



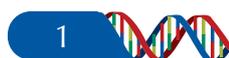
OFFICE OF THE HEALTH OMBUD
ANNUAL REPORT
2019/20



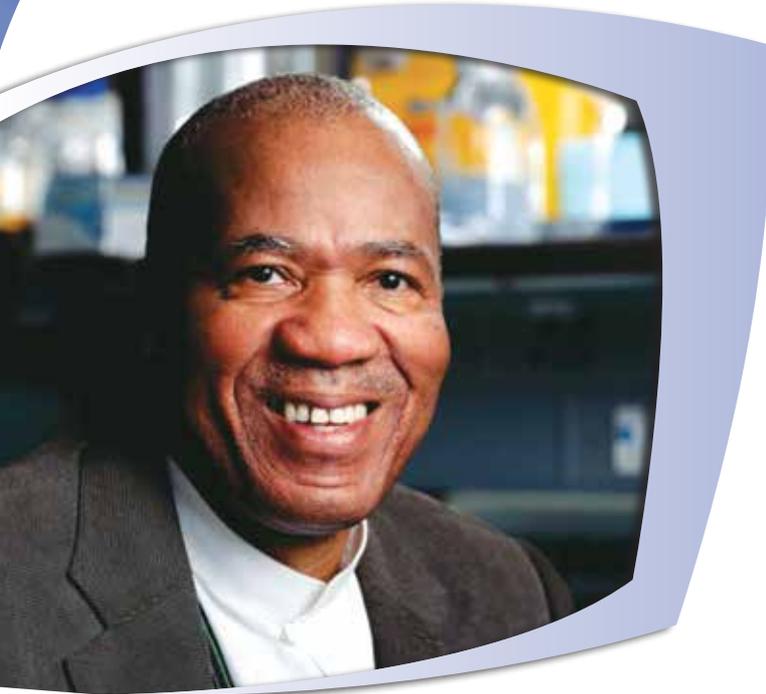
Ihvoisi Lokulandela Amaqophelo Ezempilo
Office of the Health Ombud
Kantoro ya Mosekaseki wa Maphelo

TABLE OF CONTENTS

FOREWORD BY THE HEALTH OMBUD	2
PART A: GENERAL INFORMATION	3
LIST OF ABBREVIATIONS/ACRONYMS	5
1. THE ACTIVITIES OF THE OFFICE OF THE HEALTH OMBUD	6
1.1. Achievements/Key Highlights	6
1.2. Budget and the Presidential Health Social Compact	6
1.3. Reports: Life Esidimeni and Tower Psychiatric Hospital Psychosocial Rehabilitation Centre	6
1.4. Better Health Programme Implementation	6
1.5. Possible Areas of Technical Assistance to the OHO (March - December 2020)	7
1.6. The Health Ombud's Bill	7
1.7. Stakeholders Interaction	8
1.8. Awards/Recognition	8
1.9. Challenges and Opportunities	9
2. COMPLAINTS CENTRE AND ASSESSMENT UNIT	9
2.1. Achievements of the Complaints Centre and Assessment	9
2.2. Human Capital	9
2.3. Call Centre	9
2.4. Assessment Unit	12
3. COMPLAINTS INVESTIGATION UNIT	12
3.1. Achievements of the Complaints Investigation Unit	12
3.2. Three-year Overview (2017/18 – 2019/20)	14
4. STRATEGIC CHALLENGES	14
4.1. Designation and Secondment of Staff	14
4.2. Vacant Unfunded Executive Manager	14
4.3. Limited Human Capital	15
5. THE LIFE ESIDIMENI RECOMMENDATIONS PROGRESS UPDATE	15
5.1. Special Investigative Unit Update	15
5.2. Impact Study on the Health System	15
6. LESSONS LEARNT OVER THE PAST FOUR YEARS	15
7. CONCLUSION	16



FOREWORD BY THE HEALTH OMBUD



The Office of the Health Ombud (OHO) has established an efficient and streamlined Complaints Centre and Assessment Unit that has successfully closed/completed 96% of complaints lodged in the past financial year. The newly emerging Investigation Unit is beginning to have an impact on the investigative operations and functioning of the OHO.

As the OHO we will always require strong Legal Advisory and Stakeholder and Communications Units. However, due to budgetary constraints, these two vital units are not yet established and their establishment is our priority. The nature of our work is such that in-house legal advice is essential.

We continue to function well and receive good support from the Office of Health Standards Compliance (OHSC) staff. Without them our task would be near impossible. The processes of resolving the OHO budget and the OHO legislative framework are all underway albeit very slow. With the correct legal framework, sufficient budget and adequate human capacity, the office would function even much better.

It is not easy to undertake succession planning with such constraints and limited human capacity.

The OHO was established on 1 June 2016 and it has now been in operation for four years. It remains a very small office with limited staff and budget, but with unlimited expectations on its role and performance nationally. Over the past four years, three issues have dominated its operations: its legal status as an independent office; its staffing and its budget.

The Health Ombud spent the previous year in meetings and consultations with several critical stakeholders such as the National Department of Health (DoH), the Monitoring and Evaluation Unit in the Presidency, and the Finance Task of the Presidential Health Summit in an attempt to lay the ground work for the staff complement, the budget and the legal framework. This is clearly a very slow process. I met with the Monitoring and Evaluation Team in the Presidency, the legal advocate in the National Department on Health and had some interaction with Mr Mark Bletcher in National Treasury. In addition, I prepared submissions to the President's Team on the Health Summit. All gave me positive feedback and were sympathetic and supportive to the position of the OHO but follow-up actions have been lacking.

Despite these impediments the office has continued to function well within these constraints. It has created a well-functioning Complaints Centre and Assessment Unit and an emerging Investigation Unit.

