



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



ANNUAL REPORT

2022/23





OFFICE OF THE HEALTH OMBUD
ANNUAL REPORT 2022/23

OFFICE OF THE HEALTH OMBUD ANNUAL REPORT 2022/23

GENERAL INFORMATION

REGISTERED NAME:	Office of the Health Ombud
PHYSICAL ADDRESS:	79 Steve Biko Road Prinshof Pretoria 0084
POSTAL ADDRESS:	Private Bag X21 Arcadia 0007
TELEPHONE NUMBER:	+27 12 942 7700
WEBSITE:	www.oho.org.za
EXTERNAL AUDITORS:	Auditor-General of South Africa P.O. Box 446 Pretoria 0001
BANKERS:	Standard Bank
HEALTH OMBUD:	Professor Malegapuru William Makgoba
PERSONAL ASSISTANT:	Ms Linda Jiyane

TABLE OF CONTENTS

(i).	Abbreviations	7
1.	Preface by the Health Ombud	3
2.	Complaints Management Programme	11
	2.1 Human Capital	11
	2.2 Complaints Call Centre	11
	2.3 Complaints Assessment Unit	17
3.	Investigations led by the Health Ombud	22
	3.1 Life Esidimeni Inquest, Gauteng	22
	3.2 Tower Psychiatric Hospital and Psychosocial Rehabilitation Centre, Eastern Cape	23
	3.3 Tembisa Provincial Tertiary Hospital, Gauteng	24
	3.4 Rahima Moosa Mother and Child Hospital, Gauteng	25
4.	Lessons Learned	26
5.	Feedback from a Health Establishment that was investigated	33
6.	Training	33
7.	Webinars	33
8.	Legal Issues	33
9.	Engagements with Provincial Department of Health Offices	34
10.	Referrals to other statutory Authorities/Entities	35
11.	Establishing the Office of the Health Ombud: Engagement with the Minister of Health	35
12.	Way Forward	36
13.	Partnership with the Parliamentary and Health Service Ombudsman (PHSO)	36
14.	Letters of Congratulation and Appreciation	37
15.	Seven Years: Reflections and Lessons Learnt from the Founding Health Ombud	40
16.	The principle of separation, independence and proper Health Ombud mandate is now well established and accepted	41
17.	History and Pattern of Complaints	41
18.	Appeals against the Office of the Health Ombud Reports	42
19.	The Independence of the Health Ombud	42
20.	Provincial Visits	43
21.	International Linkages	43
22.	High Impact Investigations and Report	44
23.	Media Measurement Reports	44
24.	Quality vs Quantity in Investigations	46
25.	Outstanding issues	46
26.	Way-Forward: Solution	47

Abbreviations

AOMA	African Ombudsman and Mediators Association
AORC	African Ombudsman Research Centre
APR	Annual Performance Report
BHC	British High Commission
BHPSA	Better Health Programme South Africa
CEO	Chief Executive Officer
COO	Chief Operations Officer
COVID-19	Coronavirus Disease
DDG	Deputy Director General
DPSA	Department of Public Service and Administration
EC	Eastern Cape
FOSAD	Forum of South African Directors-General
GPDH	Gauteng Provincial Department of Health
HOD	Head of Department
HPCSA	Health Professions Council of South Africa
ICU	Intensive Care Unit
IOI	International Ombudsman Institute
MCU	Mental Health Care Users
MEC	Member of the Executive Council (Provincial)
MoU	Memorandum of Understanding
NC	Northern Cape
NDoH	National Department of Health
NGO	Non-Governmental Organisation
NHI	National Health Insurance
NMU	Nelson Mandela University
OHSC	Office of Health Standards Compliance
PACAC	Public Administration and Constitutional Affairs Select Committee
PCoH	Portfolio Committee of Health
PSC	Public Service Commission
RMMCH	Rahima Moosa Mother and Child Hospital
SA - OHO	South African Office of the Health Ombud
SPCHD	Social Protection, Community and Human Development
TPHPRC	Tower Psychiatric Hospital and Psychosocial Rehabilitation Centre
UK - PHSO	United Kingdom Parliamentary and Health Services Ombudsman
UK	United Kingdom
WC	Western Cape



Preface by the Health Ombud

Professor Malegapuru W. Makgoba

This year's annual report highlights the work done within the Complaints Management Programme over the 2022/23 financial year, as well as the ongoing impact of work undertaken by the first Health Ombud South Africa over the last seven years.

PROFESSOR MALEGAPURU W. MAKGOBA
FOUNDING HEALTH OMBUD

MB., ChB., (Natal); DPhil., (Oxon); FRCP (Lond); FRS (SA); FCP (SA) (ad eundem); Foreign Associate Member of the USA Academy of Medicine; OMS

Date: 31-05-2023

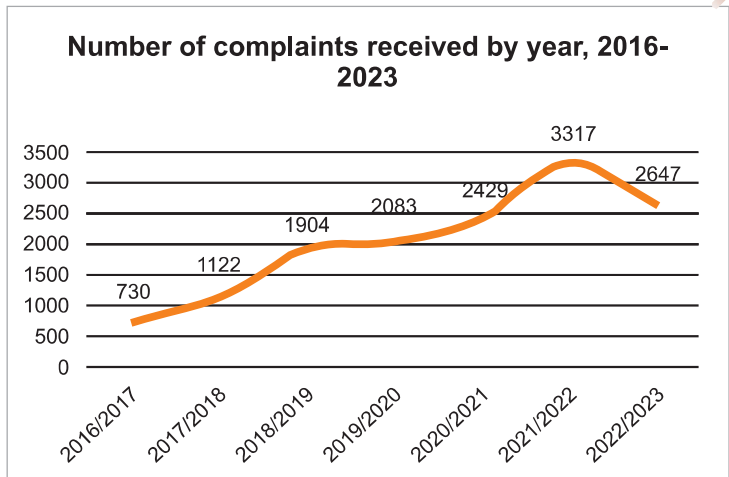
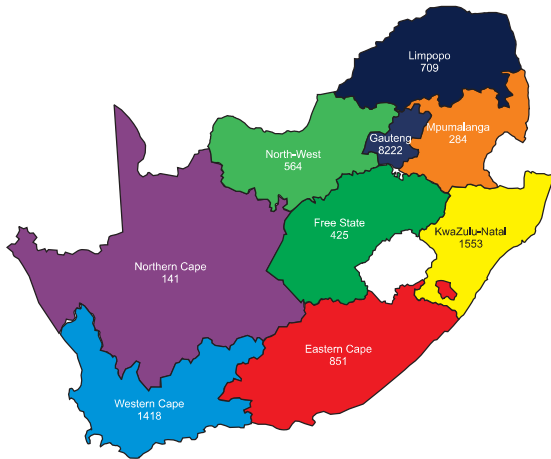
Part A

General Information



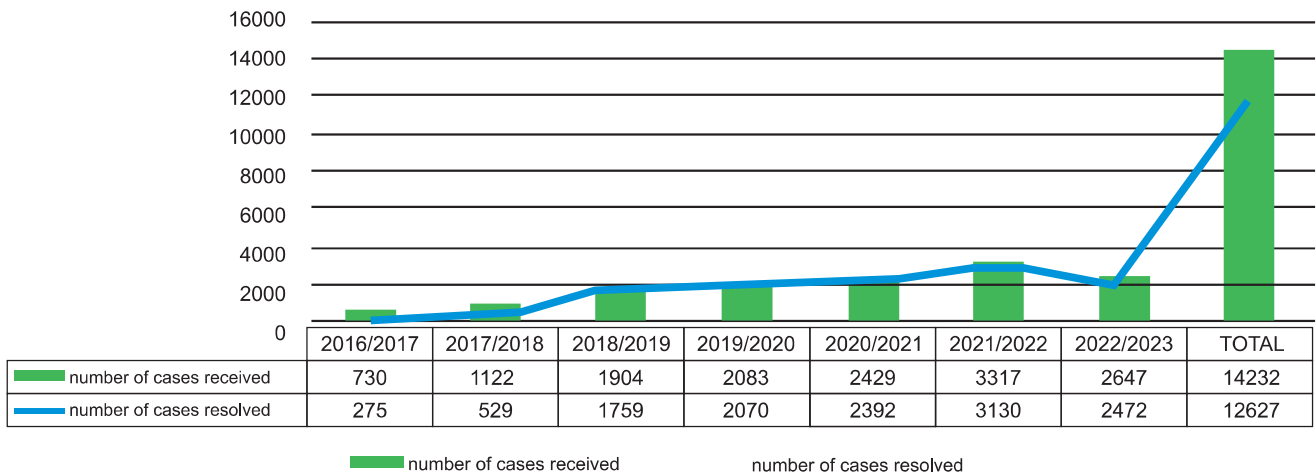
AT A GLANCE: OVERVIEW OF PERFORMANCE, 2016 - 2023

Provincial distribution of complains, 2016 - 2023



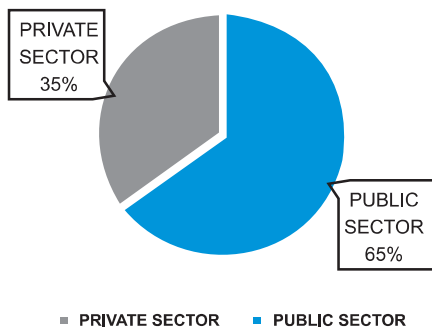
Between 2013 and 2023, 60% of all complaints were received from Gauteng, with the least number of complaints received from the Northern Cape

Complaints received and resolved, 2016- 2023

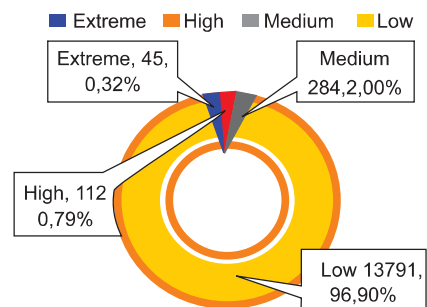


Since inception, the number of complains lodged has grown at a steady rate. The number of cases resolved has improved from 37.6% in 2016/17 to 93.4% in 2022/23

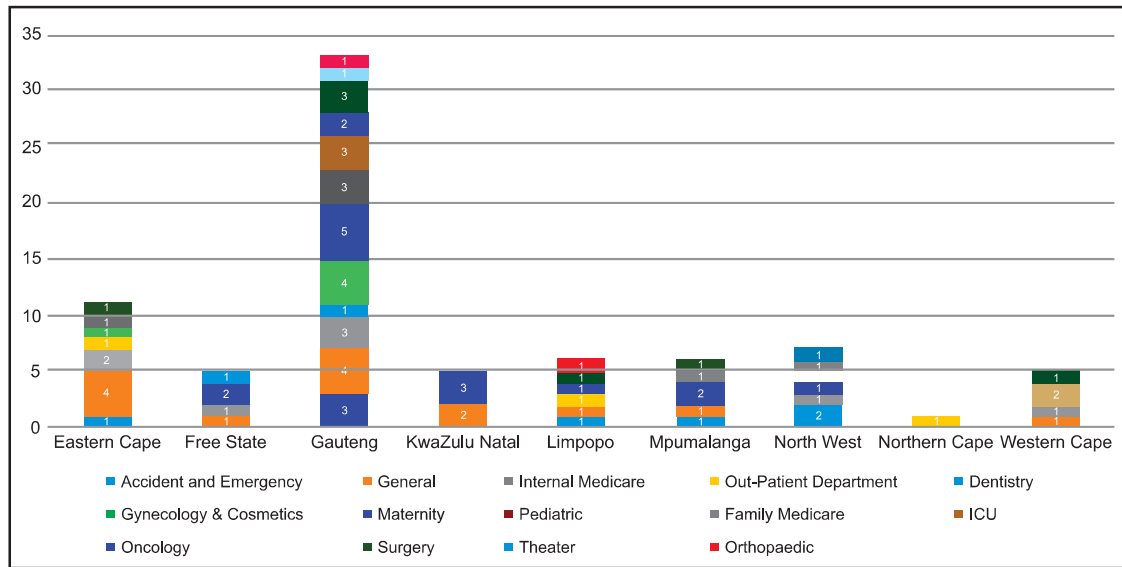
Complaints from public sector vs private sector, 2016-2023



Complaints received by risk classification, 2016 - 2023



Complaints investigated, by clinical specialty area 2016 - 2023



Health Ombud Investigations, 2016 - 2023



Appeals Against Decisions of the Ombud

Health Facility	Province	Finalization
Life Esidimeni	Gauteng	Y
Tembisa Hospital	Gauteng	Y
Livingstone Tertiary Hospital	Eastern Cape	N
Elizabeth Hospital	Free State	N
Life Flora Hospital	Gauteng	N
Netcare Kingsway Hospital	KwaZulu Natal	N
Thornhill Community Health Centre	Eastern Cape	N

Between 2013 and 2023, over 12,627 complaints have been resolved by the OHO. Of these, there have been seven appeals lodged which approximate to a complaints appeals rate of less than 0.05%.

