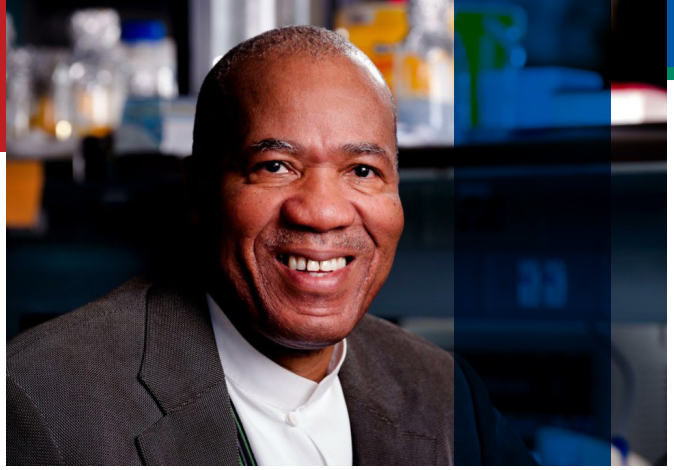
OFFICE OF THE HEALTH OMBUD

ANNUAL REPORT

2018/2019

OHO

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



FOREWORD BY THE HEALTH OMBUD

This report is a reflection of the activities and work performed by the Office of Heath Ombud (OHO) in the previous financial year. This report should be read in conjunction with the Annual Report of the Office of Health Standards Compliance (OHSC). The OHO continued to fulfill its legal mandate despite some of the limitations in the current legislation. For an office of the state to enjoy parliamentary oversight, it must fulfill the following minimum criteria: i) It must be established independently through a proper legal framework, e.g, the Office of Public Protector or the Military Ombudsman; ii) It must have an approved structure through the line Department, e.g, National Department of Health and the Department of Public Service and Administration; iii) It must have its own strategy with key performance areas against which it can be audited and assessed for annual performance; and iv) It must have its own independent budget, indepently appropriated by and from parliament against which it must be audited.

None of the above characterestics are applicable to the OHO. The OHO lacks critical resources to fulfil its functions to improve quality of healthcare and support the National Health Insurance (NHI) in the country as is required by law. These issues have been raised repeatedly over the past three years.

It is common cause that the OHO must be separated from the OHSC to improve its role and functioning of both health maladministration in the private and public health system in South Africa. The Office is currently running with only the Health Ombud and the Executive Assistant since its inception three (3) years ago.

The 2018 Presidential Health Summit Compact endorsed that the funding of the OHO should increase from its current level of R8 million to R16 million in the next financial year and then to R32 million and R64 million in the following years to achieve its full funding level. The Office of the Health Ombud will work with National Treasury, the National Department of Health and the OHSC for relealisation of resources and its statutoty independence.

The OHO plays a critical role in protection and promotion of the health and safety of users of healthcare in the country. The promulgation of the norms and standards regulations applicable to different categories of health establishments strengthened the role of Health Ombud to receive and investigate complaints in both public and private health establishments. The implementation of NHI Bill is a ground-breaking and transformative step in the delivery of the National Health System in South Africa. The Office will work together with all role players for successful realisation of the NHI.

The OHO received and investigated high impact complex cases involving multiple health establishments and practitioners. The Health Ombud released an investigation report into allegations of patient mismanagement and patient rights violations at the TPHPRC in the Eastern Cape (referred to as "Tower Report") in the previous financial year. The implementation of recommendations made from the Tower and Life Esidimeni report as well as other investigation reports have positively impacted the broader health system in the country. It is impact rather than numbers or quality rather than quantity that drives the ethos of the office of the OHO. The OHSC continues to monitor the implementation of all recommendations from the Health Ombud reports.

The work of the Health Ombud is recognised by various sectors. The Health Ombud received the Titanium Award for service excellence in creating access to healthcare at the 19th Board of Healthcare Funders (BHF) Conference. In addition, the Health Ombud successfully registered with the International Ombudsman Institute.

Stakeholder relations remains one of the major priority of the Health Ombud. The work of Health Ombud was shared with stakeholders during exhibitions in strategic partnerships and collaborations with bodies such as the Board of Healthcare Funders, Special Investigative Unit, Health Africa Congress, and Hospital Association of South Africa in Gauteng, and North West provinces.

The OHO joined the OHSC to embark on a series of consultative workshops with the public and private healthcare sector as well as other key stakeholders to communicate the work of Health Ombud from October 2018 to February 2019. These workshops were held in Gauteng, Limpopo, Free State, KwaZulu-Natal, Eastern Cape, North West, Mpumalanga, Northern Cape and Western Cape provinces. In addition, the Office of Health Ombud and OHSC formed part of a delegation led by the National Department of Health for a benchmarking visit to learn best practices in the United Kingdom (UK).

In conclusion, I would like to thank the Portfolio Committee on Health, the Ministry of Health, the Department of Health, the Department of Public Service and Administration, the OHSC Board and the many committed OHSC staff for the day-to-day support and strength they provide for us to perform our legal mandate without fear, favour or prejudice.

PROF MW MAGOBA
HEALTH OMBUD
DATE: 26/08/2019

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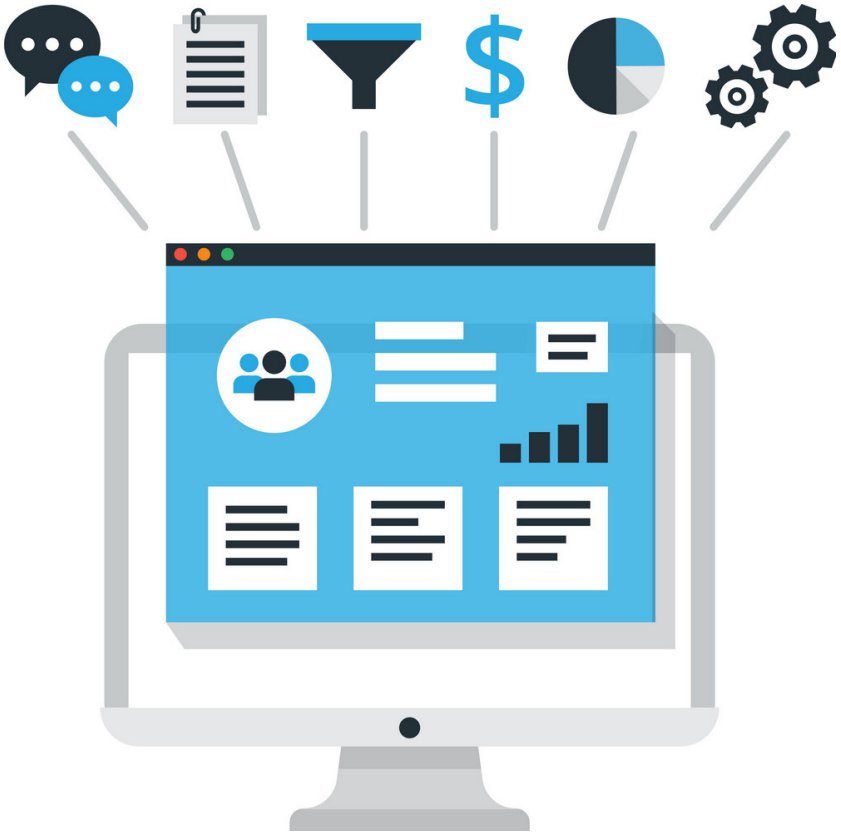
GENERAL INFORMATION

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

ADR	Alternate Dispute Resolution
CEO	Chief Executive Officer
DPSA	Department of Public Service and Administration
GDoH	Gauteng Department of Health
GP	Gauteng Province
HPCSA	Health Professions Council of South Africa
NDoH	National Department of Health
NDP	National Development Plan
NHA	National Health Act
NHI	National Health Insurance
NGO	Non-Governmental Organisation
OHSC	Office of Health Standards Compliance
OHO	Office of the Health Ombud
PAIA	Promotion of Access to Information Act
PFMA	Public Finance Management Act
PDoH	Provincial Department of Health
PPSA	Public Protector South Africa
PSC	Public Service Commission
SACSSP	South African Council for Social Service Professions
SANC	South African Nursing Council
TPHRC	Tower Psychiatric Hospital and Psychosocial Rehabilitation Centre

1. SUGGESTED AGENDA FOR CHANGE

The Health Ombud is located within the Office of Health Standards Compliance (OHSC) as it is aptly stipulated in Section 81(3)(b), of the National Health Act, 2003 (Act No.61 of 2003) hereinafter referred to as the Act. In terms of Section 81 (3), the Ombud is assisted by persons designated and seconded by the Office with the concurrence of the Health Ombud.

