

**NOT IN THE HOUSE**  
**The extent of and responsiveness**  
**to public input in South Africa's**  
**legislatures 2009 – 2015**

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# Introduction

*“Welcome to the Parliament of the Republic of South Africa. Your call is important to us because we are your Parliament, serving your needs as the citizens of SA.”<sup>1</sup>*

Strong legislatures, capacitated to fulfil their representative, oversight and legislative functions are essential to democratic systems capable of achieving social justice, transformation and promoting human rights. Equally, strong democracies require strong, diverse and independent civil society that promotes a plurality of voices.<sup>2</sup>

The Constitution positions legislatures at the heart of South Africa’s democracy, requiring that the National Assembly (NA) *“represent the people”* and *“ensure government by the people under the Constitution”*.<sup>3</sup> To this end, legislatures must be empowered through legislation, be independent, open and accessible to citizens and be sufficiently resourced. The broad powers of Parliament and legislatures are set out in sections 55 (relating to the NA), and 114 (dealing with the Provincial Legislatures (PLs) of the Constitution.<sup>4</sup> These are their mandates to pass and amend legislation; to ensure that the executive is accountable to it; and to exercise oversight over the executive’s implementation of legislation. In addition, the Constitution contains provisions that expand on the legislature’s public participation and representivity functions, requiring a high level of openness, public access and public involvement in the legislatures.<sup>5</sup>

The failures of South Africa’s legislatures in fulfilling their roles or serve the interest of the South African public is at the forefront of many discussions. Changes in the language of Parliament’s strategic plans and public relations material over a number of years illustrate a shift in the legislatures’ own rhetoric regarding their role and purpose. The following quote, taken from Parliament’s website in 2014 emphasises the need for an open institution and the role of elected representatives to engage with, be responsive and accountable to citizens:

*“The people of South Africa are the Parliament, which is why it is called the “People’s Parliament”. ... The people you voted for are accountable to you, as it is you who elected them. It is their duty to listen to your opinions and needs. They must make sure the views of the voters are taken into account when they vote for laws. And they must report the decisions of Parliament back to you, the people. Everything they do and say must be open so that you, the voter can know what decisions are being made. So the people actively working for Parliament are there because the people of South Africa have put them there. And it is their duty to work for and represent every citizens [sic] of South Africa.”<sup>6</sup>*

By September 2015, the quote was replaced with text that takes a significantly more conservative approach. Commitments to openness and accountability are replaced by a single bullet point among a list of the roles of parliament which states that *“Members of Parliament have many responsibilities, including ... consulting with you, the people, and representing your views in Parliament”*.<sup>7</sup> The shift away

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<sup>1</sup> Recorded telephonic greeting when dialling parliament’s general telephone number. 10 September 2015.

<sup>2</sup> Friedman S and McKeiser E. 2009. *Civil society and the post-Polokwane South African State: assessing civil society’s prospects of improved policy engagement*. Centre for the Study of Democracy; Rhodes University/University of Johannesburg: Commissioned by the Heinrich Boell Foundation. Pp12-14

<sup>3</sup> Act 108 of 1996. Constitution of the Republic of South Africa. Section 42(3)

<sup>4</sup> Act 108 of 1996. *ibid* Section 55 for the NA and Section 114 for PLs

<sup>5</sup> Three sections are dedicated to these issue, section 59 in relation to the NA, section 72 in relation to the NCOP and section 118 dealing with the PLs. Act 108 of 1996. *ibid*.

<sup>6</sup> Quoted from the Website of the Parliament of South Africa. Accessed at [http://www.parliament.gov.za/live/content.php?Category\\_ID=14](http://www.parliament.gov.za/live/content.php?Category_ID=14) on 24 February 2014

<sup>7</sup> [http://www.parliament.gov.za/live/content.php?Category\\_ID=10](http://www.parliament.gov.za/live/content.php?Category_ID=10) accessed 22 09 2015. The bulleted list does include additional points not previously available, particularly regarding their oversight roles.

from participatory language towards language that emphasises their representative role, strongly signals the growing permission evident in the legislatures to operate purely according to party positions, based on the mandate of the vote. There is greater evidence of resistance to public contribution and increasingly, a 'participation lite' version of public participation is being 'offered' by the legislatures over the past few years. This is not to suggest that the legislatures' public participation was considered robust or strong, rather that some of the good practices that were developing have been increasingly encroached upon.

Frameworks for engagement between the public and government are underpinned by goals to promote greater connections between government and the people; to promote active citizenry and stronger communities; and to improve the performance of the public sector.<sup>8</sup> The extent to which this is achieved is deeply affected by the actual motivations of public officials to implement the policy. Studies into the motivation of government efforts for public participation and deliberation indicate that the primary motivation for the development of mechanisms and structures to engage with the public is the presence of a policy context that requires this.<sup>9</sup> Thus the purpose, methods and processes of most public engagements mean that they rarely, on their own terms, hold the potential for citizen influence on the outcomes.<sup>10</sup> For these reasons, the formulaic motivation of officials towards participation, underlies the widespread dissatisfaction, frustration and at times anger expressed by South Africans at what is considered, at best, to be box checking exercises and a 'sham' at worst.<sup>11</sup>

When questioning accessibility to and the effectiveness of spaces for public engagement, it's useful to consider not only the nature of the engagement, but also the nature of the spaces in which the engagement plays out. The spaces in which participation takes place are not neutral. Not only do the people who create the space have significant control over who enters the space, they also define the rules and procedures affecting who speaks and who is taken seriously, through this they have greater power to influence outcomes of the engagement.<sup>12</sup>

Gaventa frames participation within three different types of spaces: closed spaces to which only a few people have access; invited spaces, which are those to which citizens are invited to participate, which is typical of government-led participation processes; and invented (also called created or claimed) spaces – those spaces defined by citizens for engagement with the state. These invented spaces can include meetings called by citizens or citizen groups, public protest, engaging the media and building consciousness on issues.<sup>13</sup>

At the heart of discussions on public participation and influence is the question of power. Often technical approaches to processes frame issues in ways that obscure the '*political and power-laden controversial issues, such as those of resource access, control and equity*'.<sup>14</sup> Frequently, there are deep interests and significant resources or power at stake for some parties and the manifestations of these power relations are an obstacle to people realising their citizenship rights.<sup>15</sup> It is essential that participation processes are alive to these currents, that they are recognised in the planning phase and facilitation of the process, and that measures are put in place to ensure the protection of people who participate.<sup>16</sup> More importantly, consciousness-raising and building the capacity of people, through invented spaces, to push back against and equalise power, is essential.<sup>17</sup>

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<sup>8</sup> Barnes *et al.* 2004. *Ibid.* Pp4-5 (page number refers to the open source version)

<sup>9</sup> Barnes *et al.* 2004. *Ibid.* P6. (page number refers to the open source version)

<sup>10</sup> Friedman S and McKeiser E. 2009. *ibid.* P28

<sup>11</sup> Theron F, Ceaser N and Davids I. 2007. 'Participation according to IAP2 principles: Opportunity or challenge for integrated development planning in South Africa?' *International Journal of Public Participation* Vol 1. Issue 1. P9

<sup>12</sup> Gaventa J. 2006. Finding the spaces for change: a power analysis. *IDS Bulletin* Volume 37 Number 6 November 2006 © Institute of Development Studies. pp26-27; and Hicks J and Buccus I. 2007. *Ibid.* p112

<sup>13</sup> Theron *et al.* 2007. *Ibid.* P14; and Friedman S and McKeiser E. Friedman S and McKeiser E. 2009. *Ibid.* Pp37-38

<sup>14</sup> Wolmer W, Keeley J, Leach M, Mehta L, Scoones I and Waldman L. 2006. *Understanding policy processes: a review of IDS research on the environment.* Knowledge, Technology and Society Team, Institute of Development Studies, University of Sussex. P13

<sup>15</sup> Friedman S and McKeiser E. 2009. *Ibid.* P45

<sup>16</sup> Hicks J and Buccus I. 2007. Crafting new democratic spaces: participatory policy-making in KwaZulu-Natal, South Africa. *Transformation* 65. P105

<sup>17</sup> Gaventa J. 2006. *Ibid.* p30; and Hicks J and Buccus I. 2007. *Ibid.* P109

The legislatures' participation processes, as with most opportunities created by government for engagement are generally top-down, the public have little say or control in the process and frequently it is considered a benefit rather than the right of citizens.<sup>18</sup> They are 'invited' in nature and the content and agenda, the timeframes, location and venue, and the style of the meeting are all defined on the legislature's terms, not the public. It is important to question whose interests are served by creating a space for engagement, why was the space created and who has or does not have access to the space.<sup>19</sup>

Gaventa argues for 'resistance from below' to formal invited spaces, noting that invented spaces are often created by groups in rejection of closed and invited spaces.<sup>20</sup> Similarly, Friedman and McKeiser argue for the importance of civil society building strategic alignments and power outside of the state in order to increase influence, not relying on proximity to and engagement with the state – which is out of the reach of many – but through civil society mobilisation.<sup>21</sup> Certainly, investing in building the power and legitimacy of citizen-led invented spaces outside the spaces in which decisions are taken, can result in those groups having greater influence inside, in the closed spaces or in those that are invited.<sup>22</sup>

Thus key questions for civil society and the public seeking redistribution, transformation, social justice or the realisation of human rights are: How do we have influence in closed spaces? How well are we using and making claims on invited spaces? And, how are we creating spaces for engagement?

