was given	Number of internal appeals which were lodged on the ground that a request for access was regarded as having been refused in terms of section 27	Number of applications to a court which were lodged on the ground that an internal appeal was regarded as having been dismissed in terms of section 77 (7)	Such other matters as may be prescribed
	2004				(a) (b) (c)		(a) (b)			
1. City of Johannesburg Property Company (Pty) Ltd	28/04/04	(2)	(2)							
2. Commission for Conciliation Mediation and Arbitration	29/04/04	(193 404)	(193 404)	(0)	(0) (0) (0)	(0)	(0) (0)	(0)	(0)	(0)

OTHER PUBLIC BODIES (cont.)

3. Competition Commission	13/05/04	(36)	(32)	(0)	(1)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)
4. Council For Medical Schemes.	4/02/04	(41)	(33)	(0)	(2)	(3)	(2)	(0)	(0)	(0)	(0)	(0)	(0)	(0)
5. Mintek	23/04/04	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)
6. National Development Agency	5/05/04	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)
7. National Research Foundation	2/03/04	(2)	(2)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)
8. Public Service Commission	4/03/04	(3)	(1)	(0)	(2)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)
9. SA Revenue Service	10/06/04	(39)	(4)	(0)	(27)	(0)	(0)	(0)	(1)	(0)	(0)	(0)	(0)	(0)
10. South African Diamond Board	19/05/04	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)
11. South African Law Reform Commission	28/04/04	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)



4.2 Analysis of the Section 32 reports

The Commission is concerned about the manner in which public bodies have treated their obligations under section 32 of the Act. Section 32 provides that information officers of all public bodies should submit reports to the Commission detailing how they have implemented PAIA in each annual reporting period. The annual reporting period runs from 9 March of each year to 8 March of the following year, with both dates included (9 March 2001 being the date on which section 32 came into operation). Section 32 reports form the basis of the Commission's annual report to Parliament in terms of section 84 of PAIA.

During the previous reporting period (9 March 2002 to 8 March 2003) the Unit experienced difficulties in obtaining the section 32 reports from information officers. The Commission placed reminders on the Commission's website but there was no significant response. At a cost of R80 000, the Commission placed advertisements in four leading newspapers reminding information officers to submit the reports. As a last resort, the Commission wrote to the Office of the President, the Speaker and the Minister of Justice. The Minister of Justice acknowledged receipt of the letter and subsequently wrote to director generals of various government departments requesting them to submit their reports. Following the Minister's letter, the Commission received reports from some public bodies, but not all responded.

In the current reporting period (9 March 2003 to 8 March 2004), out of more than 800 public bodies in the country, the Commission received about 20 reports by the due date of 8 March 2004. The PAIA Committee, in its meeting of 26 March 2004, recommended that emails be sent to all information officers of public bodies reminding them of their duty to submit reports, and such emails were duly sent. However, the response rate was very poor; only 13 additional reports were received⁶.

Once more the Commission had to write letters to the Minister of Justice, the Office of the President, the Speaker of National Parliament and the Chairperson of the Public Service Commission requesting their assistance in this regard.

In total, the Commission received only 46 reports out of more than 800 that are expected. The number of reports that were received dropped by 16 from the 62 received in 2002-2003.

4.2.1 National Sphere

The Department of Agriculture received more requests in the current reporting period (2003-2004) than the previous reporting period (2002-2003) and more requests were granted than the previous year.

The Department of Correctional Services received no requests for access to records in the previous reporting period (2002-2003) and in this reporting period (2003-2004) the Department did not submit its section 32 report. The Commission is, however, aware that there were requests made to the Department of Correctional Services, because the Commission received a complaint from a requester pertaining to a request made to this Department. The requester alleged that he applied for access to a record from the Department and received no response. The indifference by the Department towards members of the public who apply for access to records is a matter of serious concern,

⁶ The low number of section 32 reports does not mean that the information regime in South Africa is not working. Government departments provide people with information on a daily basis. It should be noted that public bodies submit their section 32 statistics within the terms of the Act.



as it impacts negatively on the capacity of citizens to enjoy their right of access to information enshrined in the Constitution. Moreover, the failure by the Department to submit a section 32 report denies the Commission the opportunity to monitor and make informed analysis of its performance and compliance with PAIA. The Commission regards non-compliance with section 32 of PAIA in a serious light.