This status quo has proven to be defective in several ways and has created a non-coherent day to day operations and governance dilemmas as articulated in the Act as the Ombud is deemed as a Programme/Division within the OHSC. The former Minister of Health and the Portfolio Committee on Health has acknowledged that there are limitations in the current legislation that has established the Office of the Health Ombud, that necessitate correction. To this end, the Health Ombud Bill requires to be fast-tracked to ensure autonomy, extension of the legal mandate, to address any complaint related to the national health system and not just merely norms and standards.

As we consider the work of the Health Ombud during the year under review, it is worth noting that the Office of the Health Ombud is consitituted solely of the Health Ombud and the Executive Assistant. It must also be pointed out that the Health Ombud enters the 4th year of office with the same deficiencies that were cited in the previous financial years, since the inception of the office. The risk emanating from the status quo is daunting.

Relevant authorities at the point of care remain key custodians to ensure that complaints are not only received and reported, but actions are taken to improve the experience of care. This will inspire the citizens not to use the OHO as recourse from dissatisfaction or failure of the health establishments and relevant authorities but to afford the relevant authorities to dispose of complaints as provided for in the National Guideline for managing complaints, suggestions and compliments.

It is encouraging though to note that the implementation of recommendations made from the Life Esidimeni and the TPHPRC Investigations have brought about great improvements in the lives of individuals and the broader health system and have contributed to the legislative review. The OHSC continues to monitor the implementation of other recommendations that require follow up.

The Ombud has strengthened relations with other institutions that have a similar mandate. To date, three Memoranda of Understanding have been signed, with the South African Military Health Ombud, the Public Service Commission and the Public Protector South Africa respectively.

2. STATEMENT OF RESPONSIBILITY FOR AND CONFIRMATION OF ACCURACY OF THE ANNUAL REPORT

To the best of my knowledge and belief, I confirm the following:

- All information provided in the annual report is consistent with the audited report by the Auditor General as part of the Office of Health Standards Compliance;
- The annual report is complete, accurate and is free of any omissions;
- The annual report has been prepared in accordance with the guidelines on the annual report as issued by the National Treasury;
- The accounting authority, the OHSC Board, is responsible for establishing, and implementing a system of internal controls that have been designed to provide reasonable assurance as to the integrity and reliability of the performance information, the human resources information and the annual financial statements; and
- External auditors were engaged to express an independent opinion.

3. STRATEGIC OVERVIEW

3.1 VISION

"We perform our functions in good faith and without fear, favour, bias or prejudice".

3.2 MISSION

To protect and promote the health and safety of health care users by considering, investigating and disposing of complaints in the national health system (private and public health establishments) relating to non-compliance with prescribed norms and standards and 'contribute towards the development of public service culture characterised by fairness, dedication, commitment, openness, accountability and the promotion of the right to good public administration'.

3.3 VALUES

Independence, Impartiality and Accountability.

4. CONSTITUTION, POLICIES AND STATUTORY MANDATES

The OHO is strategically located within the OHSC which is regulated under the Public Finance Management Act, 1999 and listed as a Schedule 3A public entity.

The regulatory role of the OHO is influenced by the following governing legislation, regulations and national policies:

Constitution of the Republic of South Africa, 1996
- Section 27 provides for the rights of access to healthcare services and emergency medical treatment.

National Health Act, 2003 (Act No. 61 of 2003)
- Provides for a transformed national health system for the entire Republic of SA.
- Allows any user of health services to lay a complaint about the manner in which he or she was treated at a health establishment.
- The purpose of the OHO is reflected in the NHA as that of protecting and promoting the health and safety of users of health services by:
  - Ensuring that complaints about non-compliance with prescribed norms and standards are considered, investigated and disposed of in a procedurally fair, economical and expeditious manner.

National Development Plan (NDP) (Vision 2030)
- Focuses on strengthening the health system. and the role of OHO to promote quality through investigation of complaints.

Procedural Regulations Pertaining to the Functioning of the Office of Health Standards Compliance and Handling of Complaints by the Ombud, 2016
- These regulations were promulgated in October 2016 to guide the exercise of powers conferred on the Ombud. They elaborate details, procedures and processes for handling of complaints.

Norms and Standards Applicable to Different Categories of Health Establishments, 2017
- Provides for the promotion and protection of the health and safety of users and healthcare personnel by giving effect to five domains/areas of risk that needs to be complied with.

Other Legislations which impact on the operations of OHO

Children's Act, 2005 (Act No. 38 of 2005)
- Provides for the protection of children's rights and wellbeing and defines parental responsibilities and rights in respect of their children.

Medical Schemes Act, 1198 (Act No.131 of 1998)
- Provides for the regulation of the medical schemes industry to ensure consonance with national health objectives.

Medicines and Related Substances Act, (Act No.101 of 1965)
- Provides for the registration of medicines and other medicinal products to ensure their safety.
- The Act also provides for transparency in the pricing of medicines.

Mental Health Care Act, 2002 (Act No. 17 of 2002)
- Provides a legal framework for mental health care in the Republic of SA and in particular, the admission and discharge of mental healthcare patients in mental health institutions with an emphasis on human rights for mental healthcare patients.

The Choice on Termination of Pregnancy Act, 1996 (Act No. 92 of 1996)
- Provides a legal framework for termination of pregnancies based on choice under certain circumstances.

State Liability Act, 1957 (Act No. 20 of 1957)
- Provides for the circumstances under which the State attracts legal liability for acts committed by its officials.

National Archives and Records Service of South Africa Act, 1996 (Act No. 43 of 1996)
- Contains specific provisions for efficient records management in government bodies.
- Determines which recordkeeping systems should be used by governmental bodies.
- Authorises the disposal of public records or transfer into archival custody.
- Determines which records must be microfilmed or electronically reproduced.
- Determines the use of records classification systems approved by the national archivist.

Sterilisation Act, 1998 (Act No.44 of 1998)
- Provides a legal framework for sterilisations, including persons with mental health challenges.

National Health Laboratory Service Act, 2000 (Act No. 37 of 2000)
- Provides for a statutory body that provides laboratory services to the public health sector.

The Protection of Personal Information Act, 2013 (Act No.4 of 2013) (PoPI)
- Ensures that all South African institutions, such as OHO, responsibly conduct themselves responsibly when collecting, processing, storing and sharing personal information by holding them accountable should they abuse or compromise such information in any way.

Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) (PAIA)
- Gives all South Africans the right to access records held by the State, government institutions and private bodies.

Protected Disclosures Act, 2000 (Act No. 26 of 2000)
- Provides for the protection of whistle-blowers in the fight against corruption.

National Health Insurance (NHI)
- The NHI is based on the principles of universal coverage, equity, right of access to basic healthcare and social solidarity, irrespective of a person's socioeconomic status. An effective and well-functioning health quality system with set standards and norms that are implemented effectively is essential for the successful execution of the NHI.

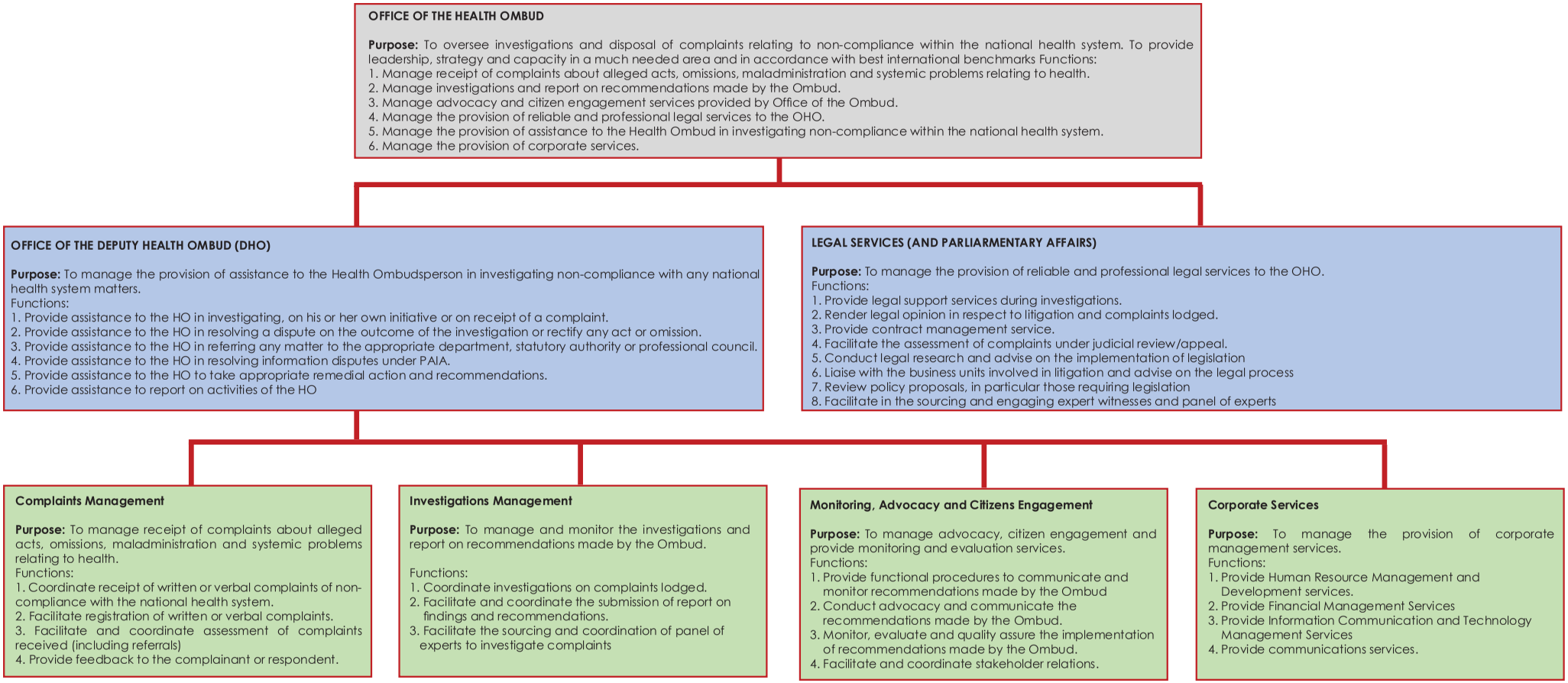
Batho Pele and the Patient's Rights Charter
- Promotes a culture of service-orientation, excellence and improved delivery among public servants.