### **“Not in the house”**

This report captures initial findings of the first year's investigation of a five-year project that seeks to explore some of these questions. Mostly, public attention is firmly focussed on the events that play out in the National Assembly (NA) chamber of the national Parliament, often referred to as the 'house'. Far less attention is given to the performance of committees – the engine rooms of the legislatures. This applies not only to the national Parliament but also more broadly to the performance of the nine provincial legislatures (PLs). The first phase of this research focussed primarily on committees' performance in fulfilling their mandates. We looked at the overall nominal performance of eight NA and National Council of Provinces (NCOP) committees; we then looked more closely at the extent of public participation in three of those committees. In seeking to answer the more difficult question of if Parliamentary committees were responsive to public opinion and views, if the public participation had influence, and the independence of committee's from the executive, we considered different case studies. Some of the findings from the case studies have been included in the discussion in this report, however these will be more fully recorded in future reports.

In addition to the national we focus, we started to explore issues of access to elected representatives and legislatures through provincial and local mechanisms. Given that there has been far less attention to performance at the level of PLs or constituency offices, we started with the simple question of access, the foundation on which participation and engagement at any level is built. We have included some initial findings on performance of the PLs but at this phase it is minimal, an area that we will explore more comprehensively in future years of the research.

We have used a range of methods, relying most heavily on the Parliamentary Monitoring Group (PMG) records of committee meetings in the NA and NCOP between June 2009 and June 2015. Without access to PMG's independent records of committee meetings this research would not have been possible. In addition to relying on the written record of the meetings we examined the submissions that are attached, and for some case studies, we listened to the recording of the meeting to verify information on the written record.

In pursuing the questions of access to the PLs we have relied heavily on desktop searches of PL and political party websites, looking into the availability of information regarding the Eastern Cape and Western Cape Legislatures programmes and meetings. We explored this more fully in the Western Cape legislature where we also undertook site visits to selected committee meetings. Finally, we used internet

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<sup>18</sup> Theron *et al.* 2007. *Ibid.* P6 and p10

<sup>19</sup> Gaventa J. 2006. *Ibid.* p p26

<sup>20</sup> Gaventa, J. 2002. Exploring Citizenship, participation and accountability. *IDS Bulletin* Volume 33 issue 2. P10

<sup>21</sup> Friedman S and McKeiser E. 2009. *Ibid.* Pp39-40

<sup>22</sup> Friedman S and McKeiser E. 2009. *Ibid.* P7 and Pp37-38

sources and telephonic contact to ANC constituency offices in the Western Cape in order to gain insight into the question of citizen access to and the performance of these.

Part I of this report provides an overview of the legal and policy frameworks in which citizen participation takes place in South Africa. Building from the Constitutional Court's interpretation of the constitutional provisions addressed above and extending to descriptions of key content in the range of law, policies, rules, and frameworks that provide the official context in which participation in the legislatures takes place.

In Part II we provide an overview of our findings on the performance of selected committees in the national Parliament in the five-years of South Africa's Fourth Parliament subsequent to 1994 (from June 2009 to March 2014), and in the first year of the Fifth Parliament, following the 2014 general elections (from June 2014 to June 2015). Part III presents our findings relating to the PLs and constituency offices and finally in Part IV, we give a more in-depth picture of the performance and specifically the public participation in relation to three NA committees – the committees on Health, Basic Education and Police.



# PART I

## Framework for public participation in South Africa's legislatures

### Introduction

The framework for public participation in South Africa's legislatures is strongly grounded in the constitutional provisions discussed above. Unsurprisingly, taken on their own there is tremendous room for their interpretation. As such, greater direction has been given on the issue by the Constitutional Court; through legislation, through the Rules of the National Assembly, the NCOP and of the PLs, and through frameworks that have been developed by the legislatures that refer specifically to the mandate to ensure public participation. In this part we explore some of these, considering their relative strengths and weaknesses. Along with the theoretical frameworks, these documents form the basis on which we can later measure the performance of legislatures.

### The Constitutional Court

As stated above, the requirements for public participation in South Africa are framed by the Constitutional provisions for this. South African courts have dealt with the question of the role of the legislatures to promote participatory democracy and provided further guidance to Parliament on public participation in legislative processes.<sup>23</sup> In 2006, in *Doctors for Life International vs The Speaker of the National Assembly* (DfL), the Constitutional Court, specifically considered the legislative mandate of the legislatures. The Court first explores the meanings of the words 'involvement' and 'participation' and concludes that, plainly put, "*Facilitation of public involvement in the legislative process, therefore, means taking steps to ensure that the public participate in the legislative process*".<sup>24</sup> The Court then stresses that the form that the participation takes is at the discretion of the legislatures and will vary in different cases. Linked to this, the Supreme Court of Appeal has noted that participation is an '*inexact concept*' with scope for '*infinite variation*' and that the duty to facilitate public involvement can be '*fulfilled in many different ways*'.<sup>25</sup>

The Constitutional Court sets out a reasonableness test to establish the appropriate extent and nature of public participation.<sup>26</sup> This test requires the consideration of a number of factors, primary among these are '*the nature and importance of the legislation*' linked to the '*intensity of its impact on the public*'. The Court also indicates that the practicalities and efficiency of the law-making process should be considered, at the same time cautioning that inadequate public involvement cannot be justified based on these practical considerations alone.<sup>27</sup> Recognising the separation of powers, the Court clearly expresses that in considering reasonableness, it will take Parliament's own views on what is appropriate into account. In addition, it defines that the constitutional obligation includes providing meaningful opportunities for public participation in the law making processes and taking measures to ensure that people have the ability to take advantage of the opportunities that are provided.<sup>28</sup>

The Supreme Court of Appeal acknowledges that public participation extends from making information available to the public through to providing platforms for participation in decision-making.<sup>29</sup> Similarly, the Constitutional Court, drawing on US administrative policy, indicates that "*public involvement may be seen as 'a continuum that ranges from providing information and building awareness, to partnering in decision-making.'*"<sup>30</sup> The Constitutional Court is clear that Parliament must "*provide notice of and*

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<sup>23</sup> *King and Others v Attorneys Fidelity Fund Board of Control and Another* 2006(4) BCLR 462 (SCA); *Doctors for Life International v Speaker of the National Assembly and Others* (CCT12/05) [2006] ZACC 11; 2006 (12) BCLR 1399 (CC); 2006 (6) SA 416 (CC) (17 August 2006). (DfL); *Matatiele Municipality and Others v President of the Republic of South Africa and Others* 2006 (5) BCLR 622 (CC)

<sup>24</sup> DfL. *Ibid.* Para 120

<sup>25</sup> *King and Others v Attorneys Fidelity Fund Board of Control and Another* 2006(4) BCLR 462 (SCA)

<sup>26</sup> *Doctors for Life. Ibid.* Para 127

<sup>27</sup> DfL. *Ibid.* Para 128

<sup>28</sup> DfL. *Ibid.* Para 129

<sup>29</sup> *King and Others v Attorneys Fidelity Fund Board of Control and Another* 2006(4) BCLR 462 (SCA)

<sup>30</sup> DfL. *Ibid.* Para 129. Quoting States National Park Service, Director's Order No 75A: *Civic Engagement and Public Involvement*, 17 November 2003, available at <http://www.nps.gov/policy/DOrders/75A.htm> [accessed 24 July 2006]

information about the legislation under consideration” and regarding the available opportunities for participation.<sup>31</sup> However, it does not provide any guidance regarding format or timeframes. It also sets out some ideas that can be incorporated into the participation strategies of the legislatures, suggesting that public education may be a useful approach to provide information and facilitate learning and understanding, which in turn would improve the possibility that the public involvement is ‘meaningful’; and considering other mechanisms such as ‘road shows, regional workshops, radio programmes and publications’.<sup>32</sup>

Thus overall, the courts have strongly reinforced the legislatures’ duty to facilitate public involvement in law reform, but have chosen not to provide direction on how this should be implemented, leaving this to the discretion of the legislatures. To date, the courts have not provided specific direction regarding public involvement in the ‘other’ functions of the legislatures. This point is important because the Constitutional provisions clearly require public involvement in both the law-making and ‘other processes’ that the legislatures are mandated to fulfil.