It is important to note that the OHO report has been set aside in any of these cases.

Media Reach



*Based on interaction with complainants, family members, communities, and members of the general public

What is the potential reach?

Reports	Share of Voice by Reach	Potential News Reach
Mentally ill patients in Gauteng	31.7M	6.7M
Rahima Moosa Mother and Child Hospital Allegations	345M	115M
Investigation at Tembisa Hospital	376	117M
Tower Psychiatric Hospital	42.4M	19M

Quotes From Satisfied Complainants (2023)

"I'm really happy about the service cause you've made sure that the case was solved by the hospital. They called me numerous times they apologized about the whole situation. If it wasn't for you none of that could have happened, from the bottom of my heart thank you very much keep doing what you are doing, I really appreciate...
Thank you again"



"Daniel has been absolutely fantastic from the start and kept me updated all the time. He has followed up every day. I appreciate his calls and feedback very much..."

"I am very glad about how my Matter was handled. Very professionally with the individual who Jumped in to Sort out my previous Bad Experience, may this type of Spirit Continue again and again."

2. Complaints Management Programme

The overall mandate of the Complaints Management Programme is to consider, investigate and dispose of complaints leading to breaches of the prescribed norms and standards in a fair, economical, and expeditious manner. The Complaints Management Programme comprises three distinct but interrelated programmes, namely: Complaints Call Centre, Complaints Assessment Unit and Complaints Investigation Unit.

2.1 Human Capital

During 2022/23, the Complaints Management Programme operated at 91% of its funded human resource complement, with 21 of 23 funded posts filled. Six of these posts were funded on a contract basis within the Complaints Call Centre and Complaints Assessment Unit, and the staff employed therein made a significant contribution to ensuring the smooth operation of services and terminating the backlog in cases requiring assessment.

However, the human resource capacity within the Complaints Management Programme still remained inadequate with over 60 approved posts remaining unfunded and unfilled. This had a major impact on the Complaints Investigation Unit, which has had only three investigator positions since 2017 despite a huge demand for services, requiring at least eight to ten investigators. A large number of backlog complaints remain unresolved within this unit due to the dire shortage of staff and related resources.

2.2 Complaints Call Centre

The purpose of the Complaints Call Centre is to receive complaints from the public regarding breaches of norms and standards by health establishments through calls, walk-in submissions, emails, and written letters. The call centre staff register, record, and screen all complaints received and refer to the next level as appropriate. All low-risk complaints are addressed at the level of the call centre. All complaints that receive a medium rating are referred to the Complaints Assessment Unit. All complaints that receive a high and extremely high-risk rating are referred to the Complaints Investigation Unit.

Analysis of Complaints received between 2016 - 2023

Table 1: Overview of Complaints received since the inception of the Call Centre

Financial Year	Complaints	Year-on-Year Change
2016/17	730	-
2017/18	1122	153.7%
2018/19	1904	169.7%
2019/20	2083	109.4%
2020/21	2429	116.6%
2021/22	3317	136.4%
2022/23	2647	80%
Total	14232	

The table above depicts the caseload for the seven financial years; 2016/17, 2017/18, 2018/19, 2019/20, 2020/21, 2021/22 and 2022/23 financial years.

The number of people utilising the Complaints Call Centre and Assessment Unit has grown steadily over the past six years. In 2022/23, the Complaints Call Centre received and registered 80% of complaints - that is, 2647 complaints - as compared to 3317 in 2021/22 following the withdrawal of all COVID-19 pandemic-related restrictions. Within this context, the Complaints Management team will continue to follow the trends in demand for and utilisation of the Complaints Call Centre.

Figure 1: Number of Complaints received by the Complaints Call Centre (2016 - 2023)

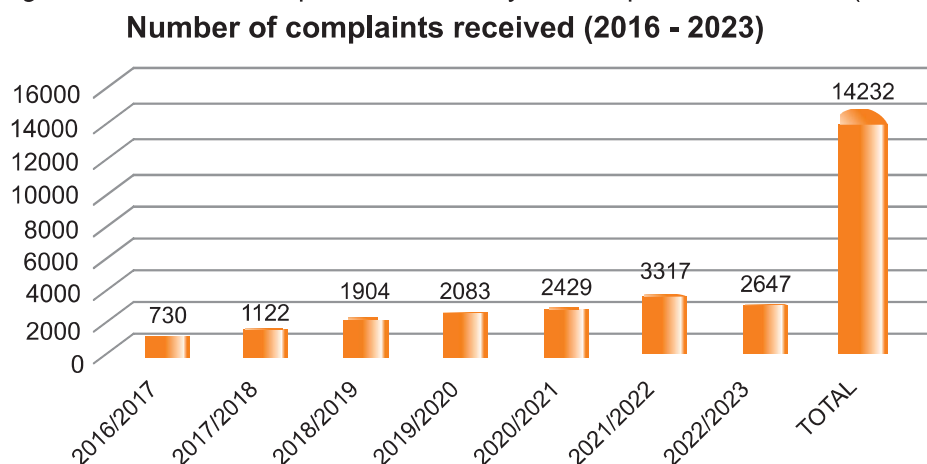
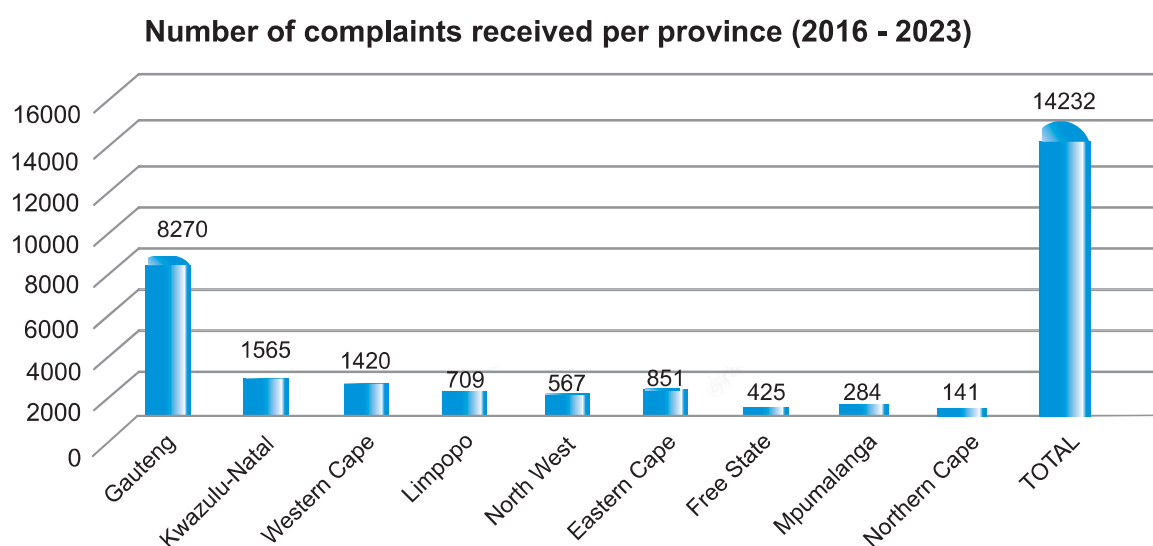
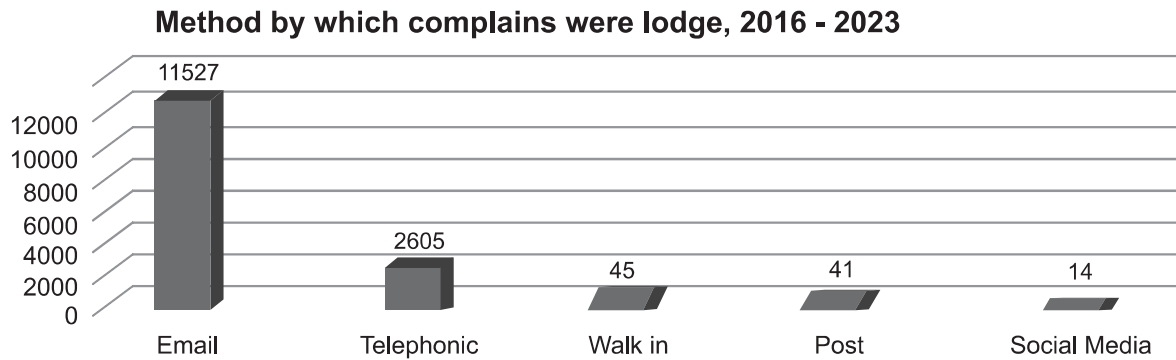


Figure 2: Number of complaints received per province, 2016 - 2023.



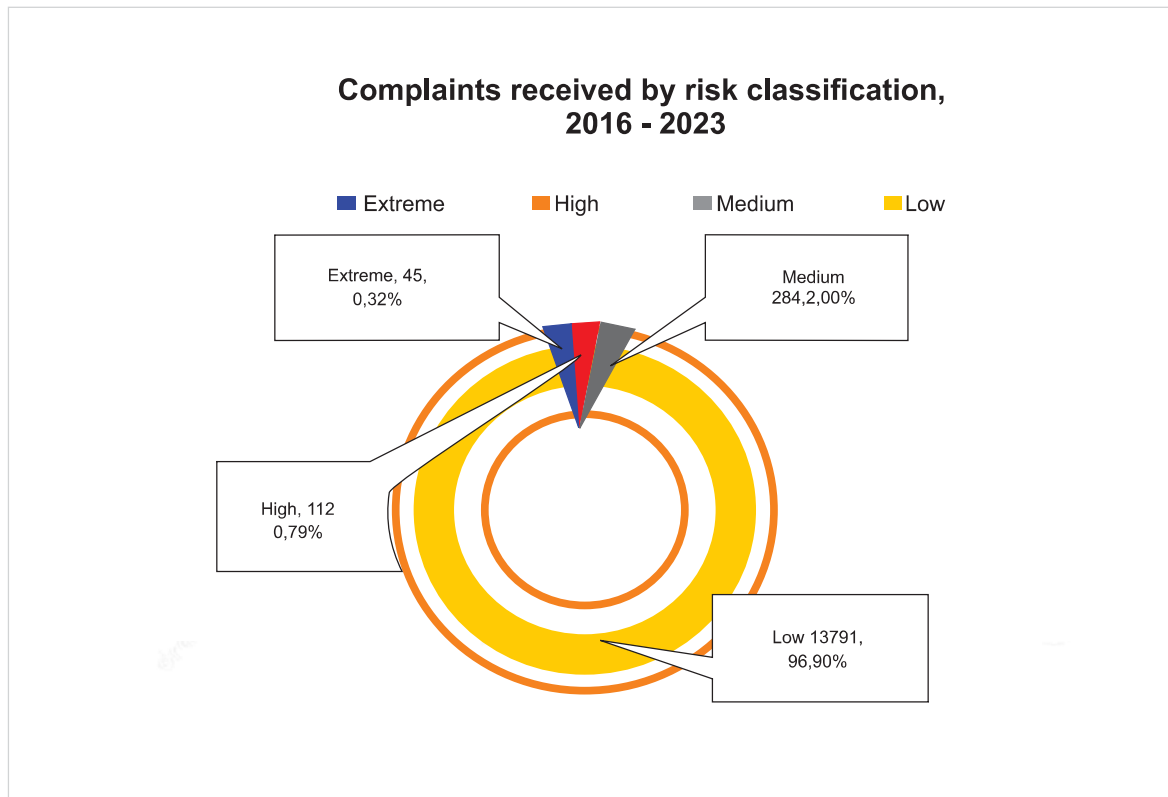
Between 2016 and 2023, the majority of complaints 8270 (58%) were received from Gauteng. There were 1565 (11%) complaints from KwaZulu Natal and 1420 (10%) from the Western Cape.

Figure 3: Methods by which complaints were lodged (2016 - 2023).



Between 2016 - 2023, the majority (11,527, 81%) of complaints were lodged by email. There were 2662 (18%) complaints lodged telephonically, while 41 (0.3%) were posted to the OHO and 45 (0.3%) were lodged by walk-in submissions. Fourteen (>1%) complaints were lodged through social media channels.