Presidential Health Summit 2018 Compact
- Gives direction on separating the Ombud from OHSC, as an independent and autonomous body with its own personell.

5. ORGANISATIONAL STRUCTURE OF THE OFFICE OF THE HEALTH OMBUD

In creating the Office of the Health Ombud, the below illustrated organisational structure below (Figure 1) was approved by the former National Minister of Health in collaboration with the Department of Public Service and Administration (DPSA). The structure was approved for a total number of 113 staff with an estimated budget of R133 000 000 .00.

Figure 1: Health Ombud Organisational Structure



PART B

PERFORMANCE INFORMATION

6. SITUATIONAL ANALYSIS

6.1 SERVICE DELIVERY ENVIRONMENT

The Health Ombud's offices internationally are set apart, and independent with the intent to contribute towards the development of public service ethos and are characterised by their prestige to operate expeditiously with objectivity, competence, efficiency and fairness. These explicit principles are vaguely stipulated in the current legislative framework that has established the Office of the Health Ombud within the OHSC. This legislative gap requires correction to align with the best international practices. To that end, the Office welcomes the 2018 Presidential Health Summit Compact which inter alia states that: "The Office of the Health Ombud must be separated from the OHSC to ensure independence, transparency and good governance as presented in Section 4.6.9. The Minister of health is the only person who would be able to separate this function in collaboration with the Office of the Health Standards Compliance in particular".

The 2018 Presidential Health Summit Compact makes clear interventions and states them as the follows:

- Funding of the Health Ombudsman should increase from its current R8million to R16 million in the next financial year and then to R32 million and R64 million in the following years to achieve its full funding level by year %; and
- Implement the decision of the DPSA on the funding of the Office of the Health Ombudsman over the next five years; and Treasury, the National Department of Health (NDoH) and the OHSC should work together to address this situation.

The road traversed since the inception of the Health Ombud provided much experience. While attempting to tackle the challenges encountered, the OHSC has developed and refined processes to establish a baseline for the work of the Health Ombud.

The year under review marks the 3rd year of the Office of the Health Ombud's term of office with the vast increase of complaints received. In 2017/18, a total of 3810 cases were reported while in 2018/19, the caseload increased to 7732, which translates to 103%. Significant strides have been made to utilise the limited staff within the Complaints Management and Ombud Programme of the OHSC to handle the ever-increasing workload. Undoubtedly, the rapid increase in the number of complaints received has posed a serious strain on adhering to the turnaround time for resolving the complaints as required by legislation.

Concerted efforts have been made in intensifying public awareness and collaboration with key stakeholders on the handling of complaints by the Health Ombud and those providing assistance to his office. All the 9 provinces were reached, including the private sector health establishments.

Multimedia, e.g. radio, television and print media, were used to promote access to the services offered by the Health Ombud. The Health Ombuds' website launched in the previous reporting period continues to promote the services provided by the Health Ombud and has attracted 4,603 users between April 2018 and March 2019 in comparison to the 605 users in 2017/18 financial year.

In respect of the complaints investigations, the highlight for the year under review was when the Health Ombud received and investigated a high impact complex case which involved multiple issues and numerous practitioners. The case was lodged by a health care professional, alleging institutionalised, systematic or deliberate violations of Human Rights by staff at TPHPRC.

The Health Ombud's investigation into TPHPRC has highlighted significant challenges that were identified beyond the health establishment in the areas of Mental Health Care Service as well as governance issues by ECDoH.There were also glaring shortages of human resource capacity, adequate management, infrastructural challenges, especially inhumane conditions of seclusion rooms.

The final investigation report was publicised in the media as the complaint itself raised the alarm in the print media and visual media. Among the key to the recommendations made by the Health Ombud in the TPHPRC report was the National Health Minister to evoke the appropriate and relevant Sections of the Constitution to appoint an Administrator concerning the Mental Health Services in the ECDoH through the appointment of an Administrator. Ninety working days were allocated for the implementation of this recommendation and was successfully realised.

The follow-up on the implementation of Life Esidimeni recommendations and TPHPRC is undertaken by the OHSC, to ensure that the Gauteng Department of Health complies with the Health Ombud's recommendations.

The relentless and unwavering work of the Health Ombud continues to be recognised by various sectors. The Health Ombud was bestowed with a Titanium Award for service excellence in creating access to healthcare at the 19th Board of Healthcare Funders (BHF) Conference.

The Health Ombud and the OHSC formed part of a delegation led by the National Department of Health for a benchmarking visit in the United Kingdom (UK) with the intention of comparing the OHO's organisational structure with that of the Parliamentary Health Services Ombud (PHSO) for suitability within the South African context in terms of human and financial resources.

The Health Ombud received an invitation to be a member of International Ombud Institute. He applied and was accepted as a member.

6.2 ORGANISATIONAL ENVIRONMENT

This report aims to describe the activities attained by the Office of the Health Ombud and the impediments that may have impacted on the ability of the Health Ombud to maximise performance.

As stated in Section 1. above, the Office of the Health Ombud is constituted solely of the Health Ombud and the Executive Assistant.

The former National Minister approved the Office of the Health Ombud's organisational structure of Health and the Portfolio Committee on Health. As stated in Section 5. above, the structure was approved for 113 staff and a budget of R133 000 000.00.

The table below is a depiction of the analytical provision of the approved organisational structure of the Office of Health Ombud vis-à-vis the current OHSC Complaints Management Programme structure. These posts have not been designated and seconded as required by the law.

Table 1: Comparison of Proposed OHO and OHSC Structure

UNIT	PROPOSED OHO ORGANISATIONAL STRUCTURE	CURRENT OHSC STRUCTURE FOR COMPLAINTS MANAGEMENT AND OMBUD PROGRAMME
Office of Health Ombud	4	2
Office of the Deputy Health Ombud	4	N/A
Corporate Services	14	N/A
Legal Services and Parliamentary Affairs	10	N/A
Complaints Management	37	27
Investigation Management	29	10
Monitoring, Advocacy and Citizens Engagement	15	N/A
	113	**39***

*Only 17 post of the OHSC structure are funded. 22 are vacant and unfunded.

The Office of the Health Ombud is reliant on the staff of the OHSC to execute its role. The staffing levels for the Complaints Management Programme has proven to be severely inadequate at a vacancy level of 56.4% due to funding limitations notwithstanding that six posts were funded through a surplus in the last month of the year under review. The Office of the Health Ombud organisational structure needs to be urgently funded to enable the Office to respond to the complaints of the citizens expeditiously.

The assessors and investigators underwent a 3-months formal training programme. This contributed to the long turnaround time for case resolution because no work was done during this period.

6.2.1 KEY POLICY DEVELOPMENT AND LEGISLATIVE CHANGES

The most apposite fact to realise is that the Health Ombud is a creature of Statute and as such is enjoined by the Constitution and Rule of Law to exercise its function in a lawful, fair and reasonable manner. The impact of investigations and recommendations by the Health Ombud translates into far-reaching changes in the health sector and can lead to immense improvements in the broader health sector and legislation. Due to the severe shortage of staff, there is only one official that assist the Ombud with all its legal service work and still has to do some legal work for the OHSC.

7 COMPLAINTS MANAGEMENT PROGRAMME AND OMBUD

The Complaints Management Programme, which is Programme 3 of the OHSC consists of two business units; Complaints Centre and Assessment, and Investigation Unit. The Executive Manager post is unfunded for three consecutive financial years, which impacts on the strategic delivery of the programme due to a leadership vacuum.