As alluded to in the introduction, there is tension, which is ever growing, regarding the interpretation of the way in which elected representatives should engage with the public. Arguments that public participation ends with citizen’s voting in elections continue to be aired by some members of parliament and of provincial legislatures. The Constitutional Court is emphatic that South Africa’s democracy, given the apartheid history, is both representative and participatory.<sup>33</sup>

*“The democratic government that is contemplated in the Constitution is thus a representative and participatory democracy which is accountable, responsive and transparent...”*

The Court emphasises the value that was placed on people’s ongoing participation in decisions which affect their lives, in the development of the Constitution. It states that these are mutually supportive concepts which have a vital relationship to each other and therefore should not be seen in conflict.<sup>34</sup> It elaborates on the value of ongoing participation in a representative democracy:

*“The participation by the public on a continuous basis provides vitality to the functioning of representative democracy. It encourages citizens of the country to be actively involved in public affairs, identify themselves with the institutions of government and become familiar with the laws as they are made. It enhances the civic dignity of those who participate by enabling their voices to be heard and taken account of. It promotes a spirit of democratic and pluralistic accommodation calculated to produce laws that are likely to be widely accepted and effective in practice. ... Finally, because of its open and public character it acts as a counterweight to secret lobbying and influence peddling.”<sup>35</sup>*

Voter-centric democracy provides a limited version of democracy with narrow scope for the public to exercise their citizenship rights.<sup>36</sup> Theorists argue that the quality of democracy is undermined in these systems, particularly due to unresponsiveness of governments to citizens and a lack of accountability of the state. They elaborate that representative systems create very weak links between the state and citizens.<sup>37</sup> The concept of ‘participatory citizenship’ within more direct democratic systems has been developed to respond to the weaknesses in the capacity of representative systems to enable elected representatives to know what their constituents think about specific issues.<sup>38</sup>

Theorists therefore argue that public deliberation enriches representative democratic systems as the system becomes less reliant on simple aggregation of opinions that are uninformed by a process of discussion. The concept of deliberative democracy is particularly critical to develop systems of

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<sup>31</sup> DfL. *Ibid.* Para 131

<sup>32</sup> DfL. *Ibid.* Para 132

<sup>33</sup> DfL. *Ibid.* Para 121

<sup>34</sup> DfL. *Ibid.* Paras 108 and 122

<sup>35</sup> DfL. *Ibid.* Para 115

<sup>36</sup> Friedman and McKeiser. 2009. *Ibid.* P45

<sup>37</sup> Hicks & Buccus. 2007. *Ibid.* P97; Gaventa J. 2002. ‘Exploring citizenship, participation and accountability’ *IDS Bulletin volume 33 Issue 2*. P1 accessed May 2014 at <http://onlinelibrary.wiley.com.ezproxy.uct.ac.za/doi/10.1111/j.1759-5436.2002.tb00020.x/pdf>

<sup>38</sup> Friedman and McKeiser. 2009. *Ibid.* P45 P1 and p3

democracy in which citizens can meaningfully engage the state under circumstances that allow for a range of positions and ideas to be debated.

## Legislation

No single piece of legislation or policy governs public participation in South Africa. In terms of public participation in the legislatures, guidance is mostly contained in the Rules of the legislatures, along with a number of other documents with variable levels of enforceability, standards and frameworks for participation.

The Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act does not provide significant direction in terms of the functioning of parliament, nor regarding public access and participation (save for the sections which give the Speaker control over broadcasting from Parliament).<sup>39</sup>

The most direct legislative provisions for public participation in the work of the legislatures are found in the Money Bills Amendment Procedure and Related Matters Act (Money Bills Act).<sup>40</sup> The Money Bills Act is significant because it gives stronger direction to legislatures on their constitutional role to perform oversight over the executive. It focuses on the role of the legislatures in decisions regarding the utilisation of public money and seeks to enhance the systems of parliamentary oversight over executive decisions relating to financial planning, budgeting and spending. Analysis of the Act, however, raises questions about the potential impact of the legislation. Pauw argues that it will not be effective for two primary reasons: the systems and procedures contained in the Act are too onerous for legislatures to effectively implement them and, most importantly, the role given to Treasury in the Act dominates the Parliamentary process and decisions.<sup>41</sup>

Section 5 of the Money Bills Act requires parliamentary committees to assess departmental performance on an annual basis. It sets out the basis on which this assessment must be made, including consideration of the medium term estimates of expenditure, the strategic plans, expenditure report, financial statements and annual reports of each department. Committees are then required to submit budgetary review and recommendation reports (BRRRs), which must assess the performance of departments in delivering services in the context of the resources available and must assess the effectiveness of the use and allocation of resources; and it may include recommendations regarding the future allocation of resources.<sup>42</sup>

The Act does not *mandate* public participation in the processes of the various committees however section 8 of the Act, mandates the committees on Appropriation and Finance to hold annual public hearings regarding the annual fiscal framework and revenue proposals.<sup>43</sup> This is the only instance in legislation in which public participation is expressly articulated. This legislated duty to involve the public on a particular issue signals the intention of the legislature to ensure that public opinion is embedded in processes relating to public money.

## Rules

The Constitution empowers the NA, NCOP and PLs to make rules regarding their procedures.<sup>44</sup> It enjoins that these rules should be made with '*due regard to the representative and participatory democracy, accountability, transparency and public involvement*'. The NA and NCOP have developed rules, so too have the PLs. These are regularly updated; by May 2014, the Rules of the NA were in their 8<sup>th</sup> edition and further amendments had been made to that edition in May of that year already.<sup>45</sup> The last time that the

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<sup>39</sup> Powers, privileges and immunities of Parliament and Provincial Legislatures Act 4 of 2004.

<sup>40</sup> Money Bills Amendment Procedure and Related Matters Act. No. 9 of 2009

<sup>41</sup> Pauw JC. 2011. 'Will the Money Bills Amendment Act enhance the power of the purse in South Africa?' *Politeia*. Vol 30: Issue 3: 54-73

<sup>42</sup> Act. No. 9 of 2009. *Ibid.* Section 5(1) and (2)

<sup>43</sup> Act. No. 9 of 2009. *Ibid.* Section 8(2)

<sup>44</sup> Act 108 of 1996. *Ibid.* Sub sections 57(1)(b) and 57(2) in respect of the NA; sub sections 70(1)(b) and 70(2) in respect of the NCOP; and sub sections 116(1)(b) and 116(2) for the PLs.

<sup>45</sup> *Rules of the National Assembly* 8<sup>th</sup> Edition February 2014 as amended May 2014. Parliament of the Republic of South Africa (NA Rules)

NCOP rules were updated was in their 9<sup>th</sup> edition published in 2008.<sup>46</sup> Amongst a host of provisions, the Rules include rules relating to openness, public access, and public involvement

Chapter four of the Rules deals with the sittings of the Assembly. Rule 22 states the general rule that the proceedings of the Assembly are to be conducted in public. Part 5 of this chapter deals in more detail with *Public Access* to proceedings in the House and certain committees; interestingly the public are referred to as 'strangers' in this Part. Rule 40 provides that the Speaker may admit strangers to the house; rule 41 provides that strangers may be ordered to withdraw and 42 provides for the removal of strangers under certain circumstances.

Chapter 12 of the Rules provides a large number of rules relating to the committee system. Rule 152 reiterates the provisions of the Constitution in that the meetings of committees must be open to the public and the media.<sup>47</sup> It then provides a number of grounds on which exception can be made and the public or the media excluded. Rule 154 allows for the presiding officer of a committee to exclude members of the public and rule 156 provides for the removal of members of the public under certain circumstances.

Public participation in the work of committees is covered in rule 138, which covers '*general powers of the committees*'. This rule gives committees the powers to summon people to appear before them to give evidence or produce documents; to receive submissions from interested persons or institutions; to conduct public hearings; and to permit oral submissions.<sup>48</sup> Although participation is enabled by rule 138, committees retain the discretion as to if and when the public should be involved, and no further direction is given. In contrast, rules inserted in 2011 dealing with '*Public Involvement*' in the Standing Committees on Finance and Appropriations are stronger, clearly stating that public involvement is imperative.<sup>49</sup> These rules require, in relation to each of those two committees, that: '*The committee must ensure public involvement in accordance with the provisions of the Constitution and the Money Bills Amendment Procedure and Related Matters Act, 2009.*' Giving effect to sections in that Act which require Parliament's rules to include public hearings on the development of annual fiscal framework and revenue proposals.

Participation in relation to law reform processes is dealt with under chapter 13 of the rules, which deals with the legislative process. These include rules requiring notice of the introduction of draft legislation and summaries thereof to be published in the Government Gazette.<sup>50</sup>

The rules fail to provide significant direction, guidance or standards for how participation should be implemented. In addition, except for the 2011 rules which deal with public participation in the fiscal framework and revenue proposals process, they do not expressly address the current blind-spot that exists regarding the issue of public participation in the 'other' functions of Parliament.