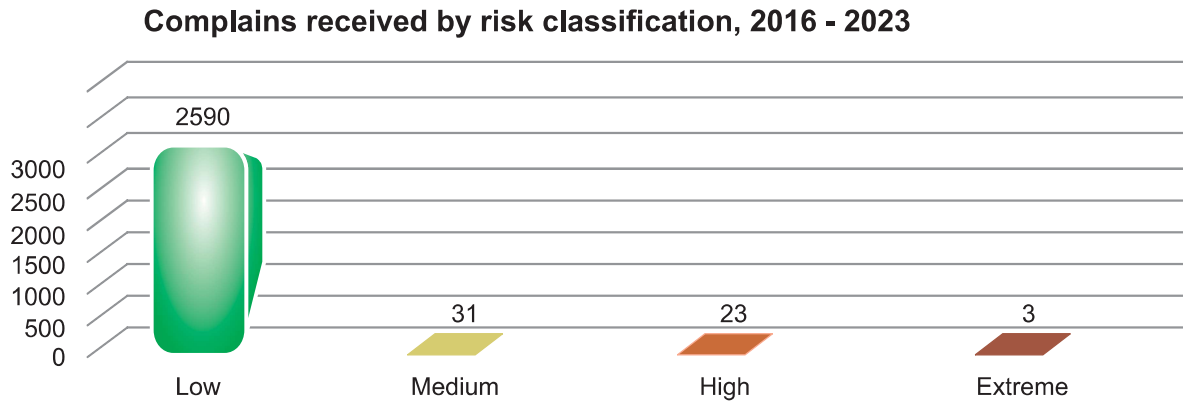
Figure 4: Complaints received by risk classification (2016 - 2023)



Between 2016 and 2023, 13,791 (96.6%) of all complaints received were risk-rated low, 284 (2%) medium risk, 112 (0.79%) high risk and 45 (0.32%) extreme risk.

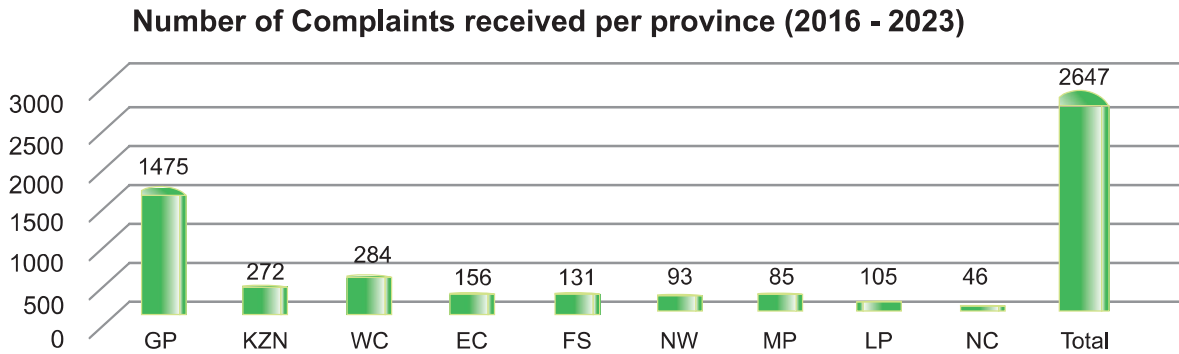
Analysis of Complaints received between 2022-2023

Figure 5: Complaints received by risk classification (2022/23)



Of the 2647 complaints received by the Complaints Call Centre, 98% (2590 complaints) were risk-rated low-risk, and resolved by the Complaints Call Centre. Several of these complaints should have been resolved by the health establishments. Call Centre complaints officers facilitated the resolution of such complaints by contacting the relevant health establishments and mediating to ensure a satisfactory outcome. All medium, high and extreme-risk cases that involve serious breaches of promulgated norms and standards were escalated for assessment or investigation.

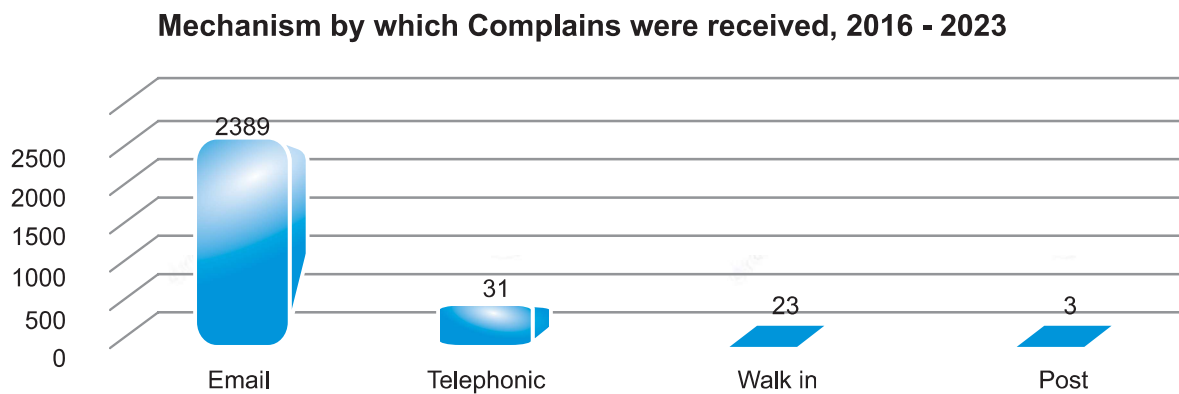
Figure 6: Number of Complaints received per province, 2022/23.



Of the 2647 complaints resolved by the Complaints Call Centre, the greatest number of complaints - 60% of the total - were received from Gauteng, with the Western Cape and KwaZulu-Natal claiming the 2nd and 3rd spot respectively. However, over the course of the year, complaints were received from all nine provinces, illustrating the Health Ombud's footprint in all provinces.

The proximity of Gauteng to the Office of the Health Ombud coupled with higher literacy rates and confidence of residents in using reporting systems may be a contributory factor to the significantly higher share of complaints received from this province.

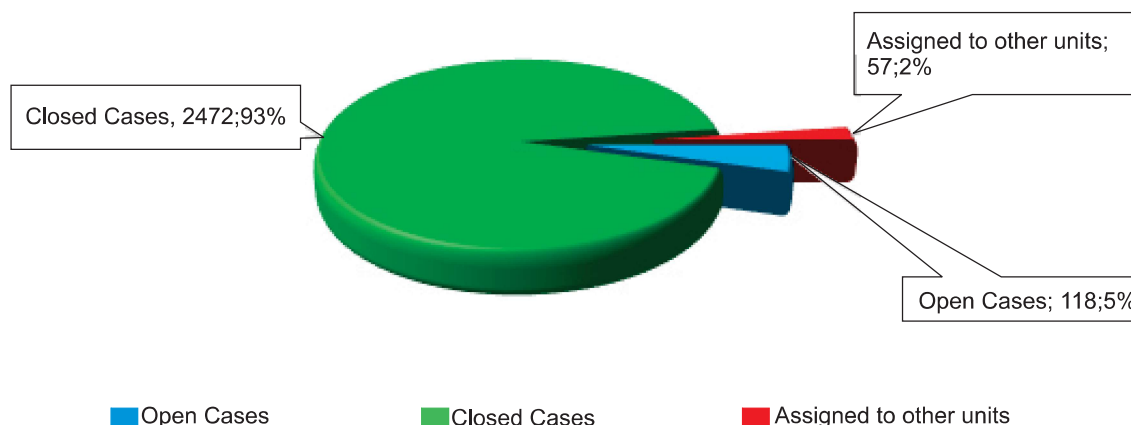
Figure 7: Mechanism by which the complaints were received.



In 2022/23 approximately 90% of complaints were received through email, suggesting that they are from a section of the population that is literate and has access to technology. Eight per cent of complaints were lodged telephonically, while less than 1% comprised complaints lodged through walk-in and postal submissions.

Figure 8: Status of complaints received 2022/23

Number of open, closed and escalated cases



During 2022/23, the overwhelming majority of complaints logged (93%) were closed by the Call Centre, of which 93.4% were closed within 25 days, well above the annual target of 80%. A total of 57 cases (2%) were escalated for assessment and investigation. By the end of the fiscal year, a total of 118 complaints (5%) remained open, as most of these complaints were registered in the last few weeks of the financial year. The complaints are currently receiving attention from Complaints Call Centre staff.

In 2022/23, the Call Centre achieved 93.4% of its indicator; a variance of 13.4% in comparison to the target of 80%.

It appears the continued utilisation of the Call Centre is due to complainants' preferring to appeal to the Office of the Health Ombud rather than seek resolution at the health establishment level.

Results from the satisfaction survey of complainants

During this period the staff in the Complaints Call Centre received praise from complainants whose cases were resolved.

Notable examples include the following

"I am very glad How my Matter was handled, Professional with the Individuals who Jumped in to Sort out my previous Bad Experience, May this type of Spirit Continue again and again."

"Daniel has been absolutely fantastic from the start and has kept me updated all the time. He has followed up every day. I appreciate his calls and feedback very much..."

"I'm really happy about the service cause [sic] you've made sure that the case was solved by the hospital They called me numerous times they apologized about the whole situation if I wasn't for you none of that could have happened from the bottom of my heart thank you very much keep doing what you doing I really appreciate...thank you again". 🙏🙏😊😊"

2.3 Complaints Assessment Unit

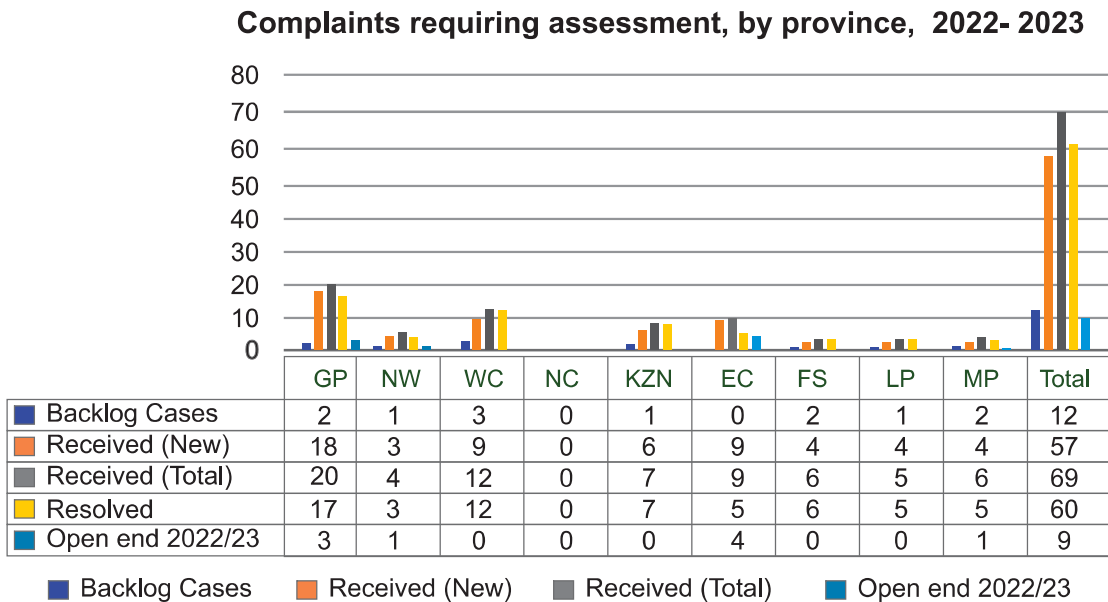
The purpose of the Complaints Assessment Unit is to assess medium-risk-rated complaints and either propose ways to resolve them or refer them to the Investigation Unit for investigation. In some instances, complaints are referred to other entities which have jurisdiction over the particular type of complaint.

The Complaints Assessment Unit has been under-resourced and has, over the last few years, carried a substantial number of open cases from one year into the next. Following a concerted effort to resolve 105 outstanding cases in 2021/22, the unit had a total of 12 backlog complaints at the beginning of the 2022/23 financial year, all of which they were able to resolve. This meant the unit closed the financial year with no backlog complaints for the first time since 2018.

The unit also managed to resolve 57 newly assigned complaints, of which 40 were resolved within 30 days of receiving feedback from the complainant and/or health establishment. Therefore, the team managed to resolve a total of 60 cases during the 2022/23 financial year, with nine cases overlapping into the new fiscal period. The nine cases that are currently unresolved are those for which further information was pending and responses were awaited from either complainants or health establishments.

The Complaints Assessment Unit referred twenty-four cases for investigation during this period. The indicator achievement was at 60.8%; a variance of -4.13% in comparison to the target of 65%

Figure 9: Complaints requiring assessment, by province, 2022/23



The fact that the Complaints Assessment team, previously demotivated and underperforming, was able to resolve all backlog as well as the majority of newly assigned complaints serves as a testament to the hard work and perseverance of all members of the Complaints Assessment team and their managers. The staff in the Complaints Assessment Unit must be complimented for their dynamic interaction with each other, their team spirit, passion and their commitment to continuous improvement which is reflected in the work they do and the results yielded over the year. It is also gratifying to note that staff morale and motivation in the unit are high, which further enhances the quality of performance and commitment.