7.1 COMPLAINTS CENTRE AND ASSESSMENT

In the financial year 2017/18, the unit operated with the constrained human resource capacity due to funding limitations. Efforts were made in the year under review were taken to increase capacity with contract posts. Six (6) posts were funded through surplus. Of these three (3) were for the Call Centre, two (2) for Assessment and one (1) for administration. This mitigated the capacity of the Complaints Assessment Centre from 48% to 72%.

The five Call Centre team members registered 7732 requests in the complaints management system, which were as follows: Alerts 22, Complaints 1902, Compliments 13, Duplicate Complaints 1670 and Enquiries 4125. In 2017/18, 3810 requests were registered. There was a 98.9 % increase in the requests received and registered by the Call Centre.

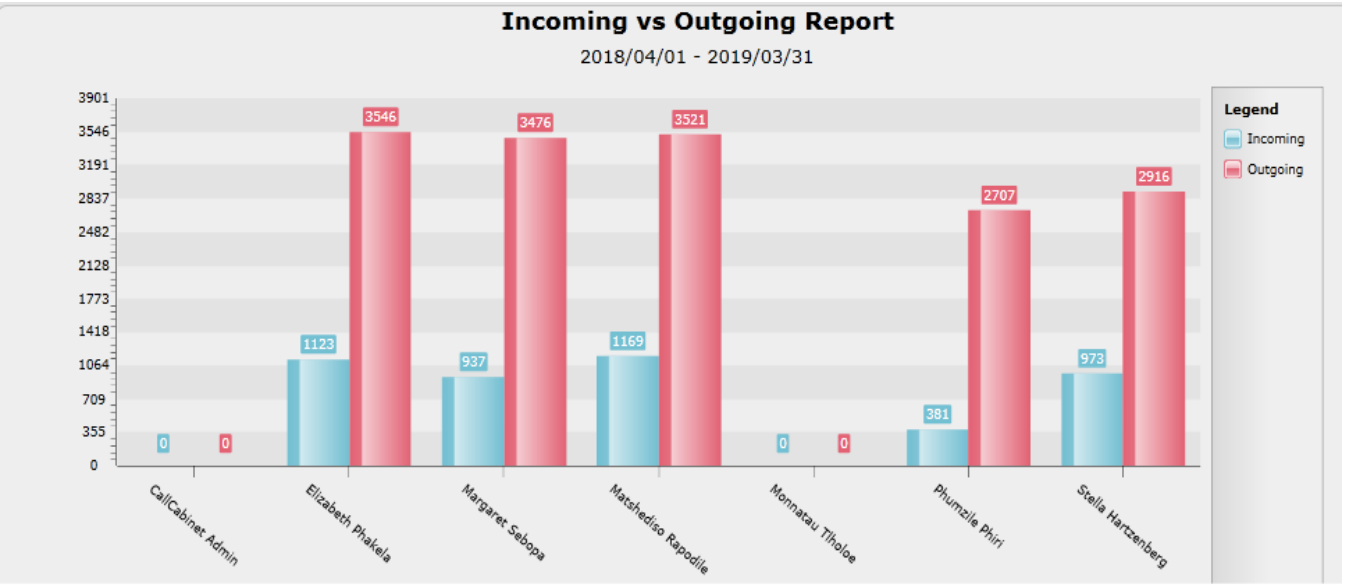
Table 2: Overview of National Complaints in 2016/17, 2017/18 and 2018/19

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%

The table above shows the caseload for the three financial years (2016/17, 2017/18 and 2018/19). An increase in the workload has been noticed throughout the three years. In 2017/18, a 203% increase was observed and a 102.9% increase for 2018/19. Of the 1902 complaints received, 1697 were accepted for further processing while 205 were rejected due to being out of scope. The Call Centre and Assessment managed to resolve 1125 of 1477 complaints.

By and large, in the year under review, the Call Centre has made good progress by exceeding the targeted of 50% by 27.84% (1082/1390) while the target for disposal of complaints through assessment remains a challenge of underachievement at 49.42% against a target of 50%. This is due to high caseload per assessor as a result of the human resource capacity.

Figure 2: Incoming and Outgoing Calls Report



The figure above depicts the calls received and those made out from the Call Centre. A total of 4583 calls were received, and 16166 were made out. The data shows that an average of 18 calls were received per working day while an average of 65 calls were made out. The graph demonstrates that for each call received the complaints officers make contacts with the complainant 3.5 times.

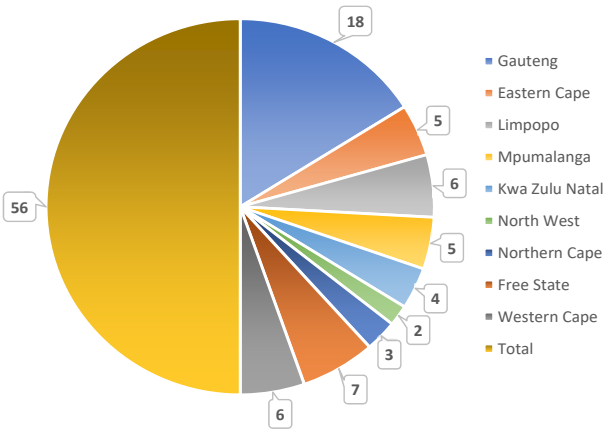
7.2 COMPLAINTS INVESTIGATION UNIT

In the past 12 months, the nature of complaints received for investigations was of high and extreme risk nature; high-risk 79.6% and extreme risk case 20.4% respectively. These required a robust process of gathering evidence and investigation.

Twenty-three (23) cases emanating from the previous financial year were carried over to the year under review, and fifty-six (56) cases were received for investigation in the 2018/19 financial year. The majority of complaints received were related to the public health sector with 51 (91.07%), and the Private Health Sector with 5 (8.93%).

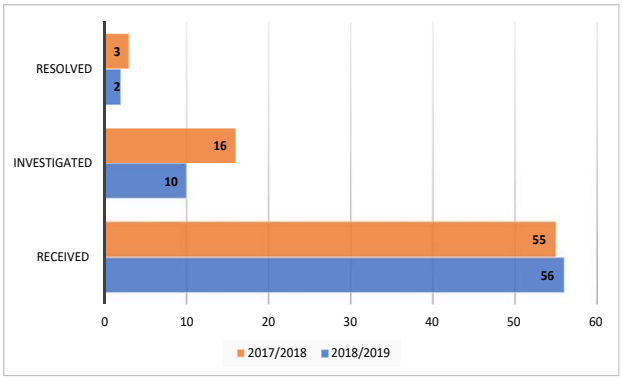
The distribution of complaints received for investigation demonstrates that Gauteng Province was leading with 18 (32.14%) complaints lodged for investigations, followed by Free State with 7 (12.50%), Limpopo and Western Cape with a tie of 6 (10.71%) each, Eastern Cape and Mpumalanga 5 (8.93%) cases each, KwaZulu-Natal 4 (7.14%), Northern Cape 3 (5.36%) and North West Province 2 (3.57%).

Figure 3 illustrates the number of complaints received for investigations per Province in the 2018/19 Financial Year



The chart above displays the distribution of the complaints received per province. The majority of complaints received for investigation emanates from Gauteng Province with 18 cases, followed by Free State with 7 and North West the lowest with 2 cases received.

Figure 4 Complaints received, investigated and resolved in 2017/18 and 2018/19 financial years



The chart above illustrates the number of complaints received, investigated and resolved for the financial years 2017/18 and 2018/19, respectively. The cases received when the unit was established in 2017 were 55, and in the year under review 56. In 2017/18 financial year, 16 cases were investigated, and 3 cases were resolved. In 2018/19 financial year, 10 cases were investigated. The investigators assisted the Health Ombud with the investigation of TPHPRC which took 5 months to be resolved. The investigators attended a formal training for 3 months. While it is crucial to resolve the complaints within the timelines stipulated by the legislation, it is equally essential to ensure a balance between timeliness and the quality of the output.

The staffing levels of the Complaints Investigation Unit have proven to be severely inadequate to deal with the volume of complaints referred for investigation and to attain the set performance targets of 80% in the Annual Performance Plan. This reflects on the relation between performance and resource allocation.

The collaboration between the Director Complaints Centre and Assessment and Complaint Investigators to provide assistance to the Health Ombud in handling a unique complex case that was lodged by a health care professional, alleging institutionalised, systematic or deliberate violations of Human Rights by staff at TPHPRC was a remarkable achievement of teamwork. This enabled the complaint to be concluded within five (5) months of receipt.

