

**The Roles and Responsibilities of the Commissioners – Portfolio Committee on Women, Youth and Persons with Disabilities - Friday, 19 June 2020**

**Introduction**

The Commission for Gender Equality (CGE) is a Constitutional body established by the Commission on Gender Equality Act 39 of 1996 to support democracy and promote gender equality. Its Constitutional mandate is to promote respect for gender equality and the protection, development and attainment of gender equality. Section 187 (2) of the constitution of the Republic of South Africa Act 108 of 1996 provides that the CGE has the power, as regulated by national legislation, necessary to perform its functions, including the power to monitor, investigate, research, educate, lobby, advise/recommend and report on issues concerning gender equality. The Commissions’ recommends on:

• policies and practices of organs of state, statutory bodies and functionaries, public bodies or private businesses, to promote gender equality.

• any existing law, including indigenous law and practices.

• the implementation of the international and regional instruments signed, or acceded to, and or ratified by South Africa, that impact directly or indirectly on gender equality.

The Commission remains committed to creating a society free from gender discrimination and a society where people shall have the opportunities and means to realize their potential regardless of gender, race, class, religion, disability or geographic location.

**Legislative Framework**

Section 187 (1) of the Constitution provides as follows: “The Commission for Gender Equality must promote respect for gender equality and the protection, development and attainment of gender equality.”

In terms of Section 11 of the Commission for Gender Equality Act, the Constitutional mandate is amplified and obliges the CGE to monitor and evaluate policies, develop, conduct and manage information as well as education programmes, evaluate Acts of Parliament or any other law, investigate any gender related issues, monitor the compliance with international conventions, conduct research to further the object of the Commission and shall liaise with any organisation which actively promotes gender equality and raise consciousness about gender inequality.

**OVERALL GOAL OF COMMISSIONERS**

Working towards the realisation of the vision and mission of the CGE by establishing good governance and ensuring that the organisation operates effectively and efficiently.

**COMMISSIONERS’ OBJECTIVE**

To attain this Goal of Commissioners, following objectives must be pursued:

• Ensure good corporate governance exists by executing fiduciary responsibility and perform oversight function

• Make strategic Interventions and provide leadership in relation to gender equity and equality issues

• Ensure the CGE organisational policies and practises are consistent with its vision and organisational values

• Preserve institutional autonomy and independence

• Strengthen institutional systems by serving on statutory, theme and any other Committees as allocated by Plenary

**(The CGE Act and the Commissioners Handbook provide a detail of the powers and roles of the Commission –** whereas **the Strategic plan and APP provide strategic objectives used in guiding the development of the document called Commissioner’s Programme), see below substantive information:**