The Department of Justice received 66 requests in the previous financial year and has received 49 in the current financial year, representing a decrease in the number of requests by 17. The number of requests granted in full last year was 44, while 13 requests were granted in full this year; this represents a decrease of requests granted in full by 31. The instances in which the Act was relied upon to refuse access partially or in full has remained constant at 11; this reflects the high level of awareness of the Act by the Department.

It is interesting to note the increase in the number of requests for access to information from the Department of Land Affairs. In the previous reporting period the Department did not receive any requests, but in the current reporting period it received 49 requests and granted 13 in full while 11 were partially refused.

Some departments, such as the Department of Social Development, reported that they did not receive any requests for access to information under PAIA during the reporting period.

The Department of Water and Forestry received 22 requests out of which 20 were granted in full, during the previous reporting period. During the current reporting period, the Department received 360 requests and 359 were granted in full. This represents an increase in the number of requests made by 338 and the number of requests granted in full by 339.

The South African Police Service (SAPS) received the highest number of requests both in the previous and current reporting periods. In the previous reporting period, SAPS received 5 024 requests, of which 4 164 were granted in full. In the current reporting period, 14 744 requests were received and 11 870 were granted in full. This represents an increase in the number of requests received by 9 720. The number of requests granted in full shows an increase of 7 606. These figures represent the highest level of usage and awareness of the Act by government officials and the public in general. It means records are being kept and people are being given access to records as long as they comply with the stipulated procedures. This is encouraging to the Commission as it shows that people are using the Act and enjoying their right of access to information.

The Department of Home Affairs did not submit its section 32 report in the previous reporting period, which does not necessarily mean that the department did not receive any requests. During the current reporting period the Department received 730 requests, out of which 714 were granted and only 14 refused.

While some departments have received requests in hundreds, there are departments such as the Department of Housing, which received very few requests. In the previous reporting period the department received one request, and in the current reporting period it did not receive any requests and therefore did not grant or refuse requests in part or in full.

The Department of Public Service and Administration, during the current reporting period, received two requests and both the requests were granted in full. The granting of the records by the department shows awareness and willingness by the department to promote transparency, responsiveness and accountability.

4.2.2 Provincial Sphere

The major challenge facing the Commission with regard to compliance at the provincial level is the administrative problems pertaining to interpretation of and the definition of an information officer at this level. The Act defines the information officer at provincial level to mean the director general of the province. A strict interpretation of this definition is that each province should submit one section 32 report representing all provincial departments. However, some provincial departments have submitted their reports as departments, not through the Office of the Director General. As a result of the confusion, some reports are incomplete; for instance the Eastern Cape Office of the Director General submitted three reports from three departments instead of nine reports representing all departments in the province.

4.2.3 Summation

Overall there has been an increase in the number of requests for information and the number of requests granted, indicating an increase in public awareness of PAIA and departmental knowledge of the Act. However, some Departments indicate they received no requests for information. While this may be the case, it is inconsistent with the trend that has been developing in other departments over the past two years. The registry of no or few requests for information may also be interpreted to mean that government officials do not fully understand their obligation to assist members of the public who request information from departments, but who do not use PAIA to lodge such requests even where it would be necessary to do so. Such requests are therefore not covered in the reports, hence the 'zero request' reports. Alternately, it may be that Departments are submitting inaccurate or incomplete reports.

Part 4

5. Recommendations

Central to the 2003–2004 reporting period is the review of PAIA and the Regulations. While a separate comprehensive report on the review of PAIA and the Regulations will be presented to the National Assembly, there is nothing precluding us from mentioning the following preliminary findings.

5.1 Use of language in preparing the manuals

The Commission noted that the Act and Regulations are silent on the issue of the language to be used by private bodies in compiling the manuals in terms of section 51, and as a result some private bodies have opted to produce manuals in their preferred official languages. The Commission is conducting further research on the issue, and is considering various possibilities.