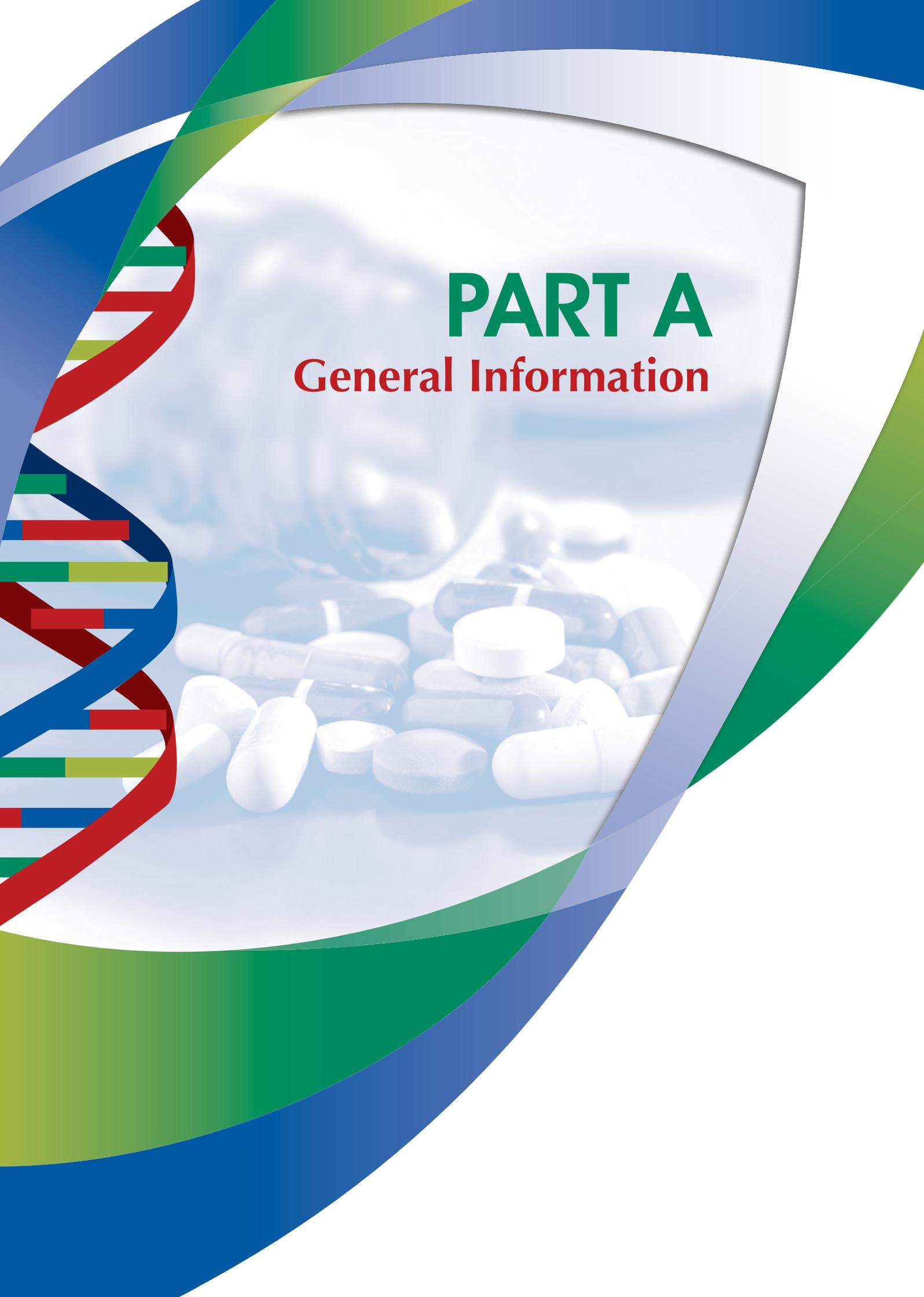
The activities of the Office are captured in this report in the following narration. This Annual Report should be read in conjunction and as a supplement to the Annual Report of the OHSC.

Prof. MW Makgoba

Health Ombud

Date:





PART A

General Information

GENERAL INFORMATION

REGISTERED NAME:	OFFICE OF HEALTH STANDARDS COMPLIANCE
PHYSICAL ADDRESS:	79 Steve Biko Road Prinshof Pretoria 0084
POSTAL ADDRESS:	Private Bag X21 Arcadia 0007
TELEPHONE NUMBER/S:	+27 12 942 7700
EMAIL ADDRESS:	mmakgoba@ohsc.org.za
WEBSITE ADDRESS:	www.oho.org.za
EXTERNAL AUDITOR:	Auditor-General of South Africa
BANKERS:	Standard Bank



LIST OF ABBREVIATIONS/ACRONYMS

APR	Annual Performance Report
BHP	Better Health Programme
BHPPF	Better Health Programme Prosperity Fund
BMF	Bristol-Myers Squibb Foundation
BMSF STF	Bristol-Myers Squibb Foundation Secure the Future
CEO	Chief Executive Officer
DoH	Department of Health
GP	Gauteng Province
HPCSA	Health Professions Council of South Africa
NGO	Non-Governmental Organisation
NHA	National Health Act
NHI	National Health Insurance
NPA	National Prosecuting Authority
OHSC	Office of Health Standards Compliance
OHO	Office of the Health Ombud
PDoH	Provincial Department of Health
PPSA	Public Protector South Africa
SAPS	South African Police Service
SASSA	South African Social Security Agency
SANC	South African Nursing Council
SAHRC	South African Human Rights Commission
SAMRC	South African Medical Research Council
SIU	Special Investigative Unit
SLA	State Law Advisor
TPHPRC	Tower Psychiatric Hospital and Psychosocial Rehabilitation Centre
UHC	Universal Health Coverage



1. THE ACTIVITIES OF THE OFFICE OF THE HEALTH OMBUD

1.1. ACHIEVEMENTS/KEY HIGHLIGHTS

- The draft bill of the Ombud is underway, once enacted it will ensure the independence of the Office of the Health Ombud.
- Appointment of an independent consultant jointly with the Better Health Programme (UK) to assess the impact of the OHO into the National Health System.
- The OHO is a member of the International Ombudsman Institute.

1.2. BUDGET AND THE PRESIDENTIAL HEALTH SOCIAL COMPACT

The OHO functions with a budget of R 8 million which is incorporated into the Complaints programme in the Office of the Health Standards Compliance (OHSC). At the Presidential Health Summit Compact launched on 25 July 2019, it was resolved that the current budget be increased to R16 million in the 2020/21 financial year and ultimately to R32 million in the 2021/22 financial year. The National Minister of Health was duly informed of these resolutions. To date the increment of the budget for the period of 2021/22 financial year has not yet materialised or been implemented.

1.3. REPORTS: LIFE ESIDIMENI AND TOWER PSYCHIATRIC HOSPITAL PSYCHOSOCIAL REHABILITATION CENTRE (TPHPRC)

The Health Professions Council of South Africa (HPCSA) reported that they were in a process of establishing a panel regarding the matter of the former Head of Department for the Gauteng Provincial Department Health, Dr Tiego Barney Selebano referred by the OHO to the HPCSA in 2017. The progress report was in line with recommendation 5 of the report 'into the Circumstances surrounding the deaths of mentally ill patients: Gauteng Province'.