|  |  |
| --- | --- |
| Powers and functions of Commission - CGE Act 39 of 1996 (as amended) | Commissioners’ Handbook |
| 1) In order to achieve its object referred to in section 187 of the Constitution, the Commission  a) shall monitor and evaluate policies and practices of  i) organs of state at any level;  (ii) statutory bodies or functionaries;  (iii) public bodies and authorities; and  (iv) private businesses, enterprises and institutions,  in order to promote gender equality and may make any recommendations that the Commission  deems necessary;  (b) shall develop, conduct or manage  i) information programmes; and  (ii) education programmes,  to foster public understanding of matters pertaining to the promotion of gender equality and the role  and activities of the Commission;  (c) shall evaluate  i) any Act of Parliament;  ii) any system of personal and family law or custom;  (iii) any system of indigenous law, customs or practices; or  (iv) any other law,  in force at the commencement of this Act or any law proposed by Parliament or any other legislature after the commencement of this Act, affecting or likely to affect gender equality or the status of women and make recommendations to Parliament or such other legislature with regard thereto;  (d) may recommend to Parliament or any other legislature the adoption of new legislation which would promote gender equality and the status of women;  (e) shall investigate any gender related issues of its own accord or on receipt of a complaint, and shall endeavour to  i) resolve any dispute; or  (ii) rectify any act or omission,  by mediation, conciliation or negotiation: Provided that the Commission may at any stage refer any matter to  aa) the Human Rights Commission to deal with it in accordance with the provisions of the Constitution and the law;  (bb) the Public Protector to deal with it in accordance with the provisions of the Constitution and the law; or  (cc) any other authority, whichever is appropriate;  ( f ) shall as far as is practicable maintain close liaison with institutions, bodies or authorities with similar objectives to the Commission, in order to foster common policies and practices and to promote cooperation in relation to the handling  of complaints in cases of overlapping jurisdiction or other appropriate instances;  (g) shall liaise and interact with any organisation which actively promotes gender equality and other sectors of civil society to further the object of the Commission;  (h) shall monitor the compliance with international conventions, international covenants and international charters, acceded to or ratified by the Republic, relating to the object of the Commission;  (i) shall prepare and submit reports to Parliament pertaining to any such convention, covenant or charter relating to the object of the Commission.  ( j) may conduct research or cause research to be conducted to further the object of the Commission;  (k) may consider such recommendations, suggestions and requests concerning the promotion of gender equality as it may receive from any source. | In accordance to the Commissioner’s Handbook, Commissioners are responsible for:  a. Cooperative governance and determining the strategic direction of the Commission  b. Lead the Commission ethically for sustainability in terms of the economy, environment and society, taking into account impact on internal and external stakeholders  c. Ensure the Commission operates as and is seen to be a responsible, compliant corporate citizen  d. Ensure the creation of an ethical culture supportive of gender equality, setting necessary principles, practice and standards, measuring adherence with and incorporating these into its risk management, operations, performance management and disclosure mechanisms  e. Commissioners should be a focal point of good governance, meet at least four times a year, monitor management and stakeholder relations and ensure that the Commission survives and thrives  f. Ensure the Commission complies with applicable laws, and considers adherence to non-binding rules, codes and standards  g. Act in the best interests of the organisation, including managing conflicts  h. Appointing a Chief Executive Officer, establishing a framework for the delegation of authority and providing for the evaluation of the CEO’s performance, ensuring a succession plan for the CEO and senior executives  i. The Commission has a reflective role with collective authority and decision making as a Commission, but Commissioners carry individual responsibility for delivery on assigned work areas  j. The Commission should evaluate plenary proceedings, the functioning and efficacy of its committees, and individual Commissioners’ performance. This should be done on a bi-annual basis  k. The Commission should delegate certain functions to well-structured committees, without abdicating its own responsibilities" |

**Assigned Commissioner’s Roles - in accordance with the Strategic Plan/APP objectives and Thematic Areas to Achieve the Above:**