Results from the satisfaction survey of complainants

During this period the staff in the Complaints Assessment Unit received a significant amount of praise from complainants whose cases were resolved.

Notable examples include the following:

From a Provincial DOH office: "Dear Ms L. Mhlanga, Thank you for the email and this detailed report on the unfortunate incident relating to the management of the complicated pregnancy of Ms XX (Name withheld). Although incidents such as this one should not be occurring; it's the kind of OHO work that brings into focus specific areas of weakness in our health system."

From the complainant, regarding the same complaint as above: "WoooW, [sic] so beautiful, I am so glad. You are outstanding. I'll be following up with the CEO (Name withheld) on the implementation of remedial interventions for areas of weakness highlighted by this commendable investigation and repoer"

"I Mr XX (Name withheld), the (son of complainant Ms XX (Name withheld) thank you for a great job. My family are satisfied with the great job u hv done, Everything That I complained about it is all here all details u just did a good job you never leave a stone unturned as a family we appreciate that."

"Good day Ms Kgaladi Masehela, I kindly appreciate everything you have done for me, I am very pleased with the outcomes and how quickly you were in responding to my case. I am grateful and satisfied with the results."

2.4 Complaints Investigation Unit

The Investigation Unit is comprised of two sections, namely: Healthcare and Legal. Cases handled by the unit are mainly high and extreme risk-rated complaints that require a robust analysis and investigation process. During the year, the team operated with vacancies of Director: Complaints Investigation (1), Investigator: Legal (1) and (2) Investigators (Health). An Administration Officer provides administrative support for the two sections.

The 2022/23 financial year marks the 5th financial year that the unit operated with the vacancies of the Director: Complaints Investigations, two Investigators (Health Cases) and one Deputy Director (Legal) attributable to funding limitations. The situation mentioned above contributes to the prolonged turnaround time for complaint resolution.

The lessons drawn over the five financial years were that 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 figure below depicts an overview of cases investigated and resolved through investigation over the four financial years; 2019/20, 2020/21, 2021/22 and 2022/23.

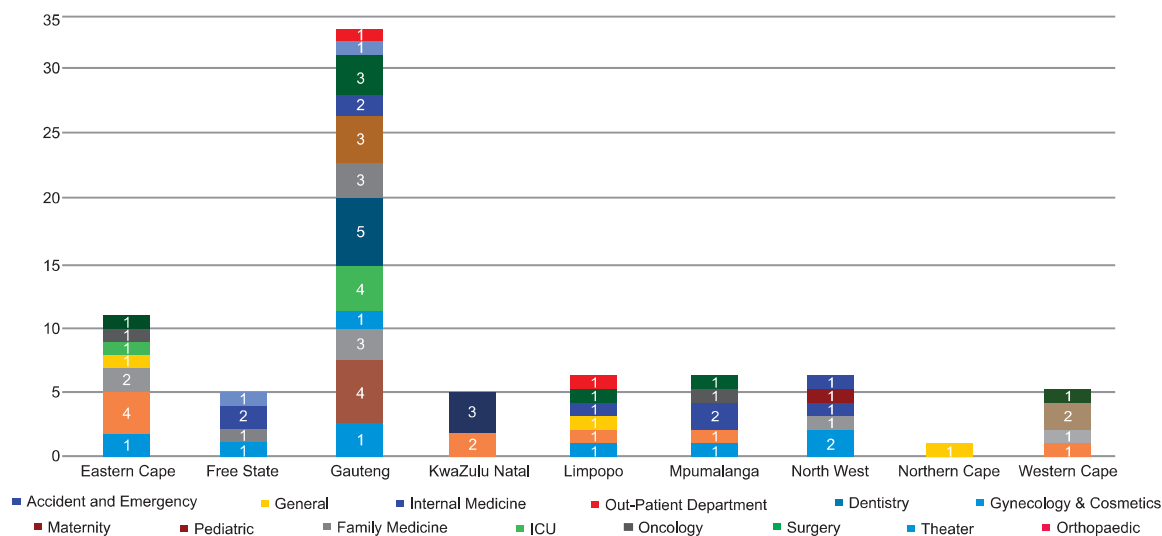
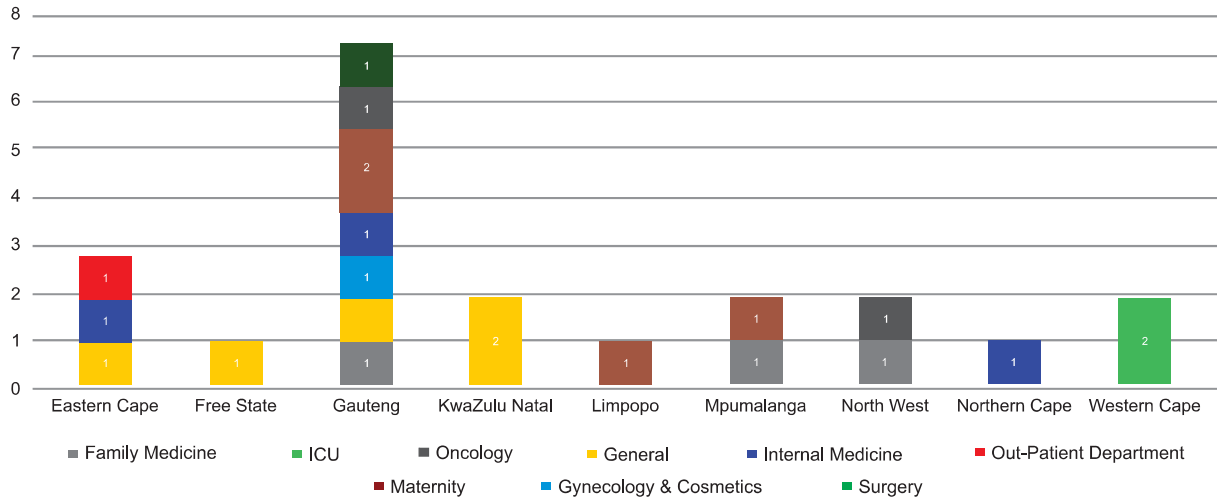


Figure 10 Above illustrates 79 cases resolved through investigations nationally per discipline, during the four financial years (2019/20 to 2022/23).

A concerted effort was made to investigate and resolve newly assigned backlog cases emanating from the previous financial years. A total of 22 cases were resolved in the 2019/20 financial year. In the 2021/22 financial period, five cases were resolved, 23 cases were resolved during the 2021/22 financial year and 29 cases were resolved during the 2022/23 financial year.

Figure 11: Cases resolved through investigation per discipline in the 2019/2020 financial year

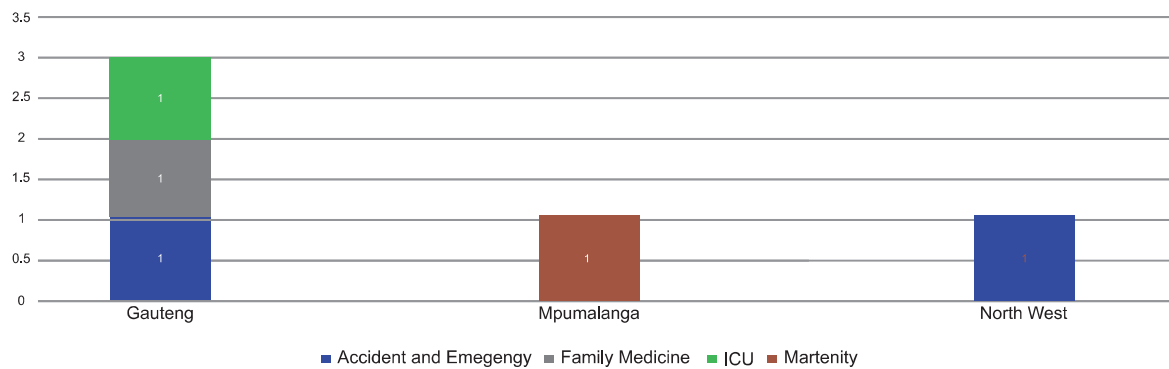


The figure above illustrates the cases investigated and resolved through investigation in the 2019/20 financial year. A total of 22 cases were investigated and resolved. Of the 22 cases (3/22), 13,6 % emanated from Eastern Cape regarding Internal Medicine, General and Outpatient departments.

A total of (8/22) 36,3 % emanated from Gauteng regarding the following disciplines: General (1), Family Medicine (1), Gynaecology and Obstetrics (1), Oncology (1), Internal Medicine (1), Maternity (2) and Surgery (1).

Free State (1/22) 4,5% received complaints regarding General discipline. KwaZulu-Natal (2/22) 9%, Limpopo (1/22) 4,5%, Mpumalanga (2/22) 9%, North West (2/22) 9%, Northern Cape (1/22) 4.5%, Western Cape (2/22) 9%.

Figure 12: Cases investigated and resolved in the 2020/21 Financial Year

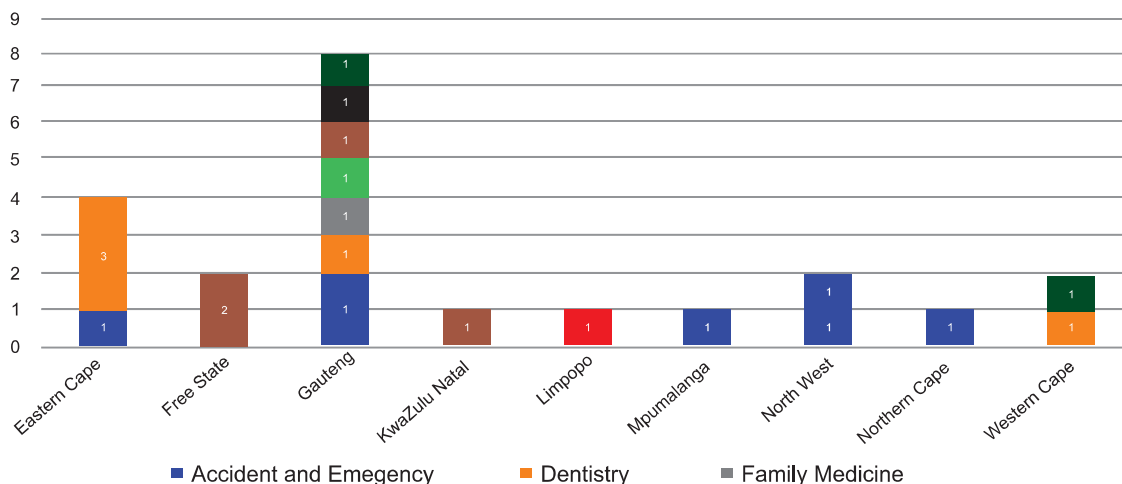


The figure above reflects the performance attained during the COVID-19 pandemic in 2020/21.

The unprecedented crisis has significantly impacted the performance of the Complaints Investigations, mainly conducting onsite investigations. A total of five cases were investigated and resolved. In three of the five cases (3/5), 60% emanated from Gauteng regarding Accident and Emergency (1), Family Medicine (1) and ICU (1).

One case from Mpumalanga (1/5) 20% was investigated and resolved, related to the Maternity discipline and one from the North West (1/5) 20% was related to the Accident and Emergency discipline.