8 STRATEGIC CHALLENGES

i. Gaps in the Legislation

The current legislative framework that located the Health Ombud in the OHSC has proven to be a challenge and requires urgent intervention by processing the Health Ombud Bill during this term.

ii. 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 2018/19 financial year, the approved OHO organisational structure remained unfunded. This process requires urgent intervention as stated by the Presidential Health 2018 Compact.

iii. Vacant unfunded Executive Manager position

Strategic leadership, guidance and support remain a fundamental gap in the Complaints Management Programme. The period under review marked the 3rd financial year of operation without an Executive Manager. This impacted negatively on the attainment of strategic imperatives of the programme.

iv. 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 for the three years of operation. Use of surplus for contract posts is a short-term solution.

9 PROGRESS MADE ON IDENTIFIED PRIORITIES FOR THE 2018/2019 FINANCIAL YEAR

i. International Benchmark of Ombud Institutions (Refer to Appentix A, page 24)

An international benchmark was undertaken to the United Kingdom between 4 and 8 March 2019 and was supported by the Prosperity Health Fund.

The lessons learned from the UK Parliamentary and Health Service Ombudsman (PHSO) included:

- The PHSO is accountable to the Parliament, and the of his Office is scrutinised by the Public Administration and Constitutional Affairs Committee while OHO is accountable to the Minister of Health;
- The Ombud has two offices situated in London and Manchester with a total staff complement of 450;
- The PHSO staff have written delegated powers; this delegation is given from call takers to case handlers and operation managers;
- Capacity building and mental support for the team remains a pivotal priority for the PHSO;
- The PHSO is stringent with acceptance of complaints; those that did not start at the NHS are signposted accordingly;
- A decision was taken to combine Assessment and Investigation to mitigate the delays in the resolution of complaints;
- Active involvement of legal from the early stages of complaint handling; and
- Open plan office designs.

ii. Process innovation and refinement

Continual upgrades were done on the system to ensure it is aligned to the current trends in the regulatory environment. The promulgated norms and standards have been included in the electronic Complaints Management System in order to provide an improved complaint trend analysis.

10 THE LIFE ESIDIMENI AND TPHRPC RECOMMENDATIONS PROGRESS UPDATE

The tables below show the progress made in the implementation of the Health Ombud's recommendations made during the investigations of the Life Esidimeni and the TPHRPC in the Eastern Cape.

Table 3: Life Esidimeni Progress

RECOMMENDATIONS	PROGRESS TO DATE
12. The National Minister of Health must with immediate effect appoint a task team to review the licensing regulations and procedures to ensure they comply with the National Health Act, the Mental Health Care Act 2002 and norms and standards. The newly established process must ensure that NGO certification is done through the OHSC. This newly established licensing process should form the first line of protection for the mentally ill. Currently, this does not seem to be the case.	Minister referred this to the Law Reform Commission.
RECOMMENDATIONS	**PROGRESS TO DATE**
4. Disciplinary proceedings must be instituted against Dr Makgabo Manamela for gross misconduct and incompetence in compliance with Disciplinary Code and Procedure applicable to SMS members in the public service. In the light of Dr Makgabo Manamela's conduct during the investigation, which includes tampering with evidence, it is recommended that consideration be given to suspending her pending disciplinary hearing, subject to compliance with the Disciplinary Code and Procedure applicable to SMS members in the public service.	The matter before the South African Nursing Council Professional Conduct Committee.
6. Corrective disciplinary action must be taken against members of the GDoMH: Ms S Mashile (Deputy Director); Mr. F Thobane (Deputy Director); Ms. H Jacobus (Deputy Director); Ms. S Sennelo (Deputy Director); Dr. S Lenkwane, (Deputy Director); Mr. M Pitsi (Chief Director); Ms. D Masondo (Chair MHRB), Ms. M Nyatlo (CEO of CCRC), Ms. M Malaza (Acting CEO of CCRC) in compliance with the Disciplinary Code and Procedures applicable to them, for failing to exercise their Fiduciary duties and responsibilities. They allowed fear to cloud and override their fiduciary responsibilities and thus failed to report this matter earlier to relevant authorities. Fiduciary responsibility is essential for good corporate governance.	Mr Pitsi won his appeal; all other public servants were disciplined; Ms Masondo- Inquiry found in her favour; the matter was taken to review at High court and the decision of Inquiry was set aside. By that time, she had already resigned.
7. All the remedial actions recommended above must be instituted within 45 days and progress be reported to the Chief Executive Officer of the Office of Health Standards Compliance within 90 days	An extension was requested and granted, as it was impossible to institute all in 45 days. All the remaining recommendations are still being monitored.

Table 4: TPHPRC Progress

RECOMMENDATIONS	PROGRESS TO DATE
5.1.1. The National Health Minister must evoke the appropriate and relevant Sections of the Constitution to appoint an Administrator concerning Mental Health Services in the ECDoH. This must be done within 90 working days through the appointment of an Administrator.	The former Health Minister Dr Aaron Motsoaledi acted on the health ombudsman's recommendation to appoint an administrator to oversee mental health in the Eastern Cape and establish a new directorate to correct all the systemic failures identified in the TPHPRC report.
5.1.5 The ECDoH, through the offices of the SG and DSS, must go through records, identify and embark on an investigation of all MCHUs discharged by Dr. Sukeri at TPHPRC and make follow up assessment on their wellbeing in order to decide upon the proper future course of action for the discharged MCHUs and for Dr. Sukeri; a preliminary report has been provided which must be completed expeditiously. Dr. Sukeri must bear the full responsibility and consequences of the outcomes of this investigation.	Implemented.

RECOMMENDATIONS	PROGRESS TO DATE
5.2.2. The SG and Health MEC should consider the immediate suspension of Ms. NE Ngcume, the CEO from all managerial tasks with immediate effect. Internal disciplinary processes should be instituted against the CEO	The CEO resigned from service.
5.2.7. Social Worker Ms. L Mali Ms. Mali should be suspended with immediate effect from all duties pending the disciplinary process outcome, in light of the serious nature of the act that she has committed. Her conduct should be reported to her professional body, the South African Council for Social Service Professions (SACSSP) and the South African Police Service for possible criminal charges.	The matter is receiving attention at the SACSSP.
The current seclusion rooms at TPHPRC should not be used until they meet the requirements as specified in the Policy Guidelines on Seclusion and Restraint of Mental Health Care Users.	All Seclusion rooms refurbished.

The findings and recommendations on the Life Esidimeni and TPHPRC served as a catalyst to enhance legislative review and improvements in the healthcare systems.

11 OMBUD ACTIVITIES

11.1 COMMUNICATION AND STAKEHOLDER RELATIONS

The Health Ombud released an investigation report into allegations of patient mismanagement and patient rights violations at the Tower Psychiatric Hospital and Psychosocial Rehabilitation Centre in the Eastern Cape (Tower report). The OHSC continues to monitor implementation of the recommendations for the Life Esidimeni and Tower investigation reports.

The relentless and unwavering work of the Health Ombud continues to be recognised by various sectors. The Health Ombud, Professor Malegapuru Makgoba was awarded a Titanium Award for service excellence in creating access to healthcare at the 19th Board of Healthcare Funders (BHF) Conference

On the international front, the Office of Health Ombud (and OHSC) formed part of a delegation led by the National Department of Health for a benchmarking visit in the United Kingdom (UK). Following the tour, the Health Ombud successful registered with the International Ombudsman Institute and is now a non-voting member.

Strategic partnerships and collaborations were formed with bodies such as the Board of Healthcare Funders, the Special Investigative Unit, the Health Africa Congress, and the Hospital Association of South Africa to reach out and share information about the work of the Health Ombud with stakeholders during exhibitions in Gauteng, and North West provinces.

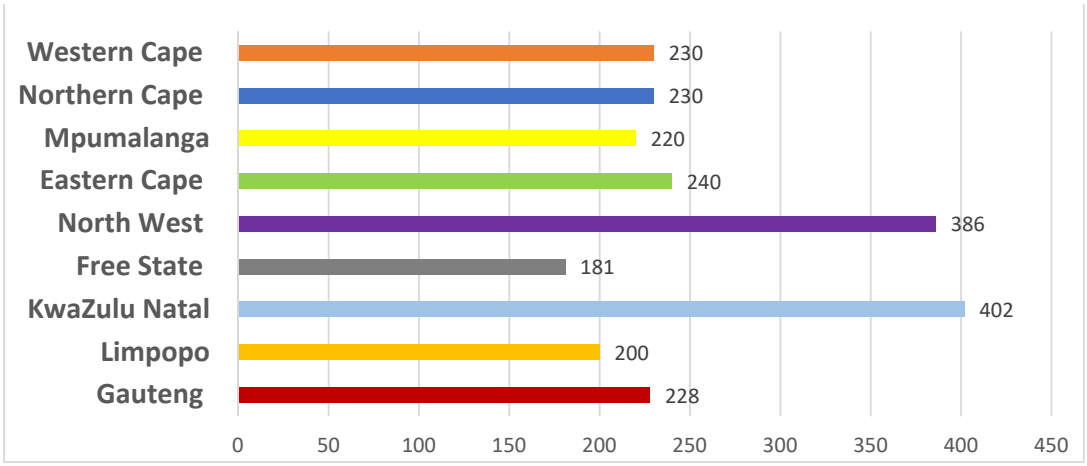
The Office of Health Ombud joined the OHSC to embark on a series of consultative workshops with the public and private healthcare sectors as well as other key stakeholders to communicate the work of Health Ombud from October 2018 to February 2019. These workshops were held in Gauteng, Limpopo, Free State, KwaZulu-Natal, Eastern Cape, North West, Mpumalanga, Northern Cape and Western Cape provinces. Attendees in the workshops consisted of CEO's, Facility Managers, Chief Directors of Programmes, and Quality Assurance Managers from both the public and private Health Establishments as well as other key stakeholders in the provision of health services.