The Rules of the legislatures, which should provide some standards for participation, do not go substantially further than reiterating in greater detail the Constitutional provisions for openness, access and participation. Whereas they appear to mandate participation in law reform processes, they are weak on providing similarly for participation in the oversight functions of the legislatures. It is only in giving effect to the provisions of the Money Bills Act that there is clear direction on public participation in oversight. However the capacity to engage with matters relating to the fiscal framework and national revenue will in all probability only lie with a minute proportion of the public. Since the Money Bills Act failed to mandate public participation in the annual departmental oversight cycles, the rules do not require this either, indicating a lack of initiative on the part of the legislatures to embed participation in these processes which are so critical to service delivery

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<sup>46</sup> *Rules of the National Council of Provinces* 9<sup>th</sup> Edition: March 2008. Parliament of the Republic of South Africa

<sup>47</sup> NA Rules. 2014. *Ibid.* Rule 152(1). These are when this is allowed by legislation, Rules, or resolutions of the Assembly (sub-rule 152(1)(a)). Or where the matter under consideration is of a private nature or prejudicial to a person, is protected under parliamentary privilege, is confidential in terms of legislation, or where confidential treatment is reasonable and justifiable in an open and democratic society. Sub-rule 152(1)(b).

<sup>48</sup> NA Rules. 2014. *Ibid.* Rule 138

<sup>49</sup> NA Rules. 2014. *Ibid.* Rules 203F and 203M

<sup>50</sup> NA Rules. 2014. *Ibid.* Sub-rule 241(1)(b) and (c)

## Other initiatives

A Public Participation Framework (PPF) for the legislatures was finalised in 2013,<sup>51</sup> the Oversight and Accountability Model in 2009<sup>52</sup> and an Oversight Model for the South African Legislative Sector (SOM) in 2012.<sup>53</sup>

### Public Participation Framework

To give more direction to the legislatures regarding the standards and nature of public participation, the legislative sector<sup>54</sup> developed the PPF to guide the public involvement in the legislatures. It articulates its goal as 'seeking ways of achieving Public Participation' in order to deepen democracy' and sets its objectives to obtain the public's views on policy, legislation and other processes; to share knowledge with communities regarding governance issues in order to improve the '*pace and relevance of service delivery*'; and to obtain information from people regarding their experiences of service delivery in order that government institutions may take action to bring about change.<sup>55</sup>

The core values and principles of the Framework are encouraging, they articulate the expected values that the people affected by an issue are involved in the decision making process and that people receive the information necessary for participation.<sup>56</sup> They go further to articulate some of the important values and principles which are central to 'meaningful participation'. In particular, the core values which emphasise people's input in the design of participation opportunities; and communication to people on how their input affected decisions, which includes the various perspectives that were raised on an issue. The most encouraging value is that participation processes hold "*the promise that public's contribution will influence decision making*". Overall the PPF requires planning, co-ordination, quarterly reporting, feedback to stakeholders and human and financial resources to enable effective public participation. It covers a range of mechanisms for public participation including Taking Parliament to the People; Taking Legislatures to the People; public hearings; petitions; Sectoral Parliaments; general participation in committees; and participation in oversight and law making.<sup>57</sup>

Notably, the PPF requires that in most cases people have input into the agenda of the participation process, that committees produce reports on the processes within three weeks and provide feedback to stakeholders on the processes. For the first time, we see a timeframe specified for notification of the public: in the section dealing with public hearings the PPF requires a five week notice period to the public.<sup>58</sup> It also considers to whom notice should be given, indicating in relation to participation on oversight that committees should maintain lists of stakeholders and that these lists should include experts and academics as well as community based structures. Finally, throughout the framework some direction is provided as to the means of notification whereby it recommends the use of social media for notification.<sup>59</sup>

As with most well articulated state documents, the PPF is not binding. It contradicts itself by claiming to both provide a guideline as well as claiming to set minimum requirements.<sup>60</sup> The extent to which those minimum requirements can be met by the legislatures and their committees, particularly considering the fast pace at which some processes are undertaken, is questionable.

### Oversight Model for the South African Legislative Sector (SOM)

The SOM was developed subsequent to the Oversight and Accountability Model of 2009 and is effectively a more detailed version of that document and applies not only to Parliament but all of the legislatures. It

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<sup>51</sup> Public Participation Framework for the South African Legislative Sector. 2013. (PPF)

<sup>52</sup> Parliament of South Africa Oversight and Accountability Model: asserting parliament's oversight role in enhancing democracy. 2009.

<sup>53</sup> Oversight model of the South African Legislative Sector. 2012. Legislative Sector of South Africa (SOM)

<sup>54</sup> The South African Legislative Sector is a forum of stakeholders from Parliament and Provincial Legislatures. The SALS seeks to strengthen the capacity of legislatures to implement their constitutional mandate. <http://www.sals.gov.za/show.php?show=2>

<sup>55</sup> PPF. 2013. *Ibid.* P30

<sup>56</sup> PPF. 2013. *Ibid.* P31

<sup>57</sup> PPF. 2013. *Ibid.*

<sup>58</sup> PPF. 2013. *Ibid.* P52

<sup>59</sup> PPF. 2013. *Ibid.* Pp43, 48, 50 and 57

<sup>60</sup> PPF. 2013. *Ibid.* P38

provides a more detailed version of what is required in the Money Bills Act, in that it attempts to clarify what is meant by 'oversight' and 'accountability' and aims through this to provide information to assist committees in their analysis and debates related to oversight.<sup>61</sup>

It sets out detailed guidelines for committees regarding the processes relating to their engagement with Appropriation Bills and Departmental Votes, quarterly and annual reports, strategic budget reviews, and oversight visits and intervention studies. These include timeframes, the nature of information required, and the roles of support staff.<sup>62</sup> The SOM strongly emphasises public participation at each stage of the process requiring '*constant enlistment of external information input for independent verification*'.<sup>63</sup> Overall the SOM is extremely detailed. The requirements for public participation in the oversight over quarterly and annual reports and strategic plans and budgets are unrealistic given the timeframes within which these must be finalised. As it is articulated it pre-supposes a level of time and resources within civil society that is unrealistic.

It is some consolation that the SOM and PPF do articulate the full scope of public participation required in the work of the legislatures, demonstrating an awareness of at least some stakeholders in the legislatures of effective and meaningful participation. The SOM in particular is extremely ambitious in its requirements.

## Participation linked to information

We think it important to address the role of access to information in enabling effective political participation. From the international human rights law frameworks, Mendel argues that the right to information as a fundamental right is '*beyond question*'.<sup>64</sup> The UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression is emphatic that access to information is a right.<sup>65</sup> In his report to the UN Economic and Social Council in 2000 he stated: "*The right to seek, receive and impart information is not merely a corollary of freedom of opinion and expression; it is a right in and of itself*".<sup>66</sup> Importantly, he asserts that the right to participate is dependent on access to information, arguing that information: "*is one of the rights upon which free and democratic societies depend. It is also a right that gives meaning to the right to participate*".<sup>67</sup>

The Supreme Court of Appeal acknowledges that public participation extends from making information available to the public through to providing platforms for participation in decision-making.<sup>68</sup> Similarly, the Constitutional Court, drawing on US administrative policy, indicated "*public involvement may be seen as 'a continuum that ranges from providing information and building awareness, to partnering in decision-making'*".<sup>69</sup> The Constitutional Court is clear that Parliament must "*provide notice of and information about the legislation under consideration*" and regarding the available opportunities for participation.<sup>70</sup> However, it does not provide any guidance regarding format or timeframes.

## Conclusion

Quite clearly, the South African constitutional promise of citizen participation extends beyond indirect participation through elections to direct citizen participation on an on-going basis. Yet, in spite of the Constitutional Court's interrogation of the legislatures' duty to facilitate public participation it fails to provide direction on how this should be achieved, recognising that different issues require different

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<sup>61</sup> Oversight model of the South African Legislative Sector. 2012. Legislative Sector of South Africa (SOM) Pp 16 – 18

<sup>62</sup> SOM. 2012. *Ibid.*

<sup>63</sup> SOM. 2012. *Ibid.*P23

<sup>64</sup> Mendel T. undated. Freedom of information as an internationally protected right. ARTICLE 19. Accessed at <http://www.article19.org/data/files/pdfs/publications/foi-as-an-international-right.pdf> on 15 01 2015

<sup>65</sup> UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. Abid Hussain. Report to the UN Economic and Social Council. E/CN.4/2000/63 18 January 2000.

<sup>66</sup> UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. *Ibid.* Para 42

<sup>67</sup> UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. *Ibid.* Para 42

<sup>68</sup> *King and Others v Attorneys Fidelity Fund Board of Control and Another* 2006(4) BCLR 462 (SCA)

<sup>69</sup> DfL. *Ibid.* Para 129. Quoting States National Park Service, Director's Order No 75A: *Civic Engagement and Public Involvement*, 17 November 2003, available at <http://www.nps.gov/policy/DOrders/75A.htm> [accessed 24 July 2006] at section V. See also United States Code of Regulations, Title 40 (Protection of Environment), 40 CFR 25(1)(a), (b) and (d), *National Wildlife Federation v Burford* 835 F.2d 305, 322 (D.C. Cir. 1987). Section V

<sup>70</sup> DfL. *Ibid.* Para 131

processes. However, the courts do emphasise the importance of the public's access to information to enable effective participation.