Figure 13: Cases investigated and resolved through investigation in 2021/22

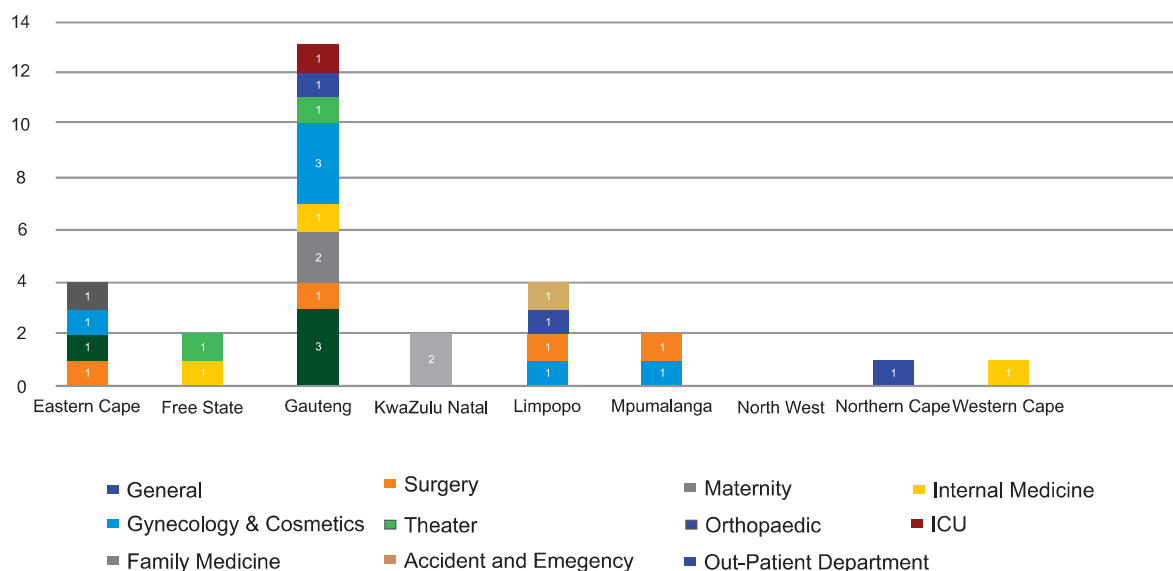


In the 2021/22 financial year, significant strides were made to resolve 23 Cases. A total of (9/23) 39,1% of resolved cases were from Gauteng regarding the following disciplines: Accident and Emergency (2), Dentistry (1), Family Medicine (1), Intensive Care Unit (ICU) (1), Internal Medicine (1), Maternity (1) and Surgery (1).

In four of the 23 cases (4/23), 17,3% were received from Eastern Cape regarding General (3) and Accident and Emergency (1). In the Free State (2/23), 8,6% were Maternity, KwaZulu-Natal (1/23)4,3% regarding Maternity, Limpopo (1/23) 4,3% outpatient, Mpumalanga Accident and Emergency (1/23) 4,3%, North West (2/23) related to Maternity (1) and Accident and Emergency (1).

Northern Cape (1/23) 4,3% was regarding Paediatrics Western Cape (2/23) 8,6% regarding General (1) and Surgery (1) disciplines.

Figure 14: Cases resolved through investigation in 2022/23





In the 2022/23 financial year, 29 cases were resolved, of which 13 (44%) were received from Gauteng, regarding the following disciplines: General (3) Accident and Emergency (0), Dentistry (0), Orthopaedic (1), Family Medicine (0), Gynaecology and Obstetrics (3), Theatre (1), Intensive Care Unit (ICU) (1), Internal Medicine (1), Maternity (2) and Surgery (1).

There were 4 (14%) complaints from the Eastern Cape, related to surgery (1), Internal Medicine (1), Obstetrics and Gynaecology (1), and Family medicine (1); four cases from Limpopo related to General (1), Surgery (1), Orthopaedic services (1) and Accident and Emergency services (1). Two (7%) complaints received from the Free State related to internal medicine and theatre were resolved; there were two complaints from KwaZulu Natal related to maternity services and two complaints from Mpumalanga related to general and surgical services.

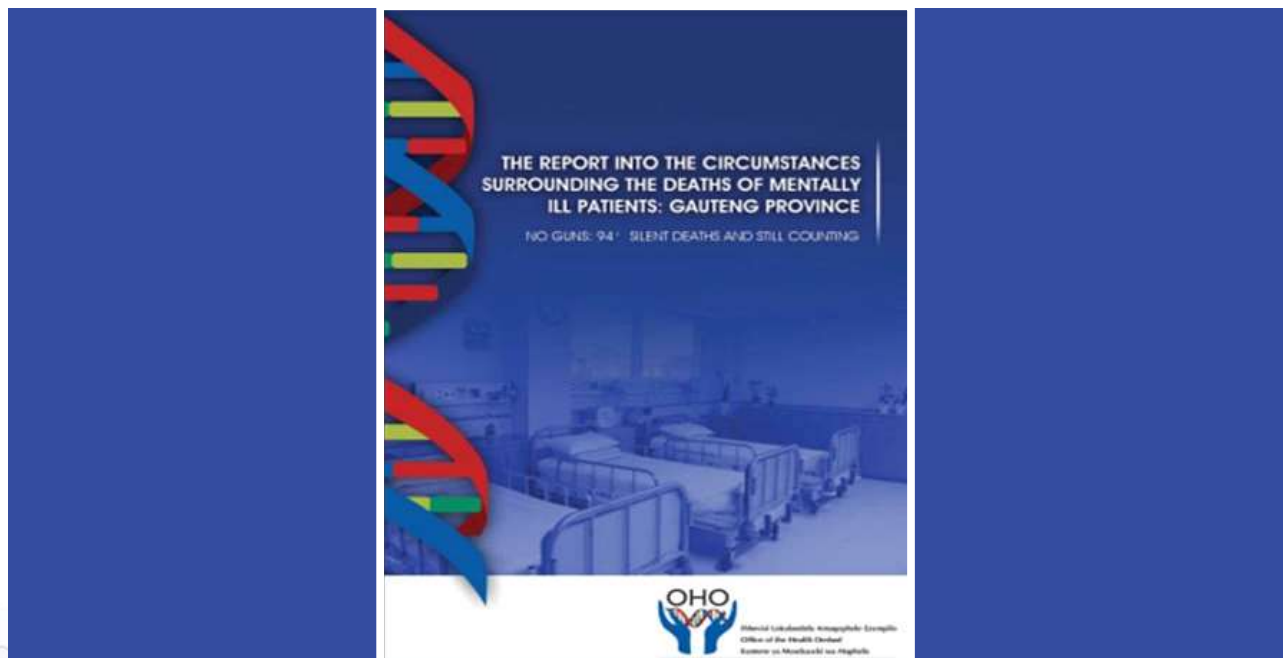
There was one (3%) case each from the Western Cape relating to Internal medicine and Northern Cape related to services provided at the Outpatient Department. No cases were resolved from the North West province.

3. Investigations led by the Health Ombud

3.1 Life Esidimeni Inquest, Gauteng

"Warnings ignored"

The Health Ombud searching for the truth through rigorous investigations established one emerging theme: civil society, family groups, doctors and Mental Health experts and advocates warned the Gauteng Health Department about the risks of such a rapid mass and chaotic transfer of vulnerable mental health care users to unregistered, unlicensed and incapacitated non-governmental organisations, but these warnings were ignored.



The Life Esidimeni Inquest stands as a crucial accountability process for a national tragedy that ought never to have happened and should never happen again. It was established to determine the legal cause of death for each of the mental healthcare users and whether there were criminal acts or omissions which led to the deaths, following the decision of the Gauteng Department of Health to transfer mental healthcare users to ill-equipped NGOs in 2016.

The Health Ombud's recommendations are evidence-based and were able to withstand legal scrutiny. The recommendation to the Health Ministry Department and Health Department Head of Departments aims to improve the systems and practices and ultimately diminish the risk of the incidents recurring.

3.2 Tower Psychiatric Hospital and Psychosocial Rehabilitation Centre, Eastern Cape

Allegations of patient mismanagement and patient rights violations at the Tower Psychiatric Hospital and Psychosocial Rehabilitation Centre (TPHPRC) in the Eastern Cape were investigated by the Health Ombud (referred to as "Tower Report"). Following the release of the report, the Minister of Health appointed an administrator, the late Prof Mkhize, to oversee the Health Ombud's findings and recommendations.

The implementation of recommendations made from the Tower and Life Esidimeni investigation reports, as well as other investigation reports, have positively impacted the broader health system in the country.

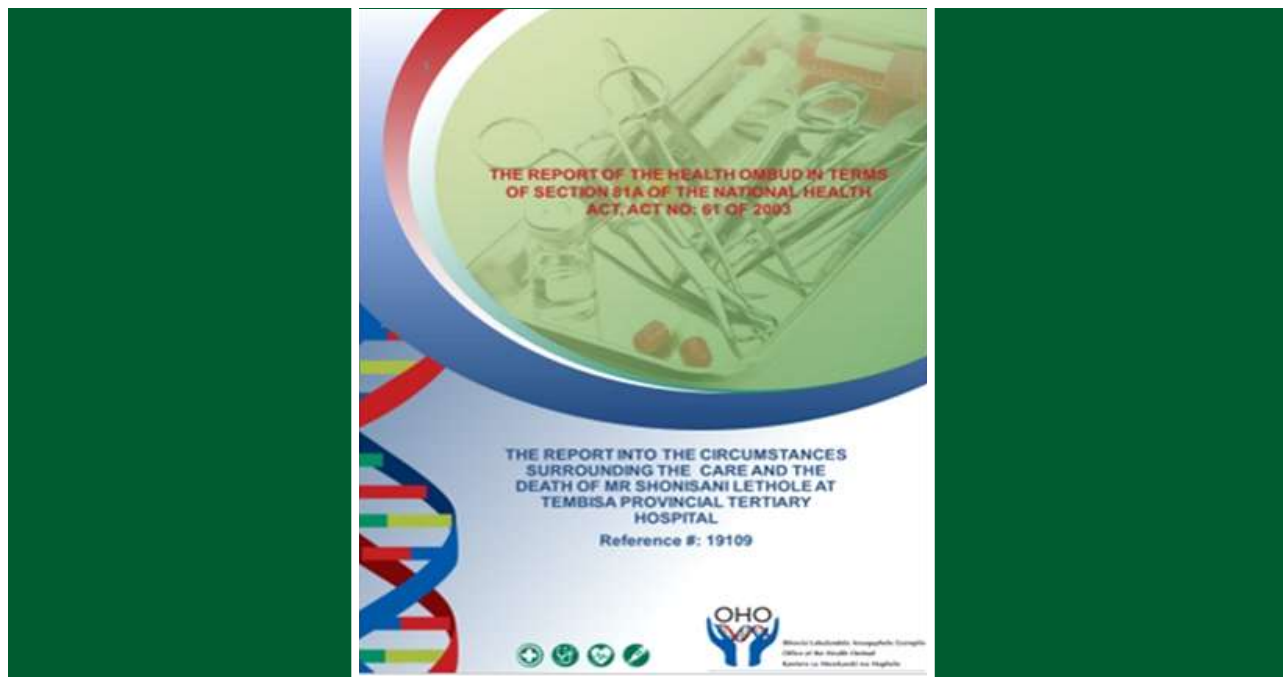


3.3 Tembisa Provincial Tertiary Hospital, Gauteng

Allegations of patient mismanagement and patient rights violations at Tembisa Provincial Tertiary Hospital in Gauteng were investigated by the Health Ombud during the Covid-19 pandemic.

Key findings included:

- Substandard and negligent care was provided to a patient with Covid-19 by Tembisa Hospital staff.
- Violation of patient rights and dignity
- Lack of provision of food to a patient for over 43 hours during hospitalization
- Significant record-keeping deficiencies and violations
- Lack of proper communication and collaboration between hospital personnel which impeded the continuity of care and resulted in delays in the diagnosis and treatment of patients.
- Dishonesty of some Tembisa Hospital personnel



Overall, the quality of care provided to Mr S. Lethole at Tembisa Provincial Tertiary Hospital left much to be desired. Following the investigation, twenty individuals were recommended for disciplinary inquiry which is currently ongoing.

3.4 Rahima Moosa Mother and Child Hospital, Gauteng

The Health Ombud held an inquiry into the allegations levelled against Rahima Moosa Mother and Child Hospital (RMMCH) in Johannesburg.

The complaint was received from a Member of the Portfolio Committee on Health, Honourable H Ismail on 05 April 2022. The Health Ombud held interviews with various stakeholders such as the former MEC for Health, HOD, Chief Executive Officer of RMMCH, DDG for Corporate Services at GPDH, former Member of the Mayoral Council in the City of Johannesburg, RMMCH staff members, and former patients of RMMCH. The HPCSA and Gauteng Legislature were amongst the key stakeholders consulted by the Health Ombud

The report of the RMMCH investigation was issued to the public on 14 March 2023 through a media briefing.

Key findings included:

- Violation of the rights and dignity of pregnant women at RMMCH
- The fact that the CEO spent less than 182 days at RMMCH since her appointment.
- Severe compromise of healthcare worker well-being.
- Significant Human resource and operational management lapses at both RMMCH and the Gauteng Provincial Department of Health.
- Inadequate clinical support services
- Inappropriate infrastructure and security arrangements
- Insufficient funding levels for the hospital

All findings and recommendations were accepted by the Minister of Health as well as the Premier and MEC for Health in Gauteng. Implementation of proposed remedial measures is underway at all levels.