In relation to the implementation of the recommendations of the TPHPRC report, the HPCSA reported that the investigator assigned to the cases was no longer within the employment of the council. Subsequently, these cases had to be re-allocated to the new investigator. However, the psychiatrist identified in the investigation has now emigrated to New Zealand, possibly to avoid facing the HPCSA processes.

What is common between these two investigations is the long delays in implementing recommendations that have wider implications for improving the functioning of the National Health System. Several of the recommendations made have yet to be effected and implemented.

1.4. BETTER HEALTH PROGRAMME IMPLEMENTATION

The OHO has embarked on a process of collaborating with the UK Better Health Programme Prosperity Fund (BHPPF) under the project leader Mr Myles Ritchie. The programme aims to support partner countries in their health system reforms with the goal of expanding Universal Health Coverage (UHC) and improving health and related economic growth outcomes. South Africa is amongst the eight emerging economies that are supported by the programme. These countries include Brazil, Mexico, Vietnam, Malaysia, Philippines, Thailand, and Burma. The delivery phase commenced in September 2018 and is intended to run until April 2021. In March 2019, the OHO undertook a benchmarking visit to the UK with members of the Complaints and Assessment and the Investigation Units as part of the deliverables of the programme. A report of the visit was submitted to Parliament.

The objectives of the programme are:

- To reduce ill-health and premature death due to non-communicable (chronic) diseases; and
- To reduce morbidity and early mortality due to adverse events in care (quality of care).

CRITERIA	DETAILS
Feasible	» Likelihood of achieving results in programme timeframe
Appropriate	» Alignment with priorities of the National DoH/Minister » Take a health system strengthening approach
Sustainable	» Sustained once the programme has ended » Secondary benefits and ongoing UK/ South Africa relationship
High Impact	» Activities that result in significant outcomes and impact
Value for Money	» Low input high value activities (economical, effective)

Table 1: The principles or criteria for Better Health Programme support



1.5. POSSIBLE AREAS OF TECHNICAL ASSISTANCE TO THE OHO (MARCH - DECEMBER 2020):

- Knowledge exchange;
- International best practice: pairing with other BHP countries for skills sharing;
- Development of quality assurance manual for investigators;
- Tackling of medico-legal issues;
- Analysis of current complaints programme; and
- Peer review by International Ombudsman Institute for impact assessment.

There are categories of activities that are not supported by the BHP such as, implementation of direct service delivery, small projects with high input costs, operational costs that are budgeted for in counterparts budget, core funding grants for agencies or organisation, and supplementing human resources or staffing.

1.6. THE HEALTH OMBUD'S BILL

The National Minister of Health has been briefed about the activities and challenges faced by the OHO in relation to the Health Ombud Bill and other legal matters ensued by the delay thereof.

The Health Ombud Bill was initiated as early as 2017 when the OHO was confronted with a number of legal challenges and gaps.

Key amongst the clauses in the Bill, is the creation of a Deputy Health Ombud, increasing the scope of the Health Ombud powers, ensuring that the findings and recommendations are binding unless reviewed and set aside by the High Court, and reporting to Parliament.

This was to ensure legal certainty on the recommendations and remove the Appeal process, so that those challenging the recommendations can go directly to court and not appeal as per the current status quo. The Bill also states that the Health Ombud reports to Parliament. This is to ensure that the Health Ombud is structurally and functionally independent. The Life Esidimeni experience has made this a reality, as the former-Minister of Health had to appear before Justice Moseneke. So as to avoid any conflict of interest, perceived or otherwise; the Health Ombud reporting directly to Parliament is the best remedy in strengthening the National Health System.

The OHO had discussions with various stakeholders on how to expedite the Bill through the Parliamentary cycle process.

The Health Ombud and OHSC Bills have been referred to the State Law Advisor (SLA) for preliminary legal opinions. The SLA scrutinised both Bills and has indicated which issues required consultation with the DoH on both Bills. The DoH had planned to consult with the SLA during February and March 2020. The planned consultations could not take place due to restrictions on travel placed due to the outbreak of COVID-19. The consultations with the SLA will take place once the restrictions on travel are relaxed.



1.7. STAKEHOLDERS INTERACTION

In 2019/20, community outreach programmes were conducted in various communities around South Africa. This was done to improve awareness and engage with communities that use our services. The OHO plans to conduct more outreach programmes in the next financial year to cover as many communities as possible.

DATE	EVENT	PURPOSE	VENUE
25 May 2019	Presidential Inauguration 2019	Delegate	Pretoria
07 June 2019	BMF (Bristol-Myers Squibb Foundation) Annual Corporate Update Gala Dinner	Delegate	Sandton
21 June 2019	Meeting with a Vice Chancellor of the Witswatersrand University, Prof Adam Habib	To profile the OHO	Braamfontein
27 June 2019	The South African Human Rights Commission (SAHRC) National Preventative Mechanism Meeting	Delegate	Braamfontein
12 July 2019	Budget Vote and Policy Statement in Parliament	Delegate	Cape Town
01 August 2019	National Health Insurance (NHI) Bill Briefing with the Minister of Health	Delegate	Centurion
01 August 2019	Lancet Commission on Migration	Delegate	Braamfontein
20 August 2019	1st Conference of the HPCSA	Panelist speaker and to profile the OHO	Kempton Park
02 September 2019	UNISA African Intellectual Project	Keynote speaker at the University of South Africa	Pretoria
03-05 October 2019	3rd National Pharmacy Conference	Promotion of the OHO through a presentation on 'Ethics-Lessons learnt from Life Esidimeni tragedy'	Sun City
07 November 2019	South African Medical Research Council (SAMRC) 50 th Anniversary	Delegate	Pretoria
21-22 November 2019	Universal Health Coverage (UHC)	Delegate	Johannesburg
05 February 2020	Reception with Mark Suzman, New CEO of Bill & Melinda Gates Foundation	Delegate	Johannesburg
13 March 2020	O.K. Matsepe Public Lecture	Keynote speaker and to profile the Office of the Health Ombud	Polokwane

Table 2: List of stakeholder engagements during the reporting period

1.8. AWARDS/RECOGNITION

On 27 August 2019 the Bristol-Myers Squibb Foundation Secure the Future (BMSF STF) held a 20-year anniversary dinner at Durban, KwaZulu-Natal, wherein the Health Ombud was recognised for the leadership and guiding role when BMSF STF was launched in 1999. The Health Ombud, at that time heading up the South African Medical Research Council (SAMRC), was among those who helped the BMSF STF to fulfil its mandate first as one of our country's top scientists and secondly as a member of the Scientific Advisory Board that guided this landmark programme in 1999.