The Rules of the legislatures, which should provide some standards for participation, don't go substantially further than the Constitutional provisions for openness, access and participation. Whereas they appear to mandate participation in law reform processes, they are weak on providing similarly for participation in the oversight functions of the legislatures. While the Money Bills Act provides in law for public participation in a limited range of issues, the capacity to engage with matters relating to the fiscal framework and national revenue generally only resides with a minute proportion of the public, and it is thus unlikely to enhance wide-spread participation. Public participation in the annual departmental oversight cycles are not required by the legislature's rules, indicating a lack of initiative on the part of the legislatures to embed participation in these processes which are so critical to service delivery.

The recently developed SOM and PPF do articulate the full scope of public participation required in the work of the legislatures, and the PPF begins to provide minimum standards for how this should be done. However, as admirable as the provisions of these documents are, they are not enforceable and their full implementation is unrealistic in light of their extensive requirements for participation.<sup>71</sup>

Although realistically, no framework can guard against the politics of interpretation; an articulation of the minimum requirements for public participation, at the very least, within the rules of the legislatures would improve the domestic framework substantially. These should include notification periods and the means of notification to ensure that people most affected are notified. It should also include standards for pre and post participation processes to ensure that the public are educated on the issue in question and receive feedback regarding the process outcomes, including the reasons for decisions being taken.<sup>72</sup>

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<sup>71</sup> Waterhouse S. 2015. 'People's Parliament? do citizens influence South Africa's legislatures?' in Pillay D, Khadiagala GM, Naidoo P and Southall R (EDS) *New South African Review 5: Beyond Marikana*.

<sup>72</sup> Waterhouse S. 2015. *Ibid*.

## PART II

### Overview of performance of parliamentary committees: June 2009 to June 2015

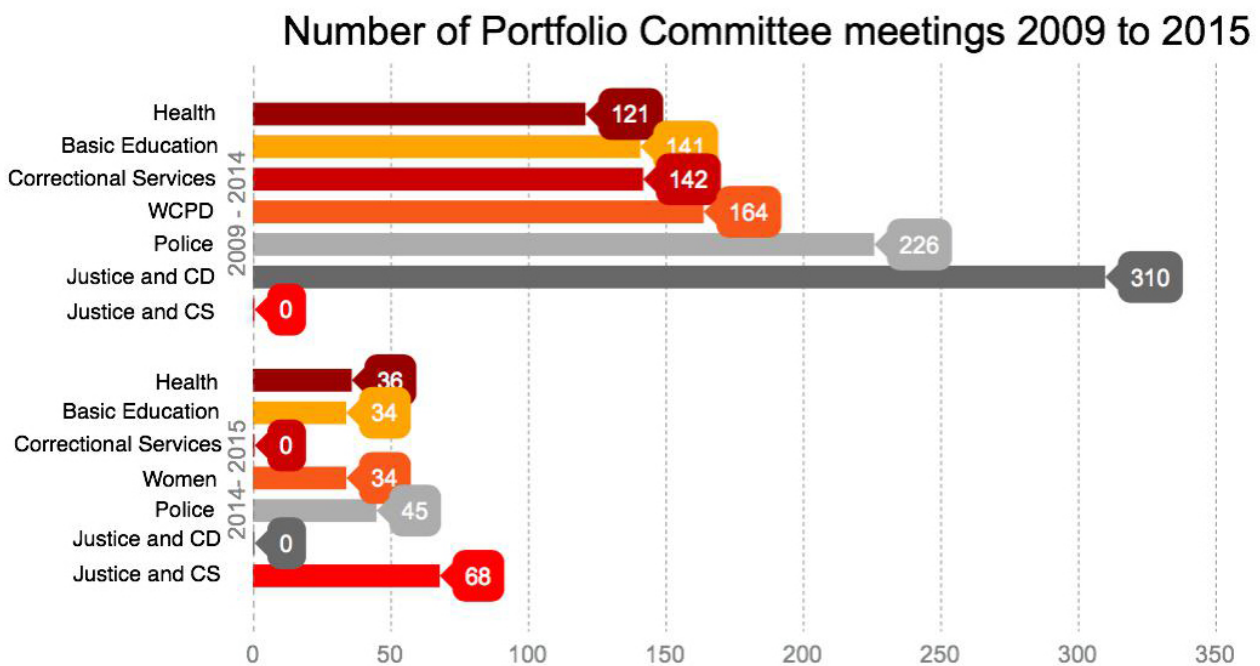
#### Introduction

Part II provides an overview of our findings on the overall performance of eight committees in the NA, it allows for some comparison of their relative work-loads in terms of the number of meetings and with regard to the nature of their work – the extent to which it relates to law reform or to their oversight or accountability mandates. We briefly turn to how the NCOP committee work-loads measure up to that of the NA committees, before exploring in more detail, the civil society interventions into proposed changes to the committee structures at the start of the Fifth Parliament in June 2014. Specifically questioning the impacts of the changes that were made by consolidating the Portfolio Committee on Justice and Constitutional Development and the Portfolio Committee on Correctional Services into the Portfolio Committee on Justice and Correctional Services at that time.

This part also explores in greater depth the questions of rates of public engagement in committee work. What this public engagement looks like? On what kinds of issues do the different committees that we investigated engage the public? What sectors of the public, such as civil society organisations or private sector entities engage with the different committees? Finally it considers who sustains their engagements with committees and what it is that drives the participation.

#### Number and nature of meetings: May 2009 to June 2015

##### National Assembly portfolio committees

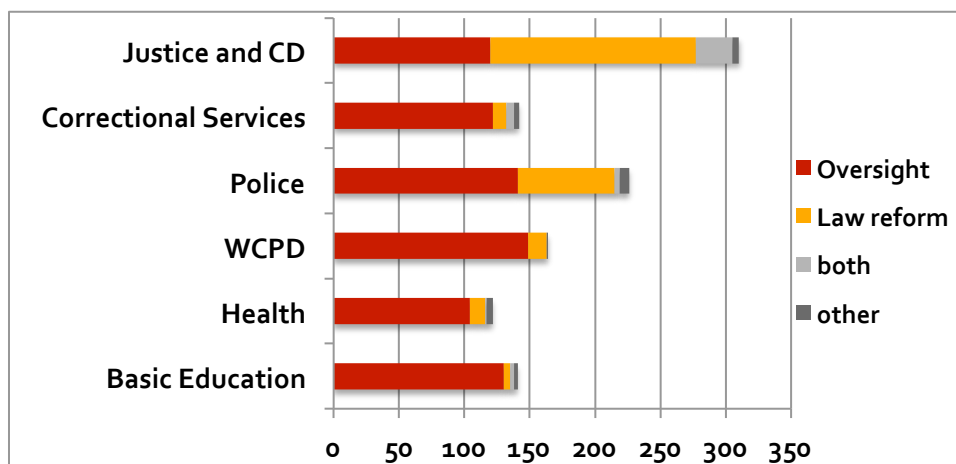


The Portfolio Committee on Justice and Constitutional Development (PCJCD), unsurprisingly, has the busiest schedule, this is linked not only to its more significant law reform mandate, but also to the greater number of entities over which it must perform oversight. These include, amongst others, the Department of Justice and Constitutional Development, the National Prosecuting Authority, the South African Human Rights Commission, the Public Protector and Legal Aid South Africa. The Health committee by comparison held just over one third of the number of meetings that the PCJCD held in the period 2009 to 2014.



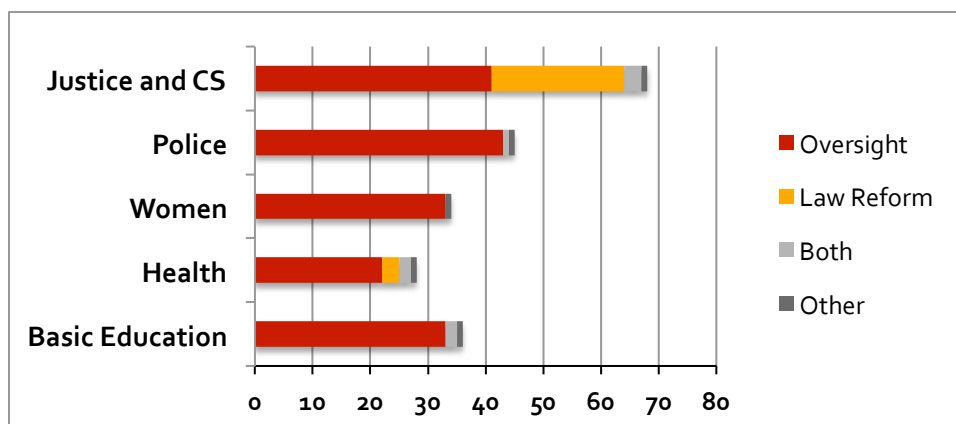
National Assembly Committee	May 2009 to May 2014					June 2014 to June 2015				
	Total	law and policy reform	oversight and account	OA and LR	Other	Total	law and policy reform	oversight and account	OA and LR	Other
Justice and CS	-	-	-	-	-	68	23 (34%)	41	3	1
Justice & CD	310	157 (51%)	120	28	5	-	-	-	-	-
Correctional Services	142	10 (7%)	122	6	4	-	-	-	-	-
Police	226	74 (33%)	141	4	7	45	0 (0%)	43	1	1
Basic Education	141	5 (4%)	130	3	3	34	0 (0%)	33	0	1
WCPD	164	14 (8,5%)	149		1	-	-	-	-	-
Women in the Presidency	-	-	-	-	-	34	0 (0%)	33	0	1
Health	121	12 (10%)	104	1	5	36	13 (36%)	22	0	1

### Nature of portfolio committee meetings May 2009 to May 2014



The PC JCD is the only committee whose law reform load exceeded its oversight and accountability responsibilities. Of the 310 meetings of the committee, 51% (157) of its meetings were dedicated solely to law reform, a further nine per cent (28) meetings included components of both law reform and oversight. The Police committee also has a notable law reform role, 33% (74) of its meetings related to law reform. The rate of law reform for committees such as Health and Basic Education was far lower at 10% and 3,5% of their meetings respectively.