4. Lessons Learned

1. Unavailability of the original medical records due to fire disasters in Gauteng Province: Charlotte Maxeke Johannesburg Academic Hospital has a negative impact on corroborating allegations made against the Health Establishment.
2. Cases that implicate more than one health establishment have proven to be labour-intensive and impacted the turnaround time for the resolution of the complaint, ultimately resulting in backlogs and unmet annual performance targets.
3. Finite resources contributed to the backlog cases, ultimately leading to backlog cases and the inability to meet the set Annual Performance targets.
4. The unavailability of the original medical records from the health establishments has a negative impact on corroborating allegations made against the health establishment.
5. 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 policy reform.

The following tables provide a reflection of cases investigated and resolved per province over the Health Ombud's tenure.

Gauteng Province

No	Facility Name	Type of Facility	Risk Rating	Discipline
1.	Zamokuhle Emergency	Private	Medium	Accident and Private Hospital
2.	Jubilee Hospital	Province Facility	High	Gynecology & Obstetrics
3.	Steve Biko Academic Hospital	Public	High	Surgery
4.	Life Wilgers Hospital	Private	High	Surgery
5.	Life Esidimeni Psychiatric Hospital	Private	Extreme	
6.	Kalafong Hospital	Province Facility	Extreme	Oncology

Gauteng Province

No	Facility Name	Type of Facility	Risk Rating	Discipline
7.	Charlotte Maxeke Medicine Academic Hospital	Province Facility	Extreme	Internal Johannesburg
8.	Zamokuhle Hospital	Private Hospital	Extreme	Maternity
9.	South Rand Hospital	Province Facility	High	Family
10.	Netcare Sunward Medicine	Private	Extreme	Internal Park Hospital
11.	Dr George Mukhari Hospital	Province Facility	High	ICU
12.	Carletonville Hospital	Province Facility	Extreme	Theatre
13.	Netcare N17 Hospital	Private	High	General, ICU
14.	Carletonville Hospital	Province Facility	High	Family Medicine
15.	Chris Hani Baragwanath Hospital	Province Facility	Extreme Medicine	Internal
16.	Sebokeng Hospital	Province Facility	High	General
17.	Bheki Mlangeni District Hospital	Province Facility	High	Surgery

Gauteng Province

No	Facility Name	Type of Facility	Risk Rating	Discipline
18.	Chris Hani Baragwanath Hospital	Province Facility	High	Orthopaedic
19.	Lindela Repatriation Centre	Public	High	
20.	Tembisa Hospital	Province Facility	High	Gynaecology & Obstetrics
21.	Dr George Mukhari Hospital	Province Facility	Low	Oncology
22.	Tambo Memorial Hospital	Province Facility	Low	Maternity
23.	Tembisa Hospital	Province Facility	High	Family Medicine
24.	Mamelodi Hospital	Province Facility	Extreme	Accident and Emergency
25.	Sebokeng Hospital	Province Facility	High	General
26.	Far East Rand Hospital	Province Facility	High	General
27.	Chris Hani Baragwanath Hospital	Province Facility	Extreme	Gynecology & Obstetrics
28.	Chris Hani Baragwanath Hospital	Province Facility	Extreme	Gynaecology & Obstetrics
29.	Lillian Ngoyi CHC	Province Facility	High	Gynaecology & Obstetrics
30.	Rahima Moosa Maternal and Child Hospital	Public	High	Maternity
31.	Edenvale Hospital	Province Facility	High	Maternity

KwaZulu-Natal Province

No	Facility Name	Type of Facility	Risk Rating	Discipline
1.	General Justice Gizenga Mpanza Regional Hospital	Public	High	Gynaecology & Obstetrics
2.	Midlands Medical Centre	Private	High	Maternity
3.	Isiboniso Clinic	Province Facility	Extreme	General
4.	Inanda C CHC	Province Facility	High	Maternity
5.	GJ Crooke's Hospital	Province Facility	High	Maternity
6.	Nkonjeni Hospital	Province Facility	Extreme	General

Free State Province

No	Facility Name	Type of Facility	Risk Rating	Discipline
1.	Jazzman Mokhothu Clinic	Province Facility	High	
2.	Pelonomi Hospital	Province Facility	High	Maternity
3.	Elizabeth Ross Hospital	Province	High	Internal Medicine
4.	Universitas Academic Hospital	Province Facility	High	Maternity

Limpopo Province

No	Facility Name	Type of Facility	Discipline	Risk Rating
1.	FH Odendaal (Nylstroom) Hospital	Province Facility	Gynaecology & Obstetrics	Extreme
2.	Mankweng Hospital	Province Facility	General	High
3.	Mankweng Hospital	Province Facility	Orthopaedic	High
4.	Groblersdal Hospital	Province Facility	Accident and Emergency	High
5.	Groblersdal Hospital	Province Facility	Out-Patient Department	Low
6.	Polokwane Hospital	Province Facility	Surgery	Extreme

Mpumalanga Province

No	Facility Name	Type of Facility	Discipline	Risk Rating
1.	Standerton Hospital	Province Facility	Family Medicine	High
2.	Witbank Hospital	Province Facility	Accident and Emergency	High
3.	Lydenburg Hospital	Province Facility	General	High
4.	Tintswalo Hospital	Province Facility	Surgery	High
5.	Embhuleni Hospital	Province Facility	Maternity	Extreme
6.	Rob Ferreira Hospital	Province Facility	Gynaecology & Obstetrics	High

Eastern Cape Province

No	Facility Name	Type of Facility	Discipline	Risk Rating
1.	Nelson Mandela University Clinic	Province Facility	Oncology	Extreme
2.	Holy Cross Hospital	Province Facility	General	High
3.	Taylor Bequest Hospital (Matatiele)	Province Facility	Family Medicine	High
4.	Dora Nginza Hospital	Province Facility	Accident and Emergency	Extreme
5.	St Elizabeth's Hospital	Province Facility	Out-Patient Department	Extreme
6.	Ndanya Clinic	Province Facility	General	High
7.	Cecilia Makiwane Hospital	Province Facility	General	High
8.	Tower Hospital	Province Facility	Psychiatry	High
9.	Frontier Hospital	Province Facility	Internal Medicine	High
10.	Taylor Bequest Hospital (Elundini)	Province Facility	Gynaecology & Obstetrics	High
11.	Uitenhage Hospital	Province Facility	Internal Medicine	Extreme
12.	Nqamakwe CHC	Province Facility	Surgery	Extreme

North West Province

No	Facility Name	Type of Facility	Discipline	Risk Rating
1.	Nic Bodenstein Hospital	Province Facility	Family Medicine, Internal Medicine	Extreme
2.	Ventersdorp Hospital	Province Facility	Accident and Emergency	Extreme
3.	Jouberton CHC	Province Facility	Gynaecology & Obstetrics	Extreme
4.	Joe Morolong Hospital	Public	Oncology	High
5.	Witrand Psychiatric Hospital	Province Facility	Psychiatry	High
6.	Klerksdorp/Tshepong Hospital	Public	Accident and Emergency	High

Northern Cape Province

No	Facility Name	Type of Facility	Discipline	Risk Rating
1.	Kuruman Hospital	Province Facility	Internal Medicine	Extreme
2.	Warrenton Hospital	Province Facility	Out-Patient Department	High
3.	Robert Mangaliso Sobukwe Hospital	Province Facility	Paediatric	High

Western Cape Province

No	Facility Name	Type of Facility	Discipline	Risk Rating
1.	Somerset Hospital	Province Facility	General	High
2.	Groote Schuur Level 2 Hospital	Province Facility	Internal Medicine	High
3.	Tygerberg Level 3 Hospital	Province Facility	ICU	High
3.	Tygerberg Level 3 Hospital	Province Facility	ICU	Extreme

5. Feedback from a Health Establishment that was investigated

An example of feedback that depicts how the Health Ombud and the persons rendering assistance and support to the Ombud perform their functions in good faith and without fear, favour, bias or prejudice:

Dear Sir, Madam,

"On behalf of clinical services at XX Hospital, we would like to thank you for working so hard to get the outcome of the Investigation concerning Dr XX, who was made aware of the outcome of the investigation.

Dr XX recognized that he was wrong and not writing the notes. He relied on the Intern only to find that the intern was still new and could not blame him, he apologized and regretted not doing the right things. (see attached below the report from the DR).

As the Quality Assurance department, we acknowledged that Patient Safety Incident guideline was not adhered to as this was supposed to be reported within 24 hours as it was Severity Assessment Code 1.

As a Hospital, we sincerely apologize and send our condolences to the family for their loss."

Thank you. DR XX, CLINICAL MANAGER

6. Training

The Complaints Investigation Team attended the following training and webinars

Date	Topic
25 – 27 May 2022	Incident Investigation Training (Level 3)
17 - 19 August 2023	Peace Officers Training

7. Webinars

Date	Topic
18/01/2023	KZN & AORC: Mediation.
15/11/2022	KZN & AORC Webinar: Dealing with challenging Behaviour
13/10/2022	KZN & AORC Webinar: Ombuds Day 2022-UN Resolution on Ombudsman and Mediators, The Venice Principles and the OR Tambo Declaration.
23/08/2022	KZN & AORC Webinar: Showcasing Sectional Ombudsman (Municipal, Police and Military Ombudsman)
12/07/2022	KZN & AORC Webinar: Document Storing and Archiving.
14/06/2022	KZN & AORC Webinar: Effective Investigation Strategy - Building Block, Methods/ Tools.
19/04/2022	KZN & AORC Webinar: Managing Evidence

8. Legal Issues

The Ombud received legal opinions on the issues mentioned below:

- Involvement of attorneys by at least one health establishment requesting clinical records, which was addressed and mitigated.
- Refusal of one health establishment to release medical records and investigative reports pertaining to a complaint that was under investigation.

Appeals

The Ombud received five (5) applications for appeal against his decisions in the following cases:

Reference	Name of the health establishment
27550	Livingstone Tertiary Hospital
9689	Elizabeth Ross District Hospital
3061	Life Flora Hospital
7400	Netcare Kingsway Hospital
28857	Thornhill Community Health Centre

For each of the appeals lodged, the Minister of Health has approved the appointment of an ad hoc Tribunal to adjudicate the appeal.

9. Engagements with Provincial Department of Health Offices

The Office of the Health Ombud (OHO) continued with the ongoing process of engaging with the various Provincial Departments of Health in the period under review. The Health Ombud led a delegation of six (6) representatives of the OHO to Kimberley in the Northern Cape (NC), Cape Town in Western Cape (WC) and Nelspruit in Mpumalanga Province respectively. The aim of the engagement was to introduce and familiarise the Provincial Department of Health with the mandate and functions of the Office of the Ombud, as well as to raise any outstanding issues. During these meetings, the role and the obligations of OHO were outlined. Rapport was established, and areas of collaboration were identified for sharing matters of common interests; best practices, and lessons learned. The importance of information dissemination was encouraged.

Northern Cape Provincial Department of Health

On 06 April 2022, the Health Ombud met with the Member of the Executive Council (MEC) for Health: Mr. Maruping Lekwene and the Acting Head of Department (HOD) for Health: Mr. Riaan Strydom.

The recommendations emanated from the engagements were as follows:

- The MEC has been requested to intervene on access to information held by public health establishments as well as non-cooperation by the Hes.
- The OHO is to provide the Department with three cases that are still under investigation.
- The OHO is to provide quarterly reports on the number of cases received and closed to the health authorities.
- The Health Ombud and the team to reach out to other parts of the NC Province and address all the District Managers in the future.

Western Cape Provincial Department of Health

On the 16 May 2022, the Health Ombud met with MEC for Health: Dr. Nomafrench Mbombo and her provincial team.

The recommendations emanating from the engagements included:

- Governance: the Clinic Committees and Boards should be strengthened.
- Where there are better practices, they should be adopted and shared.
- There is a need to host symposiums to gather input.
- Hosting avenues where patients are co-partners in health provision.

Mpumalanga Provincial Department of Health

On the 28 June 2022, the Health Ombud met with the MEC for Health: Ms. Sasekani Manzini. And the Acting HOD: Ms. Duduzile Mdluli.

The recommendations emanating from the engagement included:

- a) The OHO to escalate some of the issues to the political head.
- b) Quarterly reporting

In conclusion, the intention of the OHO's engagement with all nine provinces was to sensitize senior management to the existence of the OHO and his mandate. Ultimately, the role of the OHO is to improve the quality of health services by ensuring transparency and accountability for the benefit of all patients receiving health care in South Africa. The OHO does not promote litigiousness but focuses on ensuring adherence to promulgated norms and standards for health establishments to ensure high quality of health care. However, the emerging pattern is that more and more, dissatisfied complainants are seeking financial compensation.

10. Referrals to other statutory Authorities/Entities

The Health Ombud established a referral pathway for significant cross-jurisdictional issues (for example, findings involving the conduct of nurses/health care professionals). This is in keeping with Regulation 49 of the Procedural Regulations Pertaining to the Functioning of the Office of Health Standards Compliance and Handling of Complaints by the Ombud (Procedural Regulations).