5.2 Distribution cost for the Section 10 Guide

In terms of Regulation 2(1)⁷ copies of the Section 10 Guide⁸ shall be printed and distributed as follows:

⁷ Regulation 187 of 15 February 2002 as amended.

⁸ The Guide is a book prescribed in section 10 of the Act, intended to assist the public in using the Act to access information or records from public and private bodies.



- Make a copy of the guide available in each official language to the head of Government Communication and Information System (GCIS)
- Make a copy available to every place of legal deposit in terms of section 6 of the Legal Deposit Act 54 of 1997
- Make a copy available at every tertiary education institution
- Make a copy available upon request to the head of a private body
- Make available in each official language to the information officers of public bodies such number of copies of the guide as the information officer concerned has indicated in order to comply with regulation 3(1) or 2
- Make available to the Director General of Communications such number of copies of the guide as he/she has indicated in order to comply with regulation 3(3)
- Publish the guide in each official language in the Government Gazette
- Make a copy available for inspection at the Commission in each official language
- Make a copy available on the website of the Commission

A rough estimate of the cost of production and publication of the guide to meet the requirements above indicates that the Commission may have to pay something in the region of R2 million, calculated at one manual of 400 pages costing about R150 a copy. It is recommended that this requirement be reviewed and/or amended.

5.3 Depository of manuals

In terms of the Regulations, the Commission is obliged to receive section 14 manuals and to avail them for public inspection. This obligation was introduced through Regulation 5(a), which provides that the Commission 'must, during office hours and upon request, make available for public inspection copies of the manuals in all the official languages available'. The Commission notes that, while this requirement was not included in the spirit and letter of the Act, it imposes a heavy financial burden on the Commission, in that it requires it to:

- Develop an information management system to sort, classify, file, store and retrieve the manuals according to various private and public bodies;
- Provide a facility (viewing room) for the public to inspect and copy the manuals;
- Monitor and ensure that private and public bodies do submit manuals; and
- Update all manuals each year

While the Commission needs the contact details of bodies contained in the manuals in order to compile the Section 10 Guide, the additional requirement of availing the manuals for public inspection needs to be reviewed, considering the financial implications entailed. The removal of this requirement would not affect the implementation of the right of access to information because members of the public would still have access to the manuals, as each public and private body is required to avail its manual for public inspection in their offices and on their website, and in addition, public bodies are required to place manuals in all places of legal deposit. The Commission recommends that the requirement that it avail the manuals for public inspection be amended.

5.4 Section 32 Reports

The Commission is recommending an amendment to the Regulations to allow it to develop a more structured monitoring instrument, and to require additional categories of information from public bodies in addition to the requirements of section 32 of PAIA. Section 32 in its current form does not provide enough information to the Commission to make a conclusive analysis of the extent of the implementation of PAIA by public bodies.

For instance, eThekweni Metropolitan submitted that it received five requests for access to information, two of which were granted in full, but does not provide the status of the other three requests. The following are some of the areas that are not covered by section 32:

- a) Budgetary, training and policy measures employed by public bodies towards the realisation of the right of access to information;
- b) Number of requests 'carried over' from the previous reporting period;
- c) Number of requests to which responses were 'pending' at the end of the reporting period;
- d) Number of requests which the body 'transferred to another body; and
- e) Number of instances in which a record 'does not exist or cannot be found'.

It is hoped that the amended version of section 32 will also address the confusion pertaining to the definition of an information officer at provincial level for the purposes of reporting under section 32 of the Act.

6. Conclusion

The Commission is working closely with the Department of Justice to review various issues relating to PAIA raised in this report, in various other reports and in consultative meetings such as the National Indaba and the International Conference of Information Commissioners. The objective of this collaboration between the Commission and the Department is to create synergy on policy formulation and development pertaining to the implementation of the right of access to information. A separate report on recommended amendments will be forwarded to the National Assembly once the Commission has concluded its PAIA review process. We intend to broaden this collaboration to include other stakeholders, such as the Office of the Public Protector and GCIS.