Since 1999, the BMSF STF programme has made a significant impact on women and children affected by HIV/AIDS in countries hardest hit by the pandemic. The programme now focuses on HIV/AIDS and issues of ageing in both adolescents and older adults. BMSF STF also provides technical assistance across a wide range of community-based efforts centered on HIV/AIDS prevention and care in sub-Saharan Africa.

In November 2019, the Health Ombud was commended by the judging panel presiding over The John Maddox Prize for Standing up for Science. The John Maddox Prize recognises the work of individuals who promote science and evidence, advancing the public discussion around difficult topics despite challenges or hostility. The judges wanted to draw attention to the extraordinary contribution made over the past year by Prof. Makgoba, acclaimed for challenging AIDS denial in South Africa, and going on to expose and improve the treatment of mentally ill patients in South Africa.

The Health Ombud was invited to participate at the International Ombudsman Institute Annual Conference in Dublin, but due to the COVID-19 pandemic this invitation was held in abeyance pending the re-scheduling of the Annual Conference.

1.9. CHALLENGES AND OPPORTUNITIES

At the briefing to the Portfolio Committee on Health, the OHO reflected on the challenges faced by the office when presenting its annual activities to the committee.

The challenges are:

- i) Limited human capital capacity and budget;
- ii) Long delays in implementing the recommendations of the Ombud, e.g. Life Esidimeni and the Tower Hospital;
- iii) Mystery surrounding private health establishments' complaints - impact on public perception;
- iv) Provincial health departments' failure to positively and proactively respond to complaints and requests;
- v) Training of staff in the Complaints Management Programme;
- vi) Complaints to the OHO received from legal representative, which are matters for the courts;
- vii) Legacy data/cases prior to promulgation of regulations, this speaks directly to the matter of human capacity;
- viii) Complaints Management Programme is not recognised at a strategic level; and
- ix) Annual Performance Plan reporting (Quantity vs Quality);

2. COMPLAINTS CENTRE AND ASSESSMENT UNIT

2.1. ACHIEVEMENTS OF THE COMPLAINTS CENTRE AND ASSESSMENT

• Collaborating community engagement sessions

Two collaborative community engagement sessions were held with the HPCSA and Office of the Military Ombud (OHO) in March 2020 in the Free State and Limpopo provinces with a special focus on rural communities to empower rural citizens on the role of the Health Ombud and to strengthen their voice in quality and safe care.

• Staff appointment

Three Assessors and one Deputy Director were appointed within the Complaints Centre and Assessment during the reporting period.

• ISQUA 36th Conference

Two abstracts submitted to the ISQUA 36th Conference were accepted. The co-authored article 'Is the distribution of healthcare personnel in small district hospitals equitable for the delivery of health care?' with the Deputy Director: Health Standards Early Warning System, Ms Koketso Sebanyoni was accepted as a poster presentation which was presented. The article authored 'Analysis of patient and community complaints regarding poor care and situations of concern reported at the OHSC, 2017-2018' was accepted as an ePoster and was presented before a group of about 20 – 25.

• Reduction in backlog complaints

Team efforts resulted in backlog complaints reduced from 771 to 264; a 65.8% reduction.

• UK benchmark visit

The visit assisted the OHO with improvement of complaints management systems and processes in the unit, e.g. signposting of complaints which by-passed the local complaints mechanism, managing complainants' expectations and outcomes.

• % of low risk complaints resolved in the Call Centre within 2 months of lodgement

The overall performance for this indicator was 95.58% (1580/1651) were resolved in the Call Centre against a target of 60%; a significant increase of 35.58%.

2.2. HUMAN CAPITAL

The unit operated with a human resource capacity of 76% (19/25) due to funding limitations. The Call Centre operated with a capacity of 61.53% (8/13) and Assessment Unit with 88.88% (8/9). The six posts funded through surplus made a significant difference. There is, however, a need to review the current staff; it is difficult to address complaints within the 15 working days as stipulated in the procedural regulations. This has resulted in a huge backlog of 263 complaints at the end of the financial year, some dating back to 2016/17, 2017/18 and 2018/19.

2.3. CALL CENTRE

The purpose of the unit is to receive and register complaints from the public regarding breaches of norms and standards by health establishments and provide early resolution to low risk complaints.



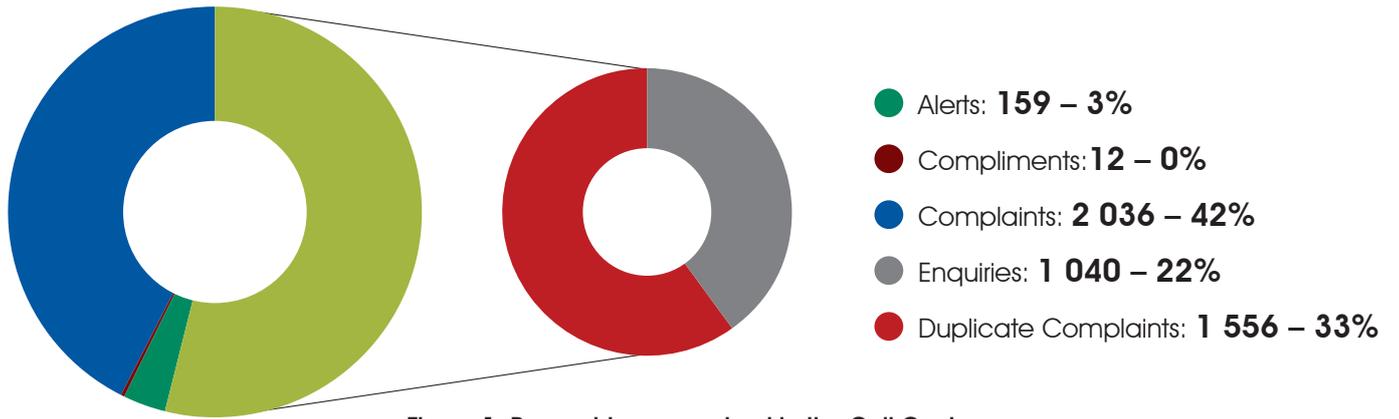


Figure 1: Request types received in the Call Centre

Figure 1 depicts the registered 48 03 requests in the complaints management system. Majority of which were complaints (n=2 083), followed by duplicate complaints (n=1 556).