### Nature of portfolio committee meetings June 2014 to June 2015

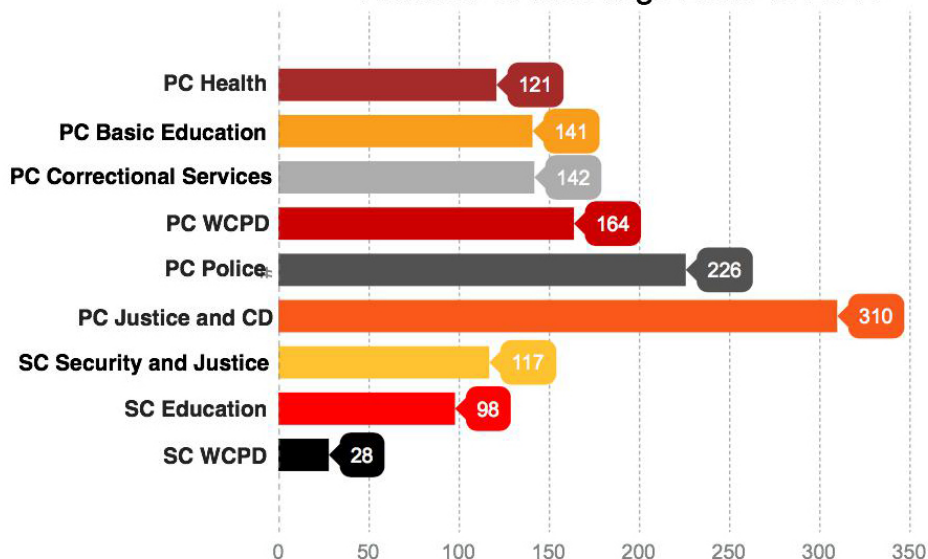


In the year after the 2014 election the emphasis of all committees was on oversight. Only two of the five National Assembly committees engaged in law reform, the newly formed Portfolio Committee on Justice and Correctional Services (PCJCS) and the Portfolio Committee on Health.

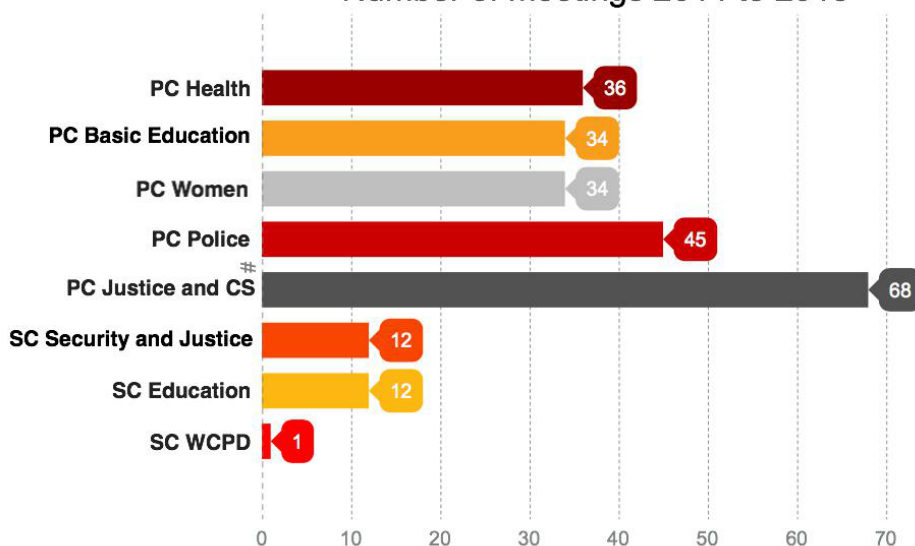
## National Council of Provinces select committees

The National Council of Provinces (NCOP) Select Committees meet less frequently than those in the National Assembly. Unlike the National Assembly, the role of NCOP committees is primarily a law reform role. Oversight and accountability of provincial departments are the functions of the provincial legislatures.<sup>73</sup> That said, the NCOP select committees do exercise oversight and dedicate meetings to these functions.

### Number of meetings 2009 to 2014



### Number of meetings 2014 to 2015



## NCOP Committees nature of meetings

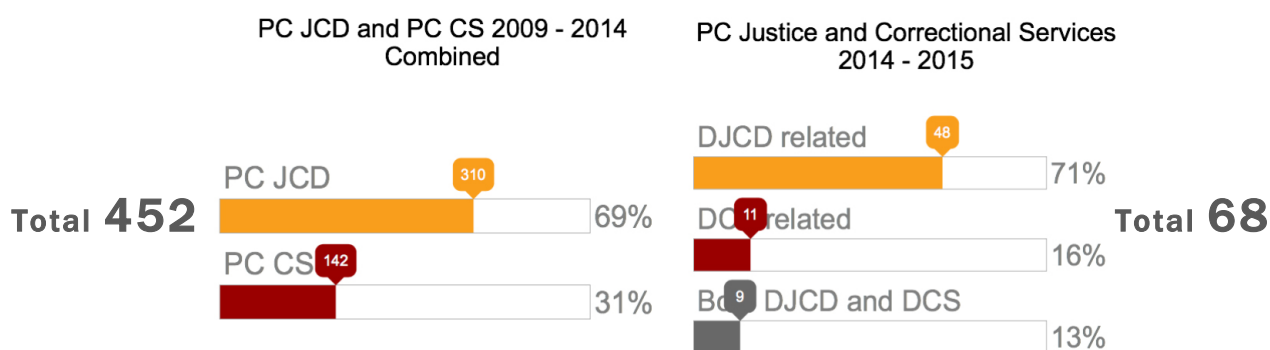
Committee	2009 - 2014			2014 - 2015			2009 - 2015		
	Total	LR	OA	Total	LR	OA	Total	LR	OA
Security and Justice	117	61	56	12	2	10	129	63	66
WCPD	28	4	24	1	0	1	29	4	25
Education and Recreation	98	26	72	12	0	12	110	26	84

<sup>73</sup> Unlike the Constitutional provisions for the National Assembly and the Provincial Legislatures which include reference to the oversight and accountability powers of these; the provisions relating to the powers of the NCOP only refer to the powers to initiate or amend legislation. Act 108 of 1996. s68

## Restructuring parliamentary committees in the 5<sup>th</sup> Parliament: Civil society interventions and the impact of consolidating committees on Justice and Correctional Services

The opening of the fifth Parliament after the 2014 election, brought with it a process of reorganising the committees in the NA and the NCOP. Of concern was the proposal that the range of committees in the NA be consolidated in such a way that each committee would have oversight over more than one department, similar to the structuring of NCOP committees. As a result of receiving this information from numerous sources in Parliament,<sup>74</sup> two civil society initiatives intervened through formal communication with the Speaker's office, a range of political parties and through the media.<sup>75</sup> Both initiatives essentially called on Parliament to dedicate a committee to each national department. Arguing that consolidating responsibility for a range of departments into a single committee would significantly weaken the capacity of an already struggling institution to properly perform its functions and particularly its role of holding the executive to account. Reports from two sources inside parliament that participated in the internal discussions on the issue indicate that the interventions, and particularly the intervention through the media had an impact on the discussions and on the decisions taken to maintain the existing NA committee structure of one committee per ministry.<sup>76</sup> Within this, the fact that the Ministries of Justice and Constitutional Development and Correctional Services were consolidated after the 2014 election meant that the Portfolio Committee on Justice and Constitutional Development (PCJCD) was merged with the Portfolio Committee on Correctional Services (PCCS) and called from 2014 on the Portfolio Committee on Justice and Correctional Services (PCJCS).