Table 5: Roadshows conducted by the Health Ombud in the 2018/19 financial year

PROVINCE AND LOCALITY	ACTIVITIES	PERIOD
Gauteng Province The Turbine Hall, City of Johannesburg	Engaged delegates on the work of the Health Ombud and OHSC during the Special Investigative (SIU) Unit consultative engagement forum. Information, educational communication material shared with delegates visiting the Health Ombud's exhibition stand.	24 April 2018
Gauteng Province Gallagher Convention Centre, City of Johannesburg	Engaged delegates at the Africa Health Congress 2018 and shared information on work of the Health Ombud and OHSC. Information, educational communication material shared with delegates visiting the Health Ombud and OHSC's exhibition stand	29 – 31 May 2018
Gauteng Province, Winterveldt Multipurpose Community Centre City of Johannesburg,	Joint participation with the Health Professions Council of South Africa (HPCSA) during a community event	28 June 2018

PROVINCE AND LOCALITY	ACTIVITIES	PERIOD
Western Cape Province West Coast District 4 Hospitals: Vredendal Hospital, Clanwilliam Hospital, Radie Kotze Hospital, & Citrusdal Hospital 23 Clinics: Vredendal Central, Vredendal North, Vanrhynsdorp, Klawer Municipality, Klawer Mobile, Doringbaai Satellite, Ebenhaezer Satellite, Koekenaap Satellite, Luitzville, Papendorp, Gelukspan Gateway, Clanwilliam A, Clanwilliam B, Graafwater, Wuppertal Mobile, Aurora Satellite, Eendekuil Satellite, Elandsbaai, Piketberg Mobile1, 2, 5, Redelingshuis Satellite, Wittewater Satellite, Citrusdal & Citrus Mobile 1	A roadshow was conducted to reach out and share information with the public about the work of Health Ombud and OHSC in various health establishments in the Western Cape Province Information, educational communication material shared with the patients, health establishments staff, and community	11 – 15 June 2018
North West Province Sun City Super Bowl, Moses Kotane Local Municipality	Engaged delegates at the 19th Annual Board of Health Care Funders Southern African Conference The Health Ombud shared an oral presentation about his work at the Conference Information, educational communication material shared with delegates visiting the Health Ombud and OHSC's exhibition stand	16 – 20 June 2018
Gauteng Province The city of Johannesburg,	Shared information with delegates on the work of the Health Ombud and OHSC at the Hospital Association of South Africa Conference	1 – 3 October 2018
Gauteng Province Protea Hotel, OR Tambo, City of Ekurhuleni	The work of the Health was presented Ombud during the OHSC, and National Department of Health series of consultation workshops. The audiences reached were from the public, private healthcare sector, inclusive of the hospital CEO's, Facility Managers, Chief Directors of Programmes, Quality Assurance Managers from both the public and private health establishments as well as other key stakeholders. The workshops commenced from October 2018 and was concluded in February 2019.	30 – 31 October 2018
Polokwane Local Municipality, Limpopo Landmark Protea Hotel, Polokwane		7 – 8 November 2018
KwaZulu-Natal Province Pavillion Conference Centre, Durban, eThekwini Metropolitan Municipality, Garden Court Blackrock, Newcastle Local Municipality		14 – 15 November 2018 11 February 2019
Free State Province Pelonomi Hospital, Mangaung Municipality		120 – 21 November 2018
North West Province Protea Hotel, Klerksdorp, City of Matlosana Local Municipality Mmabatho Palms, Mahikeng Local Municipality		28 November 2018 13 February 2019
Eastern Cape Province Premier Hotel Regent, Buffalo City Metropolitan Municipality		4 – 5 December 2018
Mpumalanga Province Ehlanzeni District Municipality & Southern Sun Emnotweni, City of Mbombela Local Municipality, Mpumalanga		16 – 17 January 2019
Northern Cape Province Protea Hotel, Frances Baard District Municipality		23 – 24 January 2019
Western Cape Province Southern Sun – Cape Sun, City of Cape Town Metropolitan Municipality		30 – 31 January 2019

Figure 6: Number of audiences reached during the consultative workshop.



The figure above illustrates the number of audiences reached during the series of consultative workshops with the public and private healthcare sectors as well as other key stakeholders ,conducted from October 2018 to February 2019 an effort to communicate the work of the OHSC and the Health Ombud in Gauteng, Limpopo, Free State, KwaZulu-Natal, Eastern Cape, North West, Mpumalanga, Northern Cape and Western Cape province.

12. DIRECT STAKEHOLDER INTERACTIONS WITH THE OMBUD

The Health Ombud in enhancing transparency, integrity and accountability for greater citizens' trust participated in diverse stakeholder engagements.

Table 4: Stakeholder Interactions

Date	Event	Purpose	Venue
04 April 2018	Meeting with the Director of the World Health Organisation, Mr Gideon Sam	Courtesy meeting	Pretoria
11 April 2018	3rd Annual Top Empowerment Conference	To present and profile the Office of the Health Ombud through a presentation on the role of the National Planning Commission	Johannesburg
18 April 2018	Meeting with the SAPS, Lt Col ML Ditabo	Briefing on the progress of Life Esidimeni investigations. Their investigation into Life Esidimeni cases was advanced. They were preparing a dossier to be forwarded to the National Prosecuting Authority	Pretoria
15 May 2018	Budget Vote and Policy Statement in Parliament	Delegate	Cape Town
22 May 2018	Meeting with the Mental Health Law Project	To clarify the role of the OHO and the OHSC	Pretoria
29-31 May 2018	Tackling Infections to Benefit Africa Annual General Meeting	Official opening and endorsement of TIBA activities in South Africa as they are integral to the general improvement of our national health system, through research, human capacity development of young researchers, and diverse multinational collaborations) and in our preparations for universal health coverage	Durban
18-20 June 2018	19th Board of Healthcare Funders (BHF) Conference	Receiving of Titanium Award for "service excellence in creating access to healthcare during an award ceremony held at Sun City Super Bowl in the North West Province."	Sun City

Date	Event	Purpose	Venue
24 July 2018	China State Banquet	Delegate	Pretoria
11 April 2018	3rd Annual Top Empowerment Conference	To present and profile the Office of the Health Ombud through a presentation on the role of the National Planning Commission	Johannesburg
23 August 2018	Media Release for Tower Psychiatric Hospital Investigation	To officially issue a report of the "Investigation into Allegations of Patient Mismanagement and Patient Rights Violations at the Tower Psychiatric Hospital and Psychosocial Rehabilitation Centre."	Pretoria
11 October 2018	Briefing to the Portfolio Committee on Health	To present on the annual activities of the Office of the Health Ombud to the Portfolio Committee on Health. The impediments for The Health Ombud to maximise performance and contribute towards the upliftment of Public Health were presented. The current legislative framework aberrations and the potential risk involved also reported for correction and alignment with the best international practices.	Cape Town
19 October 2018	Presidential Health Summit	To present and chair a session on the approval of the National Health Insurance, which is to be implemented without further delay. The role and the budget of the OHO inserted into the Presidential Health Summit Compact.	Boksburg
01 November 2018	Discovery Leadership Summit	Delegate	Sandton
18-20 June 2018	19th Board of Healthcare Funders (BHF) Conference	Receiving of Titanium Award for "service excellence in creating access to healthcare during an award ceremony held at Sun City Super Bowl in the North West Province."	Sun City
21 November 2018	Stakeholders Preparatory Meeting for the UK Prosperity Funding	To discuss and finalise the various sectors and their partners in the UK and the number of delegates to be taken involved.	Pretoria
11 December 2018	Launch of the Report of the SA Lancet National Commission	A report on the health quality improvement in which the National Minister of Health announced a separation between the OHO and the OHSC, which was later incorparated in the health Compact.	Pretoria
24 February 2019	11th International Ventilation Through the Ages Symposium	To promote the Office of the Health Ombud through a presentation on the Universal ICU Access – Ethical Landmines with scarce resources.	Johannesburg
04-08 March 2019	UK Benchmarking Study Tour Sponsored by the UK Prosperity Funding	The Report of the visit is attached.	London, United Kingdom
28 March 2019	SAHRC-Launch of the Report on the Status of Mental Health Care in South Africa	Release on implementation of the recommendation 9 of the Health Ombud's report which the National Minister of Health had actioned.	Braamfontein

13. REPORT ISSUED BY THE HEALTH OMBUD

13.1 Report on an investigation into allegations of patient mismanagement and patient right's violations at the Tower Psychiatric Hospital and Psychological Rehabilitation Centre:

- Duration of investigation: 5 months;
- Commencement date: 23 March 2018; and
- Completion date: 23 August 2018 .