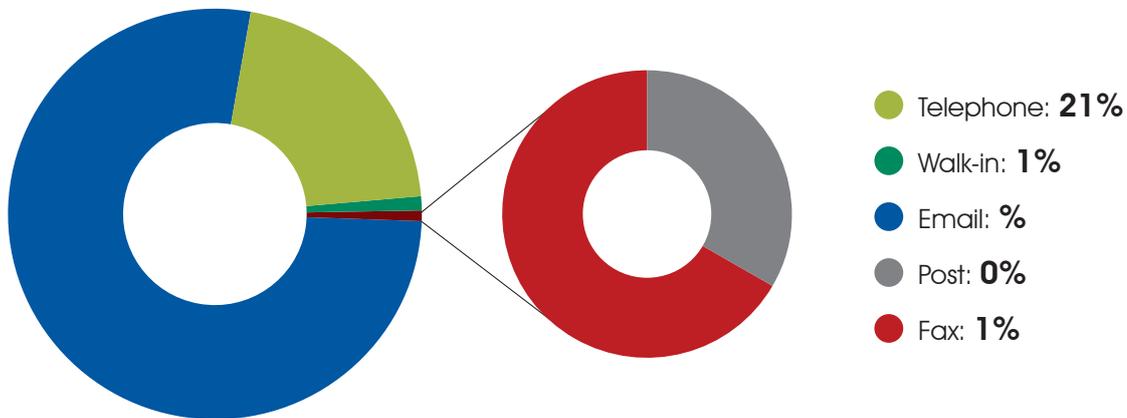


Figure 2: How requests were received

In Figure 2, we observe that most requests were received via email (n=77%) followed by telephone at 21%.

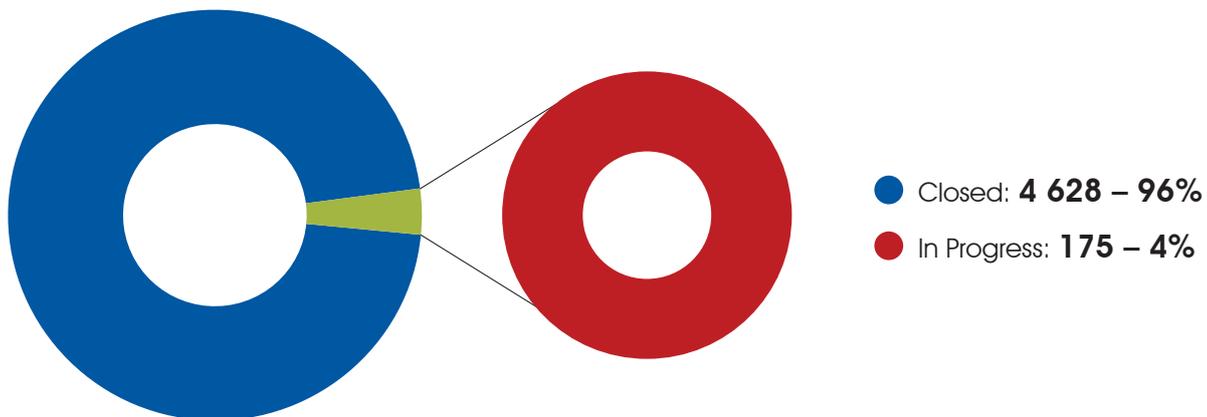


Figure 3: Status of Receive Requests

Figure 3 shows that majority of the requests were closed (n = 4626) and only 175 were open and still in progress. The open requests are alerts (n=155), and complaints (n=20).

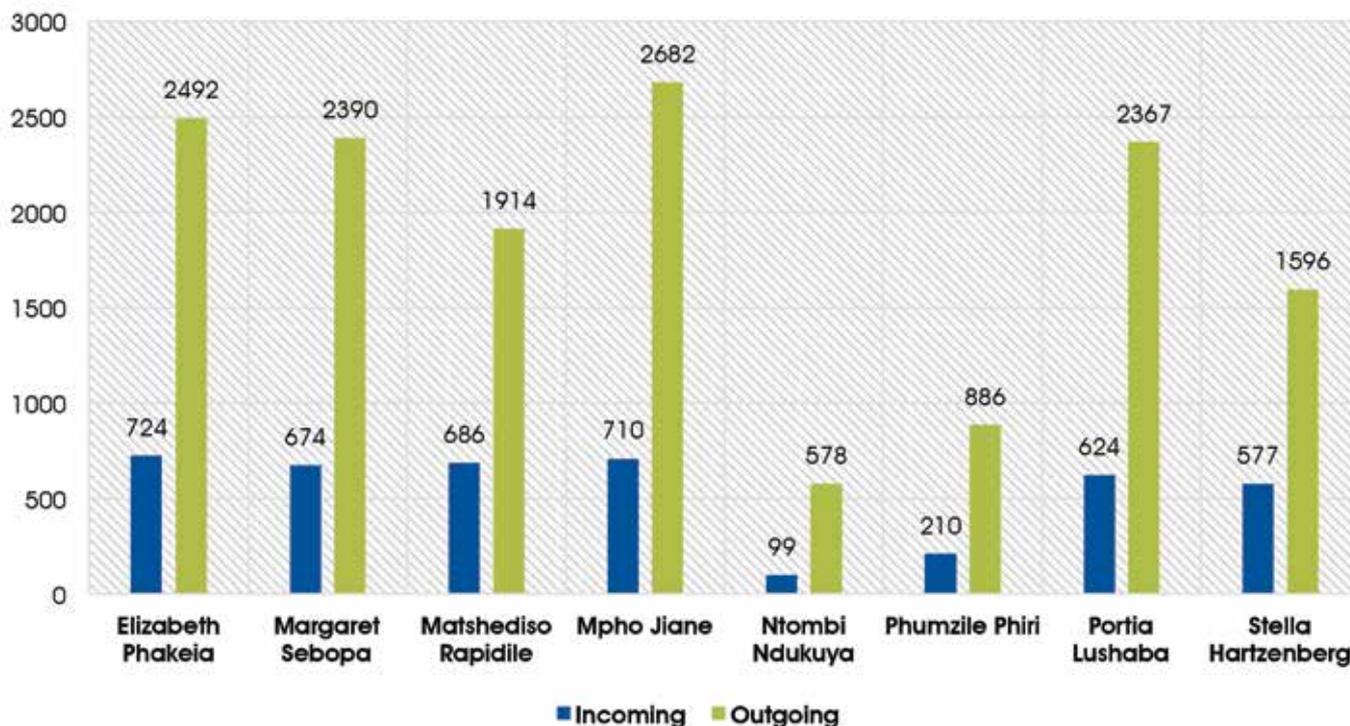


Figure 4: Incoming vs. Outgoing Calls 2019/04/01 - 2020/03/31

The Figure 4 above shows the calls received and those made out from the Call Centre. A total of 4 304 calls were received which is a 6.5% reduction in comparison to 2018/19 (n=4 583), and 14 905 were made out as compared to 16 166 from 2018/19; an 8.5% reduction.