|  |  |  |  |
| --- | --- | --- | --- |
| **Commissioner/s Role/s** | **Four Strategic Objectives enshrined in the Strategic Plan & APP** | **Source/Structure** | **Activities carried out** |
| Improved corporate governance/ policy, practice and oversight work | SO4 - To build and sustain an efficient organisation, to effectively promote and protect gender equality | **Plenary and subcommittees** are existing structures to oversee the work of Commission, with Secretariat Quarterly Reporting on the implementation of the Annual Performance Plan and Budget.  **Tele-Plenaries**: - are called to consider urgent business matters.  **Extra Ordinary Plenary**: - In between Plenary meetings, certain issues might arise that need Plenary attention. It is a face to face meeting of Commissioners.  **CGE’s OVERSIGHT COMMITTEES**  Established in accordance with Good Governance Principles and Commissioners’ fiduciary responsibilities: these are:  The Strategic Planning Monitoring and Evaluation (SMPE), Finance, Human Resources and Remuneration (HR&R), Information Technology and Communications (ITC), Good Governance and Social Ethics (GGSE), Legal and Complaints  Research and Education and Audit Committee.  **Ad hoc Committees** are established by Plenary as required to lead on addressing a particular issue requiring decision or deliberation by Plenary. **Section 6 committee** is established as committee to provide a platform for deliberation and guidance on substantive matters of gender equality. | Convene quarterly plenary meetings, and oversight subcommittee meetings to:  1) cconsider the Secretariat quarterly reports on the implementation of the APP and budget,  2) discuss reports from Commissioners,  3) approve policies,  4) approve strategic plan.  Commissioners are delegated to chair and participate in various oversight committees.  The quarterly oversight committee meetings provide a link between Committee and plenary, taking forward any issues requiring decision or guidance from plenary.  As part of good governance and in line with corporate governance principles, the Commissioner’s Handbook has been subjected to a review process and same process will be considered for the CGE Act.  As part of capacity building, Commissioner induction process was carried out including the good governance training workshop for all Commissioners to ensure that all Commissioners understand their mandate and roles, the organisational structure, the organisational culture and programmatic interventions.    With regards to audit and risk/s, Commissioners are custodians of risk mitigation, provide oversight assistance to mitigate identified risks and provide information required for purposes of both internal and external audit processes. |
| Ensure the development of 5-year Strategic Plan 2019-2024, the Annual Performance Plan (APP), the budget and the Monitoring and Evaluation Framework and a tool | SO4 - To build and sustain an efficient organisation, to effectively promote and protect gender equality | A 5-Year Strategic Plan (2019-2024), APP and budget (2020-2021)  And an M&E Framework and Tool | Commissioners determine the strategic direction of the Commission and lead in the development of a well-consulted long-term plan (January – March 2020).  Commissioners ensure that the strategic plan is approved internally and by Portfolio Committee in Parliament including the APP and the budget  They guide the implementation of the strategic plan and APP.  Perform oversight role in overseeing the implementation of agreed upon targets and programmatic intervention and budget expenditure.  Perform a support role in the achievements of the outputs and outcomes as per the monitoring and evaluation framework and tool. |
| Ensure Laws, legislations, policies and practices are gender sensitive | SO1 - To advance an enabling legislative environment for gender equality | Among others - following submissions have been made:  Rape as human right violation to the UN Special Rapporteur on violence against women,  Submissions to PC Parliament - Department of Transport on National Railway Safety Standards Development Regulations, 2020,  **Beneficiary Policy to the Department of Rural Development and Land Reform that presented an opportunity to empower rural women in accessing land – Annexure A**  Submission on Cybercrimes and Cybersecurity Bill 2019 - Committee on Safety and Security  SALRC Discussion paper on sexual offences (pornography and children) & draft bill  Civil and Criminal Matters (Certain Sexual Offences) Amendment Act 2019  **Recognition of Customary Marriages Amendment Bill. (Annexure B)**  **Economic Empowerment Strategy (Annexure C)**  **Presidential Emergency Response Action Plan (ERAP) document (Annexure D)**  (***sampled and appended few documents)*** | Commissioners are responsible for monitoring and evaluating Acts of Parliament, policies and practices of all organs of state for alignment with the regional and international instruments.  Commissioners and Secretariat work collaboratively to prepare and make submissions to various platforms including Portfolio Committees in Parliament, Provincial legislatures, Regional and International conferences and for a such as the AU Commission, Banjul and CSW to influence change.  CGE has an accreditation status at AU and Commissioners will use every opportunity to instruments to lobby multi- lateral organisations and influence legislative, policy and practice change for gender equality at the regional level.  Facilitate engagements and dialogues on Sustainable Development Goals (SDGs) and National Development Plan Vision 2030 working with various stakeholders such as the NCOP on Women’s Charter Review Processes, Extensive work with SALGA, Municipal Managers and staff, SALGA Women’s Caucus and others on gender transformation and Sustainable Development Goals (SDGs).  Made inputs into the development of an Action Plan for DIRCO towards the launch of UN SC 1325 Action Plan and presented at PAWO  Develop various concept Papers as per the APP thematic areas.  Conducted extensive consultative dialogues with Communities, CSOs on issues of access to land and developed a project called “One Woman One Hector”  Developed concept papers on Harmful Cultural practices such as “Ukuthwala” and projects to be undertaken during the current financial year. |