The Health Ombud has established rapport through a Memorandum of understanding (MoU) with the Public Service Commission (PSC). Therefore, cases with findings denoting ostensible illegitimate appointment of health care professionals are referred for further probing to the Public Service Commission (PSC), which is an independent institution established in Chapter 10 of the Constitution with a specific focus on the Public Service and oversight of public administration to investigate, monitor and evaluate the organization and administration, and the personnel practices of the Public Service as provided on Section 196 (4)(b).

11. Establishing the Office of the Health Ombud: Engagement with the Minister of Health

On 4 April 2022, the Health Ombud met with the Minister of the Department of Health, Dr. MJ Phaahla, the Deputy Minister of Health, Dr. S Dhlomo, and the management team. The purpose of this engagement was to discuss the mandate, governance, benchmarking, approved structure by the DPSA and the budget of the OHO as approved by the Presidential Health Summit through Resolutions. Lastly, the Health Ombud wanted to establish the progress pertaining to the Draft OHO Bill.

These are the ongoing discussions which emanated in November 2021 when the Health Ombud presented his Report on the affairs and functions of his office to the Portfolio Committee on Health (PCH). One of the challenges the Health Ombud raised in the Report was the delay in finalising the HOB and requested the PCH to intervene and expedite the process. In response to the request, then the PCH advised the Health Ombud to request a meeting with the PCH, the National Department of Health, the Ministry and the OHO to fast-track the finalisation of the HOB.

a) Engagement with the Deputy Director-General (DDG), Department of Health

On 27 May 2022 and subsequently, the Health Ombud met with the Deputy Director-General, Dr N Crisp who was going to lead the project of establishing the OHO then. The DDG gave a detailed account of how far the process was in respect of introducing the OHO Bill to Parliament. Subsequently, the legal team of the Department of Health met with the OHO officials responsible for legal issues and reviewed the bill to be aligned with the recommendations of the State Law Advisers.

b) Update on the Health Ombud Bill Business Case

On 31 October 2022, the officials from the Department of Health made a presentation to the Health Ombud pertaining to the benchmarking exercise undertaken with the following institutions:

- Queensland Health Ombud
- New Zealand Health and Disability Commissioner
- Parliamentary and Health Services Ombudsman (PHSO)
- Military Ombud
- Public Protector
- Tax Ombud

Emanating from the business case, a proposed organisational structure for the OHO was presented to the Health Ombud. This presentation was nothing new or nothing innovative but an elaborate update. Instead of streamlining the organogram, there was an expansion that added more costs. The new proposed organogram was fit for bureaucracy and not fit for purpose. The stakeholders consulted were stakeholders Prof Makgoba had consulted several years previously when he had prepared the OHO initial structure.

Following this, the Bill served at Social Protection, Community and Human Development (SPCHD Cluster) in January 2023 and Treasury raised concerns about the number of statutory bodies being created. The Cluster requested the Department of Health consult with Treasury and therefore the Bill could not be approved for the Forum of South African Director-General (FOSAD) consideration. The Department of Health is currently in consultations with the National Treasury.

12. Way Forward

Following the above-mentioned processes that have been ongoing, it is strongly recommended that the Offices of the Deputy Director General: Health Regulation and Compliance, Corporate Services and Legal prioritise and finalise the Health Ombud Bill and the establishment of the Office of the Health Ombud as per instruction from the Minister of Health, following engagements with the Parliamentary Health Portfolio Committee in March 2022. All three offices have been extensively involved in discussions with the Department of Public Administration (DPSA), the National Treasury and the Presidential Health Summit 2018 in formulating the organogram, parliamentary Bill and related budget for the Office of the Health Ombud, with no tangible action to date.

13. Partnership with the PHSO

In 2021, the OHO and Parliamentary and Health Services Ombudsman (PHSO) signed a twinning agreement with the aim to foster cooperation and the exchange of knowledge, experience, and skills in investigating and managing health sector complaints which cannot be resolved by other government departments or related institutions.

In December 2022, the Health Ombud held discussions with the PHSO wherein an invitation was extended to the OHO to visit Manchester City, in the United Kingdom at the beginning of 2023. The purpose of the visit was to:

- Share knowledge between personnel of the two offices through a series of mutual learning sessions, topics of which are to be collectively determined; and
- Whenever possible, disseminate learning arising out of the engagement to the broader international Ombudsman community to build international collaboration and solidarity.

As the contract of the current Health Ombud was coming to an end in May 2023. The OHO opted to postpone the visit to the United Kingdom until the new Health Ombud was appointed.

14. Letters of Congratulation and Appreciation

From the Ombudsman Robert Behrens CBE

Professor Makgoba
Office of the Health Ombud (OHO)



Sent by email mmakgoba@ohsc.org.za

12 April 2023

RE: PHSO partnership with the Office of the Health Ombud

Dear Prof,

I hope this finds you well. It is with some sadness that I note that your term as Health Ombud in South Africa is coming to an end after 7 remarkable years. I had hoped that we would be able to meet one more time before your departure since your engagement is enriching, highly regarded and immensely valuable to all of us in the same 'trade.'

Your tenure has been of outstanding value to all vulnerable people in South Africa in these most challenging of times. Your handling of the Esidimeni case involving mental health patient safety failures in Gauteng was a brilliant piece of work and a model for all of us to follow. You spoke 'truth unto power' and got the key messages across with rigour, scholarship and textual clarity.

I believe our link and the consequent meetings via Microsoft teams have been successful and enjoyable, that is certainly the view of my colleagues. We would like these to continue. As you know, we had planned to invite you to Manchester to give a public lecture on your experience as Ombuds and while this may now be more difficult, the door is always open to you as a trusted friend and I can envisage a roundtable gathering to hear of your experiences remotely to be a worthwhile, if poor substitute. Perhaps we can discuss these possibilities further in the coming weeks.

I want you to know that you are not only a friend but also a mentor and I have learned a great deal from our conversations. I've also additionally learned about your insights into Robert Sobukwe, the great and somewhat overshadowed leader of part of the liberation movement during Apartheid.



Millbank Tower
Millbank
London SW1P 4QP

Telephone: 0300 061 4308
Email: Rob.Behrens@ombudsman.org.uk
www.ombudsman.org.uk

Please let me know if there is any chance of you being in London or Manchester in a private capacity in the next year. Please also send my regards and best wishes to your excellent colleagues who have been fortunate in having you as their leader over the formative period of the office. Given the dilemmas faced by the Public Protector in the last two years it has been vital for the integrity of the public service that your own office continues to act with integrity and authority.

With best wishes for your continued good health and future projects.

Yours sincerely

Rob Behrens

Rob Behrens CBE
Ombudsman and Chair
Parliamentary and Health Service Ombudsman

CC: Antony Phillipson, British High Commissioner to South Africa
Sir Alex Allan KCB, Senior Non Executive Board Member, Parliamentary and Health Service Ombudsman



Millbank Tower
Millbank
London SW1P 4QP

Telephone: 0300 061 4308
Email: Rob.Behrens@ombudsman.org.uk
www.ombudsman.org.uk



British
High Commission
Pretoria

13 June 2023

Professor Malegapuru William Makgoba
Outgoing Chair, Health Ombudsman for South Africa
[by email: liyane@ohsc.org.za]

Dear Professor Makgoba

I was sorry not to have been able to attend the stakeholder event held in your honour on 30 May. But I wanted to write to record formally our sincere appreciation for your commitment as Health Ombud in promoting quality health care for all South Africans.

We have greatly valued your insight and guidance across key aspects of the South Africa/UK health partnership in recent years. Your committed engagement and close cooperation have created a lasting legacy. We will continue to strengthen the institutional relationship you have forged between the UK and SA Health Ombudsman offices.

It has also been a pleasure to witness your leadership of the Health Ombud's office, especially in trying times such as the deeply uncomfortable Life Esidimeni hearings. Your sound leadership and council provided a blueprint from which we can all learn.

On behalf of us all at the British High Commission, I wish you well with the next chapter of your career

Yours sincerely,

Antony Phillipson
High Commissioner to South Africa

Office of the High Commissioner
Antony Phillipson

British High Commission
255 Hill Street
Pretoria 0002

Tel: (27) 12 421 7503
Fax: (27) 12 421 7540
www.gov.uk/world/southafrica

15. Seven Years: Reflections and Lessons Learnt from the Founding Health Ombud

South Africa can prioritise the legalisation of cannabis but cannot prioritise setting up an independent office health ombud following established international best practices. As a country, we have strange priorities.

a) Concerns on the legal framework, Governance, Budget, and Staff.

I was appointed Health Ombud as of the 1st of June 2016 for a non-renewable term of seven years. At the end of June 2016 and after spending a month in the office, I penned a note to Minister Motsoaledi highlighting concerns about the legal framework, the contradictions in governance arising from this configuration, the independence of the office, the reporting framework to parliament, the severe constraints in the staffing and budget. At the time I had conducted an analysis of the offices of the Ombudsman globally, their histories, how they are appointed and governed. I established the African Office of Ombud Research with former public protector Adv Lawrence Mushwana at the University of KwaZulu-Natal. Matters went quiet. The Minister agreed with these concerns but cautioned that it would take a long time to change the legislation. What I did not bargain for is how protracted the process would be.

What was obvious was how different the mandate of the OHSC is from that of the OHO; it was a gross error to setting up the OHO without budget and staff; it was incorrect to piggy-back or frame the mandate of the OHO based on and in line to that of the OHSC. The OHO mandate was broader than the current narrow 'norms and standards. What is so tragic was how little the department's officials understood what they had created, how little they understood how Ombud's offices are governed, and operated and how little they understood how the structure they created would function in the real world.

The expectation of the department was different from that of the portfolio Committee on Health, which repeatedly supported an independent organisation. Through 'cut and paste', with little research, and no knowledge or experiences on offices of Ombud, the department officials turned an excellent idea into a mess and a nightmare operationally. I had to untangle and work in and through this mess.

I was advised to approach the DPSA and NDoH to revisit the issue of the Office of the Health Ombud. Meetings were held between the two departments and an organogram, and a budget were prepared using best practice benchmarks. The DPSA was most helpful in following best practices and benchmarking the organogram. The DPSA officials involved Minister Faith Mutambi all the time and she was most helpful. The NDoH officials kept going around in circles. The NDoH legal team prepared a draft bill which has not gone too far. Despite the recognition and acceptance by both departments for the office to be a stand-alone organisation, there is no urgency and there is a reluctance by NDoH officials to prioritise this matter.

Minister Aaron Motsoaledi put the office of the Health Ombud, its budget and staffing to the Presidential Health Summit in 2018, which approved the gradual increase of the budget and staffing over a period of 5 years. The organogram proposed a complement of 113 staff with a budget of R132m over a 5-year period. Very little movement has taken place since the Presidential Summit. In fact, there was an admission that nothing has been done in the last Presidential Health Summit (May 2023). Currently, the Budget of the OHO is approximately R23m far short of the ideal proposed budget 5 years ago.

The Portfolio Committee on Health resuscitated the process by arranging a meeting between the Minister of Health, Dr. Joe Phaahla, and the Health Ombud. Following the meeting, the minister appointed and instructed Dr. Nicholas Crisp, DDG, to revitalise the process which he did with better understanding, knowledge, and success. Dr Nicholas Crisp understands the role and issues involved in this office much better.

16. The Principle of Separation, Independent and Proper Health Ombud Mandate is now well Established and Accepted.

What are the unique features of the Office of the Health Ombud?

i) As a result of international best practices and organograms, the investigation, and legal units, which did not exist, were introduced after my appointment. It was recognised that investigations formed the bedrock of the Ombud's office and consequently, the findings and recommendations have far-reaching implications for those implicated, in establishments or personnel. So, in preparing the reports and when the reports are challenged, legal practitioners are needed. It was therefore necessary to establish a legal office. I was only allocated three health investigators and one legal investigator. There is an urgent need for the investigations and legal units to grow. The National Health Act analysed and interpreted by several lawyers, was clear that Complaints were the responsibility of the Ombud, while the inspectorate, setting norms and standards and certifications in health establishments were the responsibility of the OHSC. This distinction is critical.

ii) Investigators had to be appointed and trained for the proper task of investigating complaints. The current investigators have undergone 7 Workshops/Training and 18 IOI and AORC Webinars on investigations and report writing. In addition, they have had exchanges with the UK's Parliamentary Office on investigations, assessments of complaints and report writing. **The Office now has at least three well-trained and confident investigators, who understand the nature of health investigations.**

iii) Independent Expert panels in the investigations. Medicine and the Healthcare profession have become super specialised and have become more biological and molecular. It is important for Ombuds to recognise that with the opinions and support of these super specialists their findings are strengthened and will stand the test of scrutiny in the courts. We have introduced this for our investigations. Importantly, with court challenges often requiring expert opinions it is essential to prepare the Ombuds reports incorporating expert opinions. **These expert panels have depended on the goodwill of colleagues in the Medical Schools. There is a requirement to formalise this going forward.**

iv) We also signed an MOU with the Parliamentary Health Ombud of the UK to interact, profile, exchange experiences and benchmark the Ombuds internationally. **This MOU has proved beneficial in training, exchanging best practices and raising the office's profile.**

17. History and Pattern of Complaints.

The number of complaints received by the OHO since its inception is 14232 with the majority (>93%) being resolved. The provincial analysis pattern shows that the Gauteng Province accounts for over 50% of complaints and the Northern Cape Province accounts for the least complaints. Over 88% of complaints are lodged through e-mails and 99% are rated as low risk in nature.