The data shows that an average of 16 calls was received per working day while outgoing calls averaged at 56. The graph demonstrates that for each call received, the complaint officers make contact with the complainant 3.5 times; which remained constant as at 2018/19.

Financial Year	CASELOAD						
	Complaints	Enquiries	Alerts	Compliments	Duplicate Complaints	Total cases	Year-on-year Change
2016/17	730	361	47	3	115	1256	-
2017/18	1122	1397	42	14	1235	3810	203%
2018/19	1902	4125	22	13	1670	7732	102.9%
2019/20	2083	993	159	12	1556	4803	60.98%

Table 3: Overview of National Complaints in comparison with 2016/17, 2017/18, 2018/19 and 2019/20

The table above depicts the caseload for the four financial years; 2016/17, 2017/18, 2018/19 and 2019/20. An increase in the workload is evident throughout the first three years. In 2019/20, a decrease was observed, compared with 2018/19.

The 2 083 complaints received were assigned different risk levels; Low (n=2 074), Medium (n=1), High (n =4) and Extreme (n=-4). The Call Centre processed the low risk complaints and assigned the remainder for assessment.

2.4. ASSESSMENT UNIT

The purpose of the unit is to assess and propose resolutions to complaints from the public regarding breaches of norms and standards by health establishments, or to recommend investigations, or to refer to other entities for further investigation.

The unit opened the financial year with a backlog of 355 complaints from previous financial years. Overall, the seven assessors managed to finalise 93 complaints through screening. The performance translates to 7.75 complaints per month and 1.1 complaint per assessor in a month; this is proportionate to Procedural Regulation 37 which provides for screening within 15 working days. If the human resource capacity is not increased the status quo will persist, which will have a reputational risk to the Office of the Health Ombud.

2015/16	2016/17	2017/18	2018/19	2019/20	TOTAL
2	50	26	14	1	93

Table 4: Closed out Complaints

A total of 274 open complaints are carried into 2020/21, of which 242 are backlog complaints. To aggressively address these complaints, an increase in human resources needs to be prioritised.

3. COMPLAINTS INVESTIGATION UNIT

3.1. ACHIEVEMENTS OF THE COMPLAINTS INVESTIGATION UNIT

The past financial year created an enabling environment for learning for the registrar in Public Health Medicine from the University of Pretoria. This initiative enabled the Unit to establish a baseline for future collaboration with the academic institutions. The Unit established the Investigative Case Review meetings where investigators discuss and present their plans and cases to the Health Ombud. Managed to prioritise investigations and resolution of 20 backlog cases. Participated in the Provincial Outreach Campaigns organised by the OHSC to promote awareness on the activities of the Health Ombud.

The Unit was established in March 2017 with the appointment of a Senior Investigator Healthcare Cases and three (3) deputy directors in May, June and July 2017 respectively.

During the past three years, the Unit was able to establish systems and procedures to manage investigations. Majority of cases that were handled by the Unit to date were mainly high and extreme risk-rated complaints which required an intense process of data collection, analysis, and reporting. These, coupled with the inadequate investigative capacity, has resulted in prolonged turnaround for resolution of complaints and resulted in backlog cases. The limited ability in the Unit has proven to be severely insufficient to deal with the volume of complaints referred for investigation and to attain the set performance targets.

The Unit has a total of 132 backlog cases from 2017/18 to 2019/20 financial years.

Factors that contributed to the backlog cases:

- Inadequate investigative capacity
- Delayed response or non-response from Health Establishments
- Handling of complex cases where more than one Health Establishment is implicated.
- Unavailability of the Expert Panel to provide expert advice.

The figure below depicts the number of cases referred, resolved within 6 months and backlog cases resolved for the three financial years; 2017/18, 2018/19 and 2019/20.

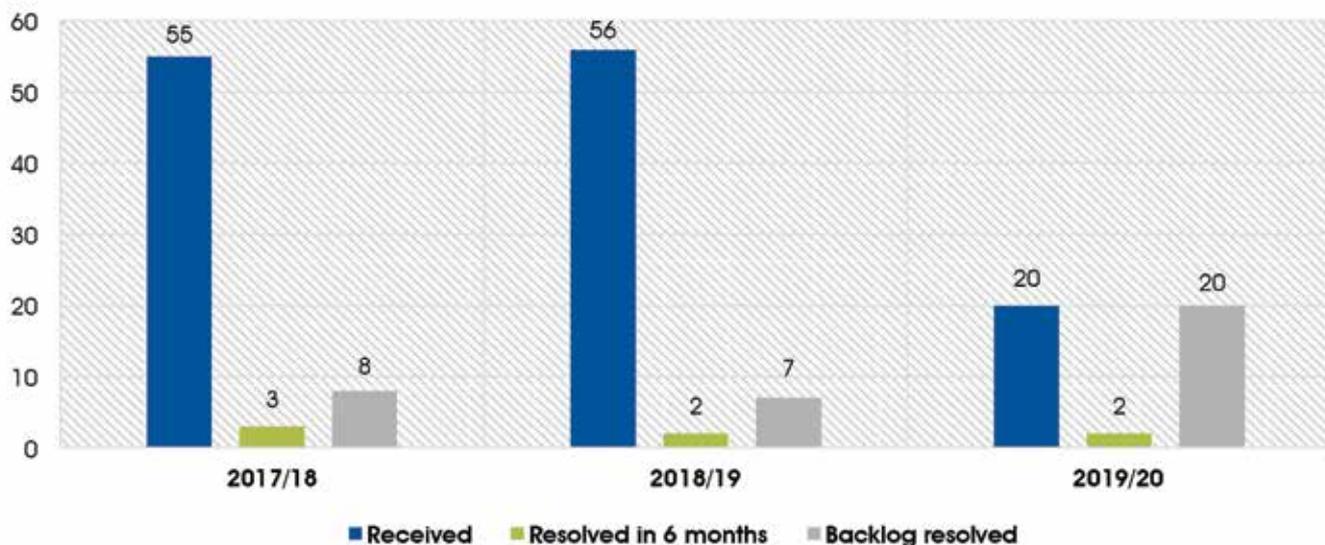


Figure 5: Case management 2017/18 to 2019/20

A total of 20 new cases were referred for investigation, in 2019/20, of the twenty (20) cases, two (2) cases were resolved within six months. Furthermore, 20 Backlog cases were resolved in the current reporting period.