### Comparison of proportion of meetings dedicated to Justice and Constitutional Development and to Correctional Services



As noted previously the PCJCD is significantly busier than any other committee assessed. In the 2009 – 2014 period, this committee held 310 meetings, the PCCS held 142 meetings in that same period thus averaging 62 and 28 meetings per year respectively. The combined total for the two committees for the five years is thus 452 meetings or an average of 90 meetings a year.

The 68 meetings in the first year of the fifth Parliament between June 2014 and June 2015 is thus a significant drop (approximately 25% drop) in the average combined number of meetings per year for the two committees in the previous period. With the highest law-reform workload, the committee responsible for Justice has a far higher demand for public participation than others, it remains to be seen how the additional load will impact on the rate of public participation in the work of the committee, if at all. Furthermore, by merging mandates, the PCJCS has oversight over seven entities. While the logic of combining the ministries is not difficult to grasp, it is difficult to imagine that the practical consequences of combining the committees was unforeseen. It appears that in the first year already the move has

<sup>74</sup> This included from MPs, media sources within parliament and parliamentary support staff directly to the author.

<sup>75</sup> The Shukumisa Campaign wrote to a range of office bearers and MPs specifically highlighting the need for a committee dedicated to political leadership on women's rights. 45 organisations are listed supporting this letter dated 04 June 2014. (Authors own records). A group of four organisations – Community Law Centre, UWC, Parliamentary Monitoring Group, Section 27 and the Women's Legal Centre released a press statement that was picked up by various print and electronic media sources on the issue. South Africa's executive grows, Parliament is the Loser. 06 June 2014. (Authors own record).

<sup>76</sup> Sources communicated directly with the authors and have requested anonymity

disarmed the committee and undoubtedly weakened its capacity both for oversight and for public engagement. The charts above indicate that while the proportion of meetings dedicated to Justice and Constitutional Development has remained relatively similar (69% of the total combined meetings 2009 – 2014 and 71% of the PCJCS meetings 2014-2015), the proportion of meetings dedicated to correctional services dropped from 31% of the total combined meetings 2009 – 2014 to 16% of the PCJCS meetings 2014-2015. This is then augmented by 13% of the PCJCS meetings dealing with both JCD and CS related matters.

### Nature of meetings: Justice and Constitutional Development and Correctional Services combined

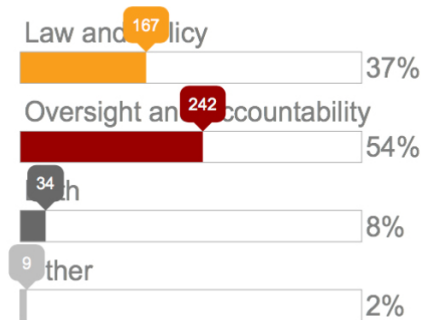
PC Justice and Constitutional Development and PC Correctional Services May 2009 – May 2015

	Total	Law reform	Oversight and Accountability	LR and OA	Other
PC Justice & CD	310	157	120	28	5
PC Correctional Services	142	10	122	6	4
<b>Combined</b>	<b>452</b>	<b>167</b>	<b>242</b>	<b>34</b>	<b>9</b>

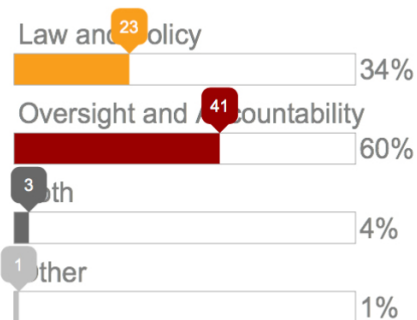
PC Justice and Correctional Services June 2014 – June 2015

	Total	Law reform	OA	LR and OA	Other
DJCD related	48	23	23	2	0
DCS related	11	0	11	0	0
DJCD and DCS joint	9	0	7	1	1
<b>PCJCS Total</b>	<b>68</b>	<b>23</b>	<b>41</b>	<b>3</b>	<b>1</b>

PC JCD and PC CS 2009 - 2014 Combined



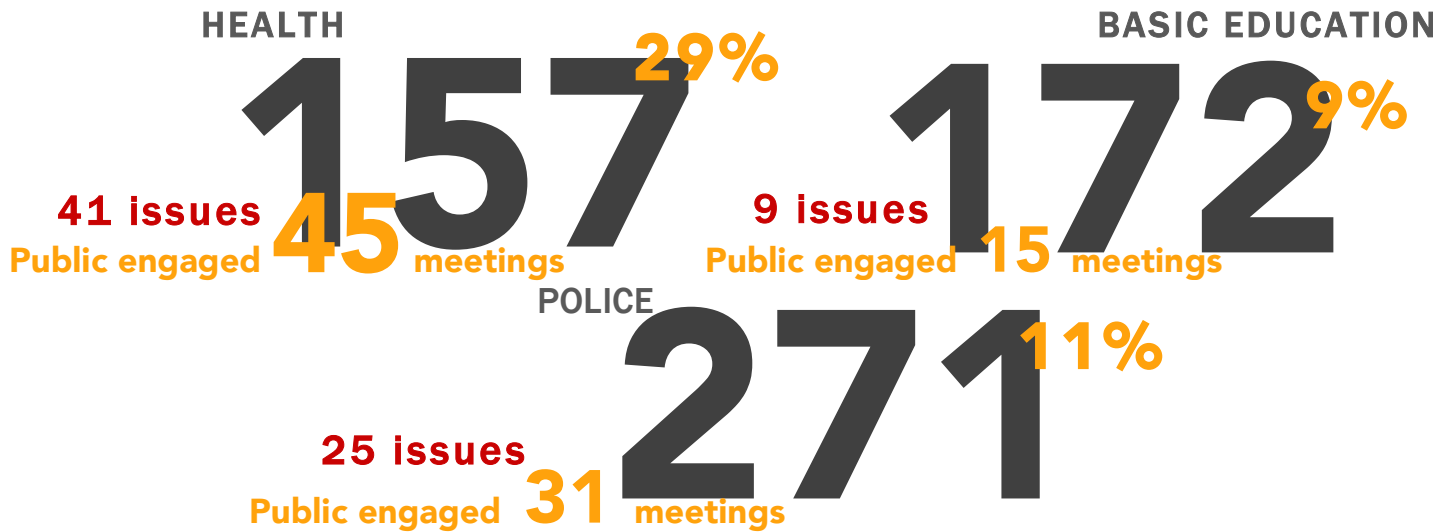
PC Justice and Correctional Services 2014 - 2015



In the first year subsequent to the consolidation of the two committees, the proportion of meetings dedicated to oversight and accountability or law and policy reform was not significantly affected.

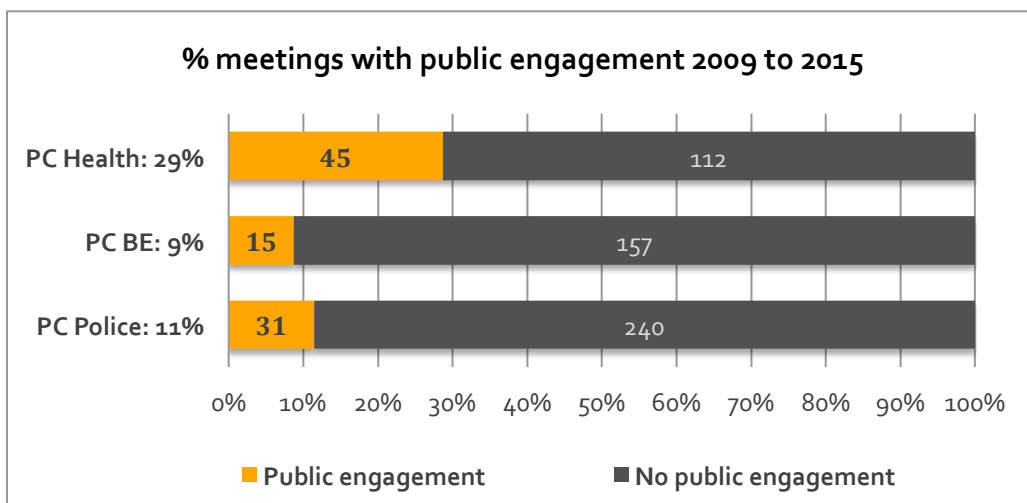
## Overview of public engagement in three committees

2009 to 2015 (6 years) public engagement totals



The three committees give very different pictures of public participation. Contrasted against the Basic Education and Police committees, the higher rate of public participation in the Health Committee over the six years stands out. It has a relatively low law reform rate, however manages a high rate of public participation, primarily through engaging stakeholders in ad-hoc discussions as opposed to through public hearings. The Basic Education committee's rate of public engagement is extremely low. More notable for the fact that a sizable proportion of its public engagement took place in a single robust public participation process on the quality and access to basic education in 2010, of the 54 oral submissions made to the committee in the six-year period, 36 were made during the 2010 hearings. Thus over the following five years the committee received a total of 18 oral submissions.