Of the complaints lodged in the office, 65% are from the public health sector while 35% are from the private health sector. This confirms the OHO mandate of taking care of all complaints in the national health service.

Over the seven years, we have observed several complaints where complainants seek punishments or monetary compensations which are both inconsistent with the legislated mandate of the Ombud. The notion of seeking closure is reduced.

South Africa's courts are fully equipped and capacitated to address health litigation matters. The HPCSA is competent and the most appropriate structure to address health professional misconduct and disciplinary matters. The HPCSA has a long history of addressing health professional misconduct and disciplinary process. The Office of the Health Ombud does not have disciplinary powers.

However, complainants approach the Ombud to seek endorsement almost like a competent referee or license to support their complaints in the courts. This approach should be eschewed.

In all investigations and in preparing the reports, the office has always respected the audi alteram partem principle.

18. Appeals against the Office of the Health Ombud Reports.

The findings and recommendations of the Health Ombud have been subjected to appeals and court challenges. The Ombud faced several appeals following the Life Esidimeni report and the Tembisa Tertiary Provincial Hospital Reports and several others. None of the court challenges was successful and all appeals that 'prayed for' the Ombud's reports be rendered null, and void failed.

So far, no report of the Health Ombud has been set aside.

A significant pattern emerged that complainants and some Health Establishments seem to want the Ombud or coerce him to make findings in their favour. When this does not occur, then an appeal is lodged and registered with the Minister of Health. They do not appreciate the impartial and independent nature of the office.

That the office has had appeals and court challenges ruled in its favour is a testimony to the high quality of work done by investigators. This is commendable in view of the shortage of staff and the pressures placed on them by complainants.

19. The Independence of the Health Ombud.

Over the seven years, I served three ministers of Health and two deputy ministers. The Ministers were: Drs. Aaron Motsoaledi, Zwelini Mkhize and Mathume Phaahla. The Deputy Ministers were Drs. Mathume Phaahla and Sibongiseni Dhlomo. None of these has ever interfered with the investigations, findings, and recommendations of the Health Ombud.

This is a significant ethos as political interference and manipulation are of common concern in many South African institutions. **It would also help greatly in the trust and confidence of the Office of the Health Ombud if the incumbent Health Ombud was not beholden to a political party.** A national position that requires impartiality, in a similar way to a position of a judge, should equally be held by an impartial person. It should be made an explicit criterion for whoever holds this position to not belong to a political party but to understand the political environment in which he/she operates. In this way, the likelihood of political manipulation is lessened, and the independence of the office is strengthened.

20. Provincial Visits.

The Office of the Health Ombud undertook a visit to the Provincial Departments of Health to introduce itself and explain its mandate and modus operandi and seek challenges that the provinces are facing. Through these visits, the Office and its staff interacted with the MECs and their staff. These visits were quite instructive from both sides. **The Western Cape MEC of Health and her staff have their act together in terms of complaints and how they manage these.**

The Eastern Cape and the Gauteng departments of Health seem the most dysfunctional. As a result of this dysfunction services are poorly delivered and patients bear the brunt of this poor service delivery. This assessment is borne by investigations by the Public Protector and the Inspectorate Division of the OHSC and the Health Ombud at the Tower Psychiatric Hospital, the Livingstone Provincial Hospital, Dora Nginza Hospital, and the Uitenhage Hospital. In addition, the investigation included the Eastern Cape Health Department, the labour formations, and new Medical School at the NNMU. The working relationships are poor with low trust among the stakeholders. The only casualty in this scenario is poor service delivery to patients. As a result, members of the Portfolio Committee on Health visited the EC to conduct oversight visits for themselves.

In the Gauteng Province, investigations into the Life Esidimeni saga, the Tembisa Provincial Tertiary Hospital, and the Rahima Moosa Mother and Child Hospital all reveal an alarming pattern of poor leadership, staff shortages, poor governance and several breaches of norms and standards leading to a persistence dysfunction of the health system. The ombud's office did not visit the Northwest Province as it is under administration.

It is important that the NDoH develops a comprehensive national vision and strategy to address all the factors that lead to this dysfunction.

21. International Linkages.

The office was able through the Better Health Programme, to form linkages with the UK's Parliamentary Health Ombud, Mr. Rob Behrens, and his team.

The purpose of this linkage was to exchange staff, ideas, and best practices. Equally, it was important to share unique experiences from our respective vantage points of a developed nation vs a developing country with a strong human rights-based constitution. This linkage has proved very useful and provided the office staff to travel to the UK to interact with their colleagues and experience directly how another ombud office functions and how it is governed and resourced. It was a great eye-opener for the office staff and has improved their determination and confidence in the work they do. I am grateful to Rob and his team, to the Better Health Programme and to the British High Commissioner for all the support provided.

The office became a member of the International Ombudsman Institute, a global body of Ombudsmen that facilitates sharing of international experiences and peer review processes. The recommendation was made by the UK's Parliamentary Health Ombudsman.

The OHO is also a member of the African Ombudsman Mediators Association whose resource and archive centre is the African Ombuds Research Centre (AORC) located at the University of KwaZulu-Natal, a centre that Adv Lawrence Mushwana and I established during my tenure as vice-chancellor.

22. High Impact Investigations and Report.

Five major investigations that are in the public domain and have high impact for the national Health System are listed below:

- a) The Report into the circumstances surrounding the deaths of mentally ill patients: Gauteng Province, commonly known as the Life Esidimeni scandal.
- b) Report on an Investigation into Allegations of Patient Mismanagement and Patient Rights Violations at the Tower Psychiatric Hospital and Psychosocial Rehabilitation Centre (TPHPRC).
- c) Eastern Cape Investigation subsequent to the investigation by the Public Protector.
- d) The Report into the circumstances surrounding the care and the death of Mr. Shonisani Lethole at Tembisa Provincial Tertiary Hospital.
- e) Report into allegations against Rahima Moosa Mother and Child Hospital.

23. Media Measurement Reports

The tables below are a measure and an indication of the impact of these four reports.

What are the key results for the timeframe ?			
Reports	Mentions	New Potencial Reach	Sentiment
Mentally ill patients in Gauteng	227	41.7M	-66
Rahima Moosa Allegations	2.05k	345M	-66
Shonisani Lethole	409	376M	-45
Tower Psychiatric Hospital	136	424M	-54

How does the earned media break down ?			
Reports	Share of Voice by Search	Mentions Trend	Mention Trend by Source Type
Mentally ill patients in Gauteng	224	41	40+
Rahima Moosa Allegations	2.05k	932	800+
Shonisani Lethole	409	106	100+
Tower Psychiatric Hospital	136	32	30+

What is the potential reach?

Reports	Share of Voice by Reach	Potential News Reach
Mentally ill patients in Gauteng	31.7M	6.7M
Rahima Moosa Allegations	345M	115M
Shonisani Lethole	376M	117M
Tower Psychiatric Hospital	42.4M	19M

These high-profile investigations have brought much-needed trust and confidence to the Office of the Health Ombud in the public's mind.

24. Quality vs Quantity in Investigations

It takes longer to impart quality into the Health System. The quality of the national health system is important considering the state in which it is currently from many expert opinions and studies and readying for the introduction, success, and sustainability of the National Health Insurance. Most oversight structures in our country including parliament are into the 'tick box' culture where quantity is falsely equated to good or excellent performance. This quantity culture often puts pressure on institutions resulting in corners being cut short in the process in order to comply. A good balance needs to be struck between these two parameters of quality vs quantity.

It takes at least **six months to undertake** an investigation of a high-risk complex complaint that involves many stakeholders such as the Life Esidimeni or the Rahima Moosa Mother and Child Hospital.

In association with Better Health Programme, the Ombud commissioned a short study headed by Prof Welile Shasha to study the impact of the Ombud's reports. The study revealed the positive widespread and international impact of the Life Esidimeni report. For its quality and the issues, it documented, the report is regarded as benchmark of Ombud's reporting. This Life Esidimeni report is regarded as a truly outstanding and excellent example of Health Ombud investigations. Its recommendations are being taken forward and implemented.

We also receive feedback from the users of the ombud's office and these are incorporated into the annual reports. These have been positive.

25. Outstanding issues

i) OHO Bill and Separation of OHO.

The OHO Bill should be finalised to separate the OHO from the OHSC soonest. The current configuration as defined in the National Health Act, defies all best practices internationally, in corporate governance principles and renders the OHO less efficient and creates governance dysfunctionality. Apparently, the latest version of the Bill was rejected by FOSAD through motivation from National Treasury. This is inconsistent with the role of National Treasury. They have become the tail that wags the dog i.e., in determining what functions line departments should be doing in running their services effectively and efficiently.

ii) Backlog cases.

The solution to backlog cases is a function of staffing shortages, budget restrictions, and the governance of the OHO.

Resolve the functional relationship between the OHO and the Complaints Unit located in the National Department of Health.

iii) Creating a Professional Career Track.

In the absence of an organogram and a secure budget it is virtually to create a career structure for staff employed with the office.

This is important for staff security and staff ambition knowing that they can aim high and get there over time.

26. Way-Forward: Solution

i) To establish the OHO as a fully-fledged independent institution through an independent Bill, with its own budget befitting or consistent with its mandate and best international practice. This Bill has been prepared and is ready to go through the consultative process.

ii) Parliament and the NDoH must make up its mind what they want to achieve out of the Health Ombud's Office. This shoddy and piggy-back approach will not serve the nation well, let alone the office and the incumbent into the future.

iii) The NDoH officials responsible for this sector must prioritise and act urgently to complete this process to establish this office.

It has been a great honour and privilege to serve. I am grateful for the support I enjoyed from the CEOs of the OHSC, Mr. Bafana Msibi and Dr. Sipiwe Mndaweni.

I also wish to thank the OHSC Communications team, specifically Mr. Ricardo Mahlakanya and Mr Medupe Simasiku for their untiring efforts to profile the work of the Office of the Health Ombud efficiently and effectively. They are consummate professionals whose skills, passion and knowledge ensured that all communicate, media engagements, statements and briefings, investigation reports and other activities were handled flawlessly.

I appreciate the support from the ministers and deputy ministers of Health: Drs. Aaron Motsoaledi, Zwelini Mkhize and Joe Phaahla. Deputy Ministers Drs Joe Phaahla and Sibongiseni Dhlomo. I am deeply grateful to the Health Portfolio Committee for their steadfast support and guidance during my tenure as Health Ombud.

Finally, my gratitude goes to my personal assistant, Ms Linda Jiyane, and the entire Complaints Management team, gracefully led by my senior colleagues, Dr Donna Jacobs, Ms Nompumelelo Ndou, Ms Ntombi Ndukuya, Mr Phogole Maesela, Ms Helen Phetoane, Mr Douglas Mapheto and all the staff in the Complaints Call Centre, Complaints Assessment and Complaints Investigation Units without whom the accomplishments over the last seven years would not have been possible. It has been a pleasure to work alongside each and every Complaints Officer, Administrator, Assessor, Investigator and Manager in the true spirit of teamwork and collegiality.



PROFESSOR MALEGAPURU W. MAKGOBA
HEALTH OMBUD

MB., ChB., (Natal); DPhil., (Oxon); FRCP (Lond); FRS (SA); FCP (SA) (*ad eundem*); Foreign Associate Member of the USA Academy of Medicine; OMS

Date: 31-05-2023



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



PHYSICAL ADDRESS: 79 Steve Biko Road
Prinshof
Pretoria
0084

POSTAL ADDRESS: Private Bag X21
Arcadia
0007

TELEPHONE NUMBER: +27 12 942 7700
WEBSITE: www.oho.org.za

RP221/2023

ISBN: 978-0-621-51313-4

Title of Publication: Office of the Health Ombud Annual Report 2022/2023