A total number of 22 cases were resolved in 2019/20.

The distribution of complaints received over the previous financial years has demonstrated that Gauteng remains the leading Province with complaints lodged for investigations.

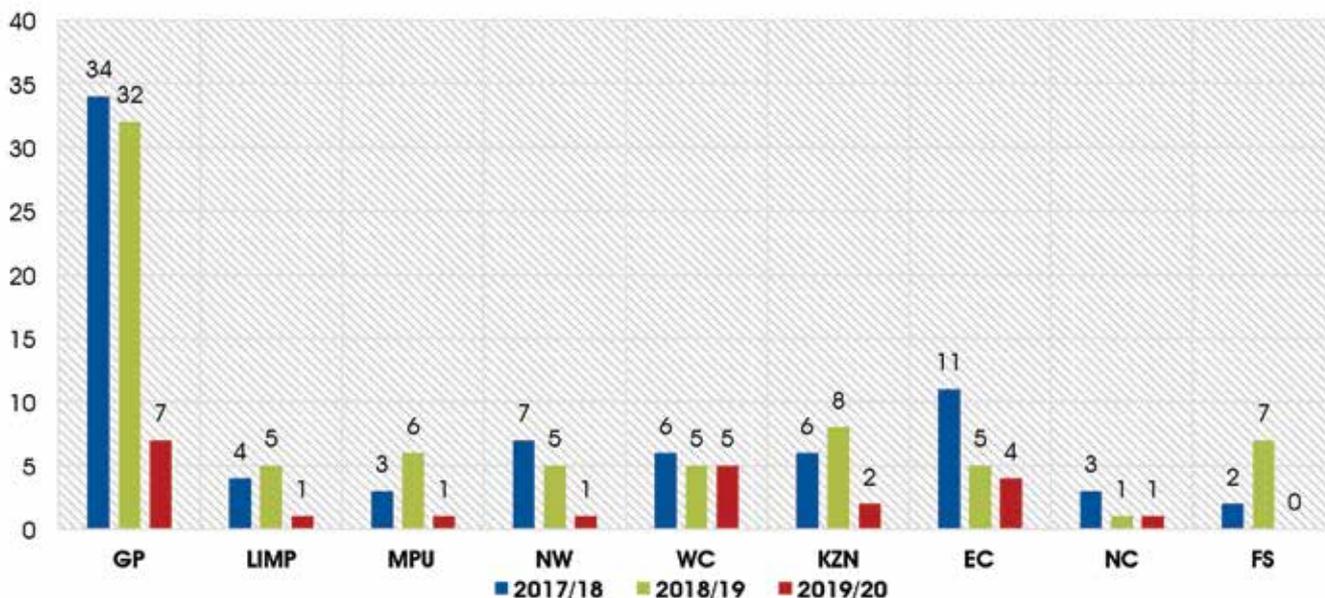


Figure 6: Number of complaints received for investigations per Province in the 2017/18, 2018/19 and 2019/20 financial years

The figure above illustrates that in 2017/18 and 2018/19, the highest number of complaints were received from Gauteng Province. There was a notable increase in the number of complaints received during 2017/18 and 2018/19, which could be linked to the post Life Esidimeni investigation outcomes.

The figure below illustrates the cases received for investigation per type of facility. This figure reflects that majority of cases received for investigation emanates from the Public Health sector.

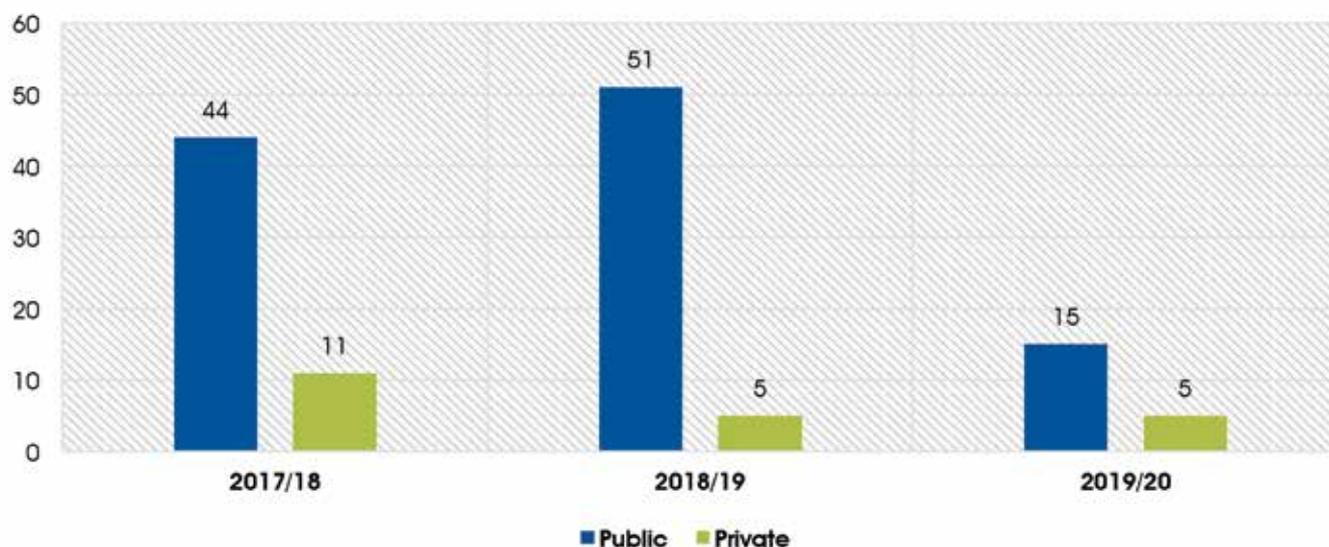


Figure 7: Distribution of complaints received for investigation per type of facility from 2017/18 to 2019/20

3.2. THREE-YEAR OVERVIEW (2017/18 – 2019/20)

The period 2017/2018 was a year of laying the foundation and establishing systems.

The facilitation of redress meetings by the investigators between the complainants and the health establishments has proven to yield positive outcomes.

Complex cases where more than one Health Establishment was implicated has proven to require more than 6months to finalise and resolve.

4. STRATEGIC CHALLENGES

The current legislative framework that located the Health Ombud in the OHSC has proven to be defective in several ways and has created non-coherent day-to-day operations and governance dilemmas. This creates a conflict of interest and exposes both offices to litigation.

4.1. DESIGNATION AND SECONDMENT OF STAFF

The OHSC Complaints Management staff is still not designated and seconded to the Health Ombud to meet the legal requirement. By the end of 2019/20, the approved OHO organisational structure remained unfunded.