| Public Investigative Hearings | SO2 - To promote and protect gender equality through public awareness, education, investigation and litigation | Gender Transformation – Employment Equity in private and public institutions Reports | The Commission is obligated to monitor both private/business sector companies government departments / SOE’s within the public  sector for gender transformation and gender equality.  Commissioners are deployed to conduct Gender Transformation Public Investigative Hearing that assess gender transformation in private and public institutions including Institutions of Higher Learning (Universities and TVET Colleges).  The Commission has subpoenaed the executives in the form of DGs CEOs and Vice Chancellors of Universities to come and appear before the Commission, to give an account of the implementation of the binding recommendation agreed upon by CGE and the institutions. Section 18 is evoked or used instance of non-compliance. |
| Media Work | SO2 - To promote and protect gender equality through public awareness, education, investigation and litigation | Communication’s Unit report and Statistics  PEI, research and legal reports  Public Education and Legal Clinic reports  Newspaper Articles | Engage with strategic social media partnerships - used in the delivery of education, information and legal programmes  Various media platforms are used to educate and promote awareness on substantive gender issues including during the launch of both legal and research unit reports such as “State of Shelters in South Africa Report” – December 2019, Forced/Coerced Sterilisation Report -February 2020. Commissioners are interviewed, with the noted convergence in relation to the number of people reached in 5week period - recorded at **19 300 000** with the increase of **6 000 000** listeners and viewers and a generic growth of 300 social media followers.  Commissioners are participate in Community education and outreach programmes as part of public education.  Commissioner have been developing articles on various topics for publishing in national and local newspapers. |
| Assigned to provide support at National and Provincial levels | SO3 - To investigate and evaluate issues that undermine the attainment of gender equality | National and Provincial APPs and work schedules  Commissioner’s reports on national and provincial work | Commissioners work at National and Provincial levels based on the delegated provinces and areas of expertise.  Using its constitutional mandate, the Commission has been working collaboratively with the DWY&PD advocating for and providing oversight to the National Gender Machinery (NGM) revitalisation process, the National Gender Policy Framework (NGPF) and the National Gender Planning, Monitoring and Evaluation and Audit (NGPME&A) processes.  The Commission will monitor the implementation of the New GBV National Strategic Plan (GBV -NSP) and the effectiveness of the newly established NGBV Council.  Provinces conduct public education and legal clinics as part of the outreach programmes – taking the services of the Commission to the people Commissioners work with CSOs, FBOs, Traditional Leaders for example: partnered with Film and Publication Board Digital Awareness Campaign in provinces such as Mpumalanga and others  The Commission works in collaboration with SALGA lekgotla to promote Gender Equality and Women Empowerment as part of provincial initiatives.  Further work with the Office of the Premier and other relevant Provincial Gender Machinery structures such as Gender Focal points to promote Gender Equality. |
| Commissioners assigned per Thematic area/s | SO3 - To promote and protect gender equality through public awareness, education, investigation and litigation | The delegation and deployment of Commissioners is cognisant of the different expertise that each Commissioner brings and has been done in accordance to the identified key thematic areas enshrined in the Strategic Plan and the APP – which are:  • GBV (includes working with men and boys)  **.** SRHR  •Substantive equality  • Harmful traditional practices  • Women economic empowerment  • Human trafficking | As per the 6 thematic areas, Commissioners develop concept notes for focal areas to inform and guide CGE’s interventions.  Assist with conceptualizing, planning and development of recommendations for the thematic focus area.  Perform an oversight role in overseeing the implementation of agreed upon programmes.  Perform a support role in the implementation of agreed upon programmes as required.  Commissioners actively participate in the provincial House of Traditional Leaders (HTL) when holding extra ordinary Women Parliament  Commissioners have engaged on GBV and substantive equality issues and access to SRHR and mental health working with various government departments such as SAPS, DSD; DPSA, SALGA, DoH, DoJ and has stabled Men’s forums or Men for change forums, both at National and in Provinces. CGE has relationships with men’s organization’s and partner with them on dialogues and  workshops.  Further work has been done with CSOs and Traditional Leaders on harmful traditional practices, human trafficking early child marriage/ukuthwala, Maiden’s Bursaries in provinces.  The Commission has been working with Faith Based and Community Organisations in addressing GBV, gender equality, social inclusion of persons with disabilities, members of LGBTIQ community issues. Disability and Gender-non-conforming work are cross cutting issues and integrated across all CGE policy and interventions. |