Available on: www.http://healthombud.org.za/

14. MEDIA ENGAGEMENTS CONDUCTED BY THE OHO DURING 2018/19 FINANCIAL YEAR

Media briefings were held to discuss and clarify the findings of the investigation report into allegations of patient mismanagement and patient rights violations at the Tower Psychiatric Hospital and Psychosocial Rehabilitation Centre in the Eastern Cape in August 2018.

Table 5: Media interaction conducted by the OHSC in the 2018/19 financial year

ACTIVITIES	PURPOSE	LOCATION
Media release pertaining to an investigation report into allegations of patient mismanagement and patient rights violations at the Tower Psychiatric Hospital and Psychosocial Rehabilitation Centre in the Eastern Cape	To release of the investigation report into allegations of patient mismanagement and patient rights violations at the Tower Psychiatric Hospital and Psychosocial Rehabilitation Centre	Media coverage (eNCA, Checkpoint, SABC Radio stations, SABC TV station, Radio 702, Eyewitness News, Power FM, Sowetan, News24, Times Live, Pretoria News, Citizen, Beeld, Medical Brief, Carte Blanche, Twitter and Facebook)
The Health Ombud released an opinion piece on the Life Esidimeni	To clarify events prior to the release of the Life Esidimeni report	Mail & Guardian
Media Release for Tower Psychiatric Hospital Investigation	To officially issue a report of the "Investigation into Allegations of Patient Mismanagement and Patient Rights Violations at the Tower Psychiatric Hospital and Psychosocial Rehabilitation Centre."	Health eNews
Media release on the Tim Modise Network interview.	To clarify the misrepresentation perceived on his appearance on The Tim Modise Network.	OHO website

15. HEALTH OMBUD WEBSITE

As part of accessing and increasing stakeholder engagement, and enhancing the image of the Health Ombud, the content of Health Ombud websites was updated regularly to ensure that the websites remain current and relevant with content. The Health Ombud website attracted 4 603 users between April 2018 to March 2019.

16. CONCLUSION AND WAY FORWARD

The current legislative framework that has located the Health Ombud requires to be addressed urgently. The resourcing of OHO needs to be expedited. In as much as the Health Ombud aspires to mark changes in the ailing health system and contribute meaningfully to the South African Health Reforms, it is impossible to attain that aspiration with the current limitations cited in the report.

The Health Ombud plans for the 2019/2020 year include the following:

- Facilitate legislative reform of the Office of the Health Ombud as an autonomous entity;
- Lobby for funding of the Office of the Health Ombud Structure;
- Expedite concurrence on the designation and secondment of staff from OHSC;
- Engagements with the National Health Council to lobby support on responses to complaint requests; and
- Facilitate the combination of assessment and investigation to maximise capacity and performance to ensure expeditious management and resolution of complaints.

APPENDIX A

REPORT OF THE BENCHMARKING VISIT TO LONDON, UNITED KINGDOM

REPORT OF THE BENCHMARKING VISIT TO LONDON, UNITED KINGDOM DATE: 5 - 7 MARCH 2019

1. PURPOSE

A delegation of six (6) representatives of the Office of the Health Ombud visited London in the United Kingdom from 04 - 09 March 2019. The delegation comprised of the Health Ombud for the Republic of South Africa (RSA), Prof. Malegapuru Makgoba, and these five officials:
1. Director of Complaints Centre and Assessment: Mr. Monnatau Tlholoe;
2. Assistant Director of Complaints Centre and Assessment: Ms. Phumzile Phiri;
3. Senior Investigator for Health Care Cases: Ms. Helen Phetoane;
4. Investigator for Health Care Cases: Ms. Joyce Monyela; and
5. Executive Assistant to the Health Ombud: Ms. Linda Jiyane.

A benchmarking exercise was undertaken to compare the developing OHO's organisational structure with that of the Parliamentary and Health Service Ombud (PHSO) for suitability within the RSA context in terms of human resources and financial resources.

2. ITINERARY

DATE	DETAIL
Tuesday, 05 March 2019	**13h00 -16h45:** An introductory session with UK health sector organisations: setting the scene for the week ahead
Wednesday, 06 March 2019	**11h00 -15h00:** A technical session with Parliamentary and Health Service Ombudsman (PHSO) in Manchester.
	18h00 -21h00: Primary Digital Care -evening reception
Thursday,07 March 2019	1**0h00 -12h00:** Meeting with the Health Safety Investigation Branch (HSIB)
	12h00 – 13h00: Meeting with civil society organisations
	15h30 -17h30: High-level meeting with PHSO

3. INTERFACE WITH UK HEALTH SECTOR

The delegation met and interacted with various role players in the UK health sector. The objectives of the meetings were to provide a high-level overview of the UK health system, to strengthen relationships between UK and South Africa health sector organisations and to exchange learnings to strengthen the South African National Health System.

4. ENGAGEMENT WITH VARIOUS STAKEHOLDERS

4.1 Technical engagement with the Office of the Parliamentary and Health Service Ombudsman (Manchester Office)

On the 6 March 2019, the delegation met and held discussions with the following persons:
- Ms. Amanda Campbell, Chief Executive;
- Ms. Rachael Russell, Assistant Director of Intake;
- Mr. Terry Toomey, Operations Manager;
- Dr. Tony Dysart, Lead Clinician;
- Ms. Catriona Granger, Senior Solicitor; and
- Ms. Laura Foster, Senior Lawyer.

Issues Discussed

4.1.1 Complaints Overview

The following issues were discussed:
- The Call Centre receives on average 30 000 new complaints every year;
- The PHSO does not accept all types of complaints and only written complaints are accepted for further processing;
- There are 30 caseworkers dealing with these complaints; and this include part-time personnel;
- The operational hours for the contact centre is 08h30 -17h30, allocation of staff is half a day on a phone, shift ranges between 08h30 -13h00,09h00-13h00 and 13h00-17h30 the rest of the team are allocated to analyse written the cases;
- Every complaint received follow a rigorous complaints management process;
- The Ombudsman looks at the significance of cases and takes a case that will be beneficial to everyone;
- A response is given within five working days to the complainant advising whether the office is going to proceed with the case or not;
- Complaints are also registered telephonically and via an online complaint form;
- For telephonic complaints, the complaints centre team is responsible to fill in the forms and send it to complainant for reading and signing;
- Complaints received through a telephonic system are recorded and archived;
- All managers listen to the calls for training and quality assurance purposes; changes to the approach is effected if they deemed necessary;
- The staff is empowered to be confident in answering questions;
- A system of delegation is available and outlined what staff members at different level of authority can do;
- The office does not attend to anonymous complaints as they are difficult to follow up;
- The Office developed a policy to deal with unreasonable behaviour of complainants and does not condone any form of behaviour that could be considered abusive, offensive or threatening, or that becomes so frequent it makes it more difficult for staff to complete their work or help other people, this policy also applies the use of social media.

Key issues and Lessons Learned from Complaints Overview
- Some complainants are driven by compensation, and some want closure;
- The website stated clearly on what the office can or cannot offer;
- Expectations are managed immediately from day one;
- The Office of the Ombudsman is able to:
  - ✓ Obtain apologies,
  - ✓ Get services improved,
  - ✓ Give small compensation; guide available.
- People who want to be compensated are advised to approach the judiciary process as it is the last option in the office;
- The office does not take cases that are in a legal process;
- The staff members do not meet people face to face;
- All calls are concluded with a satisfaction survey;
- After a difficult call, staff is recommended to take a break;
- If the case is of a mental health user calling, a specific person is assigned to deal with.
- All matters that have not been raised with the NHS are signposted accordingly.