4.2. VACANT UNFUNDED EXECUTIVE MANAGER

Strategic leadership, guidance and support remain a fundamental gap in the Complaints Management Programme. The period under review marked the third financial year of operation without an Executive Manager, and consequently, affected the attainment of strategic imperatives of the programme.

4.3. LIMITED HUMAN CAPITAL

The structure of the Complaints Management Programme remains partially funded despite the continued increase in the number of complaints received by the OHSC in its three years of operation. Use of surplus budget for contract posts is a short-term solution.

5. THE LIFE ESIDIMENI RECOMMENDATIONS AND PROGRESS UPDATE

5.1. SPECIAL INVESTIGATIVE UNIT UPDATE

The Special Investigative Unit (SIU) progress update is in line with recommendation 8 of the report 'into the circumstances surrounding the deaths of mentally ill patients: Gauteng Province' which states that: "The Ombud fully supports the ongoing South African Police Service (SAPS) and forensic investigation underway. The findings and outcomes of these investigations must be shared with appropriate agencies so that appropriate action where deemed justified can be taken". The update is also in line with recommendation 10 which states that: "Any appropriate legal proceedings should be instituted, or administrative action taken against the Non-Governmental Organisations (NGOs) that were found to have been operating unlawfully and where MCHUs died".

The Life Esidimeni investigation is finalised and the presidential report is under review.

The SIU submitted the following referrals to the relevant authorities:

- Twenty-six referrals to the National Prosecuting Authority (NPA) in relation to theft and fraud committed by the owners and/or Directors of the NGOs.
- Thirteen recommendations for disciplinary action to be taken against the officials responsible for the losses suffered by the Gauteng DoH.
- Eleven referrals of evidence to the NPA Directorate to enable the NPA Directorate to take administrative action against the owners of the NGOs.
- Nineteen referrals to the Gauteng DoH to place the NGOs on the restricted supplier data base.
- Seven referrals of evidence to the South African Social Security Agency (SASSA) to enable SASSA to take administrative action and recover losses to the value of R1 814 434.27 suffered by SASSA against the owners of the NGOs. The SIU also recovered losses suffered by SASSA to the value of R221 860.00 in relation to four NGOs. The recovery was by means of Acknowledgements of Debt signed. The

matters pertain to Theft and Fraud in relation to payments made by SASSA based on grants transferred to the NGOs account which was not due and payable. The repayments are currently being made by the relevant NGOs.

The SIU further instituted civil action against the owners of two NGOs to recover losses suffered by the Gauteng DoH. The two matters relate to Fraud in relation to payments made by the Gauteng DoH based on claims submitted by NGOs Anchor House and Precious Angels, which were not due and payable. The value of the civil action instituted is R1 313 882.84. The SIU obtained judgement against Anchor House and Precious Angels to the value of R1 313 882.84 and the SIU is in the process of executing on the two Court Orders to recover the amount involved.

The SIU is in the process of instituting civil action against the owners of a further 11 NGOs. The matters have been issued by the State Attorney's office. The matters will be heard in the Special Tribunal. The value of the pending civil litigation is R6 957 770.98.

5.2. IMPACT STUDY ON THE HEALTH SYSTEM

The OHO in collaboration with the Better Health Programme South Africa has commissioned a study on the impact of the office into the Health System. The study would be conducted by the public health consultant and former expert panel member of the Life Esidimeni investigation, Dr Welile Shasha. The duration of the study would be six months.

The OHO has released two major reports - the first investigation on the circumstances surrounding the deaths of mentally ill patients in Gauteng Province and the second on the investigation into patient mismanagement and patient right's violation at the TPHPRC. In both reports, the OHO set out findings and recommendations for remedial action. Currently, the OHO has no power to enforce compliance with the recommendations and does not have the capacity to review the extent to which recommendations have been acted upon and, if so, what system or policy changes have resulted.

6. LESSONS LEARNT OVER THE PAST FOUR YEARS

6.1. Investigating Health Complaints is distinctly different to complaints handled by the Public Protector. The investigations are prolonged, they often involve emotions of several people rather than money which is often



easier to trace and follow; they require the cooperation of several stakeholders within health establishments. Private and Public Health complaints require different approaches. It takes at a minimum of three to four months to complete a single health complaint.

- 6.2.** It would seem that using numbers, i.e. quantity as opposed to the quality of investigations, may not be the best way to assess performance. Quality seems better as the implications of the findings and recommendations have wider improvement ramifications for the National Health System; The current Annual Performance Reports (APRs) are based on quantity rather than quality. Nobody seems to assess the impact of the quantity-based APR assessments.
- 6.3.** An improvement to the Call Centre, and the Complaints and Assessment Unit has improved the outcomes of complaints.
- 6.4.** Many complainants do not use or simply disregard the health establishment's complaints processes and system and go straight to the Complaints Centre.
- 6.5.** The use of the OHO as runner-up or support for litigation. This is really an issue that the legislative framework should resolve. In the United Kingdom for example, all cases that want to approach the courts do not go via the Health Ombud. There is a clear separation of roles. In our country complainants use the findings and

recommendations of the OHO to strengthen litigation. This role distinction must be resolved.

7. CONCLUSION

I had envisaged setting up an Office of the Health Ombud with best international framework and principles. This would be a fully independent office, fully resourced in terms of human and financial capacity. The office should report to Parliament and be resourced through Parliament. This would be consistent with best international practice.

I had hoped, and still hope such a possibility exists with proper Government support.

I wish to be able to train younger staff in the art of being Health Ombud. Such much-needed capacity does not exist in our country.

We clearly need to accelerate the completion of our building blocks so that a proper fully-fledged OHO can take root.

The National DoH and Parliament should prioritise this office as the country reimagines a post-COVID-19 society.

I am grateful to all the support and encouragement my office received. I am especially grateful to Ms. Linda Jiyane my PA, to Mr. Monnatau Tihloe, the Director: Complaints Centre and Assessment, Ms Helen Phetoane, the Senior Investigator: Healthcare Cases and Dr. Siphwe Mdaweni, the OHSC CEO and Dr. Zweli Mkhize, the Minister of Health.





REGISTERED NAME: Office of Health Standards Compliance

PHYSICAL ADDRESS: 79 Steve Biko Road
Prinshof
Pretoria
0084

POSTAL ADDRESS: Private Bag X21
Arcadia
0007

TELEPHONE NUMBER/S: +27 12 942 7700

WEBSITE ADDRESS: www.oho.org.za

ISBN: 978-0-620-90157-4