For further context, it's notable The PCJCD, a committee with a higher law reform load, held 24 meetings that included public engagement over its total of 310 meetings in the five years from 2009 to 2014, nominally that seems to average with out with the three committees described above but proportionally it is only 7,8% of the committee's meetings in that period. The PCJCS, however in the year between June 2014 and June 2015 hosts 13 meetings out of its total of 68 meetings that include public engagement, this accounts for 19% of that committee's meetings in that period.<sup>77</sup>



<sup>77</sup> The high number in this single year is linked to five days of public hearings on amendments to the sexual offences legislation that deal with the criminalization of adolescent sexuality, an issue that sparked much interest from the conservative lobby and from progressive rights-based civil society. Analysis of PCJCD's records for the previous five years shows that it was unusual for the committee to allocate more than two days to public hearings on a single piece of legislation during that period. In addition two days related to stakeholder inputs on the Correctional Services annual reports and strategic plans, a common practice of the PCCS that was not standardized in the PCJCD.

### Nature of issues on which there were public engagements

	Legislation	Oversight cycles	General
Health	4	1	34
Basic Education	1	1	8
Police	5	10	9

The participation of the public in committees' annual oversight cycles over the departments is required by the 2009 Sector Oversight Model (SOM). It's notable however that the SOM is not enforceable and as such, failing to implement its guidelines carries no consequence. These meetings relate to examination of department's strategic plans, budgets, and quarterly and annual reports; committees' Budget Review and Recommendation's Reports (required by the Money Bills Act to departments are informed by these deliberations. In spite of the SOM, it is extremely unusual for committees to invite stakeholder inputs into these meetings. The findings of the Health and Basic Education committees in this regard reflect this. The single instances of public engagement on oversight cycles in each of the Basic Education and Health committees is recorded as being the result of requests from those stakeholders and not as a result of invitation by the committee. This pattern of low stakeholder engagement in oversight cycles and only then when requested by the stakeholders is also evident in the review of the meetings of the PCJCD between 2009 and 2015.

By contrast, analysis of public engagements with the Police committee shows a clear trend in systematised public engagements through the oversight cycles. This pattern is also evident in the Correctional Services committee between 2009 and 2015 and in the Justice and Correctional Services committee in the 2014 to 2015 period – in that period it is only evident with regard to correctional services related oversight meetings, not those addressing the Department of Justice and Constitutional Development. Unlike with other committees, this engagement is largely the result of invitations to stakeholders from the committee. The group of organisations engaging with these two committees is largely stable, made up of the same organisations repeatedly engaging the committee over time, it is notable in the Police committee that in recent years as other organisations have taken a stronger strategic position relating to security and policing issues, that those organisations have also been invited to address the committee, showing that the committee has been responsive to shifts in civil society.

There is some indication however, that instead of building on the strengths of the Police and Correctional Services committees and extending the practice throughout more committees, the trajectory for systematic public engagement on oversight cycles is slowing down. Subsequent to the 2014 elections, after the committees on JCD and CS were combined, instead of the practice being extended to the oversight cycles over the Department of JCD as one might have expected, we see that in October 2014, the PCJCS held stakeholder hearings relating to the annual reports of the Department of Correctional Services (DCS) and the Judicial Inspectorate for Correctional Services (JICS) only. A further indication of the negative impact of combining the two committees is that in the process of examining departmental strategic plans in the first quarter of 2015, the PCJCS only called for written inputs, not oral hearings, from stakeholders on the DCS and JICS; a practice that had been standardised by the PCCS since 2010.

	2009 - 2014		2014 - 2015		2009 - 2015	
	Submissions	Entities	Submissions	Entities	Submissions	Entities
<b>Health</b>						
Submissions through public hearings	17	18	22	23	39	41
Submissions through stakeholder inputs	65	72	4	7	69	79
<b>Total submissions Health</b>	<b>82</b>	<b>90</b>	<b>26</b>	<b>30</b>	<b>108</b>	<b>120</b>
<b>Basic Education</b>						
Submissions through public hearings	43	51	0	0	43	51
Submissions through stakeholder inputs	11	12	0	0	11	12
<b>Total submissions BE</b>	<b>54</b>	<b>63</b>	<b>0</b>	<b>0</b>	<b>54</b>	<b>63</b>
<b>Police</b>						
Submissions through public hearings	48	48	0	0	48	48
Submissions through stakeholder inputs	33	33	13	14	46	47
<b>Total submissions Police</b>	<b>81</b>	<b>81</b>	<b>13</b>	<b>14</b>	<b>94</b>	<b>95</b>

## **Who participates?**

The profile of who participates in the work of committees is very different for the three committees. Across the board, unsurprisingly, it tends to be better resourced organisations, businesses and structures that access committees.

In both the Basic Education and Police committees, civil society organisations dominate. However it is not always progressive or rights-based civil society. For example in the police committee organisations supporting the gun lobby are very active in engaging the committee. Similarly in 2015, a number of conservative civil society organisations engaged the PCJCS on the amendments to the sexual offences legislation relating to the criminalisation of adolescent sexuality.

Private sector entities represent a significant proportion of the entities accessing the Health committee, these include hospitals, medical aids and pharmaceutical companies as well as associations and structures representing these. Private security entities and associations, as well as private sector actors from the gun lobby, are also represented among the entities that engage with the Police committee.

## **Are interactions sustained?**

As previous studies have shown, the majority of interactions with committees are once-off with little follow up or repeat interactions taking place between an entity and a committee. However there are a number of civil society stakeholders that do sustain their engagements. Notable among these are the Institute for Security Studies, African Police Civilian Oversight Forum, Civil Society Prison Reform Initiative in the police and correctional services committees. Equal Education in the Basic Education committee and the *Shukumisa* Campaign in the Justice committee.

Some trade unions are also extremely consistent in their engagements with committees, these include both Police and Prisons Civil Union (PoPCRUC) and South African Police Union (SAPU) with the Police Committee and South African Medical Association (SAMA) in the Health Committee. Notably, the Congress of South African Trade Unions (COSATU) and the National Education, Health and Allied Workers' Union (NEHAWU) are only recorded addressing the Health committee (jointly) on one occasion in the six year period. Engagements by trade unions with the Basic Education are rare, over the six years, three different unions do present before the committee each on one occasion.

Private sector professional associations and entities are more likely than civil society organisations to interact with the Health committee in a sustained manner.

## **Making claims on 'invited' spaces**

There are numerous examples of public engagements taking place as a result of requests made by members of the public, CSOs or private sector stakeholders. Given the high rate of stakeholder inputs in the health committee on ad-hoc issues it is not surprising that many of these, upon analysis, were granted by the committee at the request of those entities (Impumelelo, Humana People to People, Eastern Cape Health Crisis Coalition; Organ Donation South Africa, C.H.O.C. and the Childhood Cancer Foundation to name but a few). The low rate of participation in the Basic Education committee means that there are also few instances of participation at the request of civil society in the period, however, Equal Education is on record as successfully approaching the Basic Education committee to present its shadow report on the department's performance in 2012. The violence against women sector has been relatively proactive and there is evidence of numerous successful requests from organisations in this sector to various committees, including the Police and Justice committees.

That said, the advent of the new parliament in June 2014 indicates increasing resistance to civil society requests to engage with committees. The rate of public engagement in the Health committee in particular, with its strong record of ad-hoc engagements, drops overall and drops significantly in respect of stakeholder engagements. An approach to the Health committee requesting that four civil society organisations make submissions on the Department of Health's annual report in October 2014 was met with a long delay. Only after repeated follow up did the committee agree to the request. On the day of the

meeting the chairperson was extremely hostile to the civil society presenters.<sup>78</sup> In the same year there were no public engagements with the Basic Education committee and as noted previously, the standard practice of oral submissions on oversight over the DCS was replaced with an invitation to stakeholders to make written submissions only.

## Conclusion

The extent of public participation in the work of committees is affected by a range of factors, undoubtedly the broader political context plays a role. As the ANC majority is gradually eroded and contestation within Parliament increases, the committees show greater resistance to critical civil society input. The nature of an issue and the extent to which it is politically charged or publically contested clearly also has bearing on the rate of participation. The case of the PCJCS public hearings on the criminalisation of adolescent sexuality illustrates this in relation to an issue that captures public debate; hearings on the Protection of State Information Bill and the Traditional Court's Bill, which have not been fully discussed in this analysis, further demonstrate this in relation to issues that both capture the public attention and on which there is lack of consensus within the ruling ANC.<sup>79</sup>

The attitude and approach of committee chairpersons also seems to effect the nature of public participation in committees. The chairperson of the Basic Education committee from June 2009, Fatima Chohan, showed a strong and clear commitment to public engagement in calling for a robust process of public input relating to access to and the quality of education. By contrast when Hope Malgas took over as the chair in January 2011, the committee shows a sharp subsequent decline in public participation over the following years. Committee secretaries, who hold institutional memory in committees, seem to influence this as well. In the 5<sup>th</sup> Parliament, the PCJCS, having taken on the mandate of oversight over the