4.1.2 Assessment and Investigation
- The assessment and investigation team does not have a health background but have diverse expertise. An internal clinical expert panel exists to provide guidance and review of the clinical aspect of the complaint;
- Firstly, the team talk to the complainant and find out what went wrong. The initial assessment if the case includes whether it has been dealt with by the NHS.;
- The team ascertains if the PHSO will be able to handle the complaint and determine if there are any indicators that the NHS has done something wrong and if there were any lessons learnt by the organisation;
- Furthermore, the screening included management of expectations to ensure a focused approach to the complaint;
- Openness and transparency are key when handling investigation;
- Once the assessment process is completed, the next stage is investigation;
- Medical record is obtained from the organisation involved, thereafter an analysis process begins;
- The provisional report is sent to both parties and they are given two weeks to comment on the report. Such comments are reviewed and if needed an expert advice is sought to finalise the report. Some comments do not necessitate the change of a report;
- There is a review process at the end, this may be necessary if crucial evidence was omitted or factual errors were made;
- There advisory panel is constituted of 20 members.
- There was a huge backlog of complaints awaiting investigation and a letter were send to individual complainants to inform that of the backlog and plans to address it;

- There is a review process for the complainants who raises concerns in writing stipulating their valid reasons for the final report to be reviewed.
- The final reports are not publicised but only the case summaries (brief overview) are shared. The long-term intension as a transparency project is to improve the quality of their report writing and to make it accessible on the website.
- The turnaround for case resolution target is 151 days.

Key issues and Lessons Learned from Assessment and Investigations:
- The role of assessment and investigation has been combined to ensure expeditious management and resolution of the complaint;
- The rule is to investigate in private but not to investigate in secret;
- The report is shared with the internal legal team;
- There are more delays in obtaining the documents from institutions;
- However, hospitals are cooperative;
- The skills required for the investigators:
  - ✓ Analytical,
  - ✓ Good communication,
  - ✓ Empathy,
  - ✓ Ability to question and deal with difficult people;
- Always keep the complainant updated – key to customer satisfaction;
- Quality team is responsible for looking at the quality or service model;
- If people are not performing, interventions are put in place;
- Good performance is rewarded.
- Complaint backlog was brought down from 2000 to 250.

4.1.3 Legislation and the Role of the Legal Team

- The Parliamentary and Health Service Ombudsman (PHSO) is governed by two pieces of legislation:
  - ✓ The Parliamentary Commissioner Act 1967, and
  - ✓ The Health Service Commissioner Act 1993;
- The two Acts are different but both:
  - ✓ Create an Ombudsman and make administrative provisions;
  - ✓ Specify the organisations which can be investigated;
  - ✓ Specify the activities which can and cannot be investigated;
  - ✓ Specify who can complain and how they can do this;
  - ✓ Specify how the Ombudsman can investigate;
  - ✓ Detail who reports should be sent to;
  - ✓ Detail how the Ombudsman can work with other Ombudsman;
- The Ombudsman looks at the service failure or maladministration;
- The Ombudsman has a discretion to investigate case happened over one year;
- The Ombudsman does not investigate personnel and commercial matters or if there is an Alternative Legal Remedy;
- The legal team looks at how the report it has been written and whether it can be challenged (through a process of review);
- Internal reviews of the reports are done prior it being sent to the parties involved;
- The legal team add value to numerous different aspects of the service;
- The legal team assist at all stages of the complaint - triage, investigation and decision stage, as well as litigation matters;
- However, they also support the leadership team by providing ad hoc advice on general matters, such as leases, procurement, HR issues and many more.

Key issues and Lessons Learned from engagement with Legal Team
- Any individual or body of persons, whether incorporated or not may complain to the Ombudsman;
- However, public bodies such as government and local government organisations cannot complaint as per the Act;
- The PHSO has the same powers to obtain information as the High Court;
- The Ombudsman has a Memorandums of Understanding with similar institutions or other Ombudsmen;
- The investigation is undertaken in private. Information will only be disclosed under specific circumstances such as threat to the health and safety of patients or proceedings und the Official Secrets Act.

4.2 Meeting with Health Safety Investigation Branch (HSIB)

On the 7 March 2019, the delegation met and held discussions with the following persons:
- Mr. Keith Conradi, Chief Investigator; and
- Mr. Michael Pheasant, Project Officer.

Issues Discussed

The following issues were discussed:
- The HSIB consists of personnel from clinical and professional background;
- The HSIB operates under the Ministerial directive;
- Its mandate does not permit historic cases;
- The organisation has received 100 referrals since its inception in April 2017;
- Referrals can be done anonymously;
- There is no mentioning of hospitals or facilities that are being investigated since the intention is to deal with the process;
- The selection of cases is informed by the significance of the outcome. The branch has a discretion over what cases they chose to investigate;
- The provisional report is provided to all those who have been interviewed for comments;
- The affected parties are given 90 days to respond;
- They come up with findings and make recommendations thereof;
- The report is announced publicly.

Key issues and Lessons Learned
- The key performance indicator for investigation is based on quality rather than quantity. However, it takes 9 - 12 months to investigate a case;
- Extensive training for investigators especially on interviewing skills and evidence gathering;
- Statements of the witnesses remains confidential;
- The documents can only be released to interested parties through the order of High Court;
- The impact of the investigation is done by the external evaluator.

4.3 Meeting with Patient Safety Learning

On the 7 March 2019, the delegation met and held discussions with the following persons:
- Ms. Helen Hughes, CEO, Patient Safety Learning; and
- Mr. Michael Pheasant, Project Officer.

Issues Discussed

The following issues were discussed:
- Patient Safety Learning is an independent organisation with expertise and focus on patient safety;
- The focus is on improving patient safety, working with patients, healthcare professionals, and organisations;
- The strategic goals for Patient Learning Safety Learning are:
  - Shared learning;
  - Professionalising patient safety;
  - A just culture that learns;
  - Leadership and management of patient safety; and
  - Effective use of data.

4.4 Meeting with the Parliamentary and Health Service Ombudsman

On the 7 March 2019, the delegation met and held discussions with the following persons:
- Mr. Rob Behrens, The Parliamentary and Health Service Ombudsman; and
- Mr. Michael Pheasant, Project Officer.

Issues Discussed

The following issues were discussed:
- PHSO is directly accountable to Parliament and not the Secretary (Minister) of Health.
- The combination of assessment and investigation roles was to enforce accountability and responsibility;
- PHSO is a member of the International Ombudsman Institution. The IOI provided an external review of the work of the PHSO. This is another important bench marker and provides independent assessment of the 'worth' of the Ombud's office to the government and the public;
- Streamlining of complaint management process;
- Hosting of annual open meeting, a dialogue between various stakeholders and the complainants. Including radio slots;
- Provision of intense training and accreditation to the case handlers;
- Hosting of Radio Ombudsman;
- Awarding financial compensation;
- Processing of appeals through a review and feedback team;

key issues and Lessons Learned
- We learned the PSHO has 450 staff with a budget of half a billion Rand serving a population of 67million. The offices are shared between London and Manchester;
- The background of investigators is fuzzy and matters little in terms of Health background;
- PHSO undertakes weekly visits to health facilities to engage with staff and patients;
- Staff in the PHSO work within a formal Delegation Framework;
- A request to enter into a Memorandum of Understanding between the Office of the PHSO and the OHO;
- PHSO is a member of the IOI Proposal for the RSA Health Ombud to partake in International Ombudsman Institution. It is important to belong to the IOI.
- There is a growing realisation that quality and not quantity of investigations impact on the NHS. Quality often takes time and deals with complex cases.

5. WAY FORWARD FOR OHO

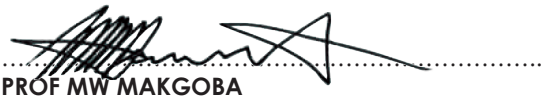
The OHO team has gathered adequate and valuable information from this learning visit and need to go back to the drawing board to see how best to adapt some elements of the English model into our country with a special focus on our South African context and its challenges of Inequality (health Disparity, Poverty and Unemployment.

Key questions emerge which needs to be looked into:
1. Urgent application with the International Ombuds Institute; done and awaits outcome.
2. How do we organize ourselves nationally to ensure a decentralised Health Ombud Office?
3. Merging of Assessment and Investigation and benefits it can bring to OHO;
4. Does the background of investigators matter little in terms of Health background; is this a good approach?
5. Define our own parameters in terms of quality vs. quantity of complaints reports produced.
6. Develop a delegation of authority framework for all staff dealing with complaints.
7. Prioritisation of capacity building and mental health support for complaints management programme team.

6. CONCLUSION

The benchmark visit has revealed that there are commonalities between the OHO and PHSO:
1. Call Centre operational hours are almost similar (during office hours);
2. Complainants are driven by financial compensation rather than to obtain closure;
3. By-pass the point of service, but at least the PHSO has power to signpost to the NHS or relevant bodies;
4. Smart use of Assessors, Investigators and Legal in the complaint's resolution process;
5. Quality and impact on the national health service is more important than large quantity of small individual cases;
6. Investigation reports are shared with involved parties for inputs prior finalisation;
7. Complaints management process has many similarities; and
8. Compilation and submission of annual report to Parliament.

OHO is encouraged and confident that the comparison with PHSO has shared light that OHO is charting the correct path in realising its mandate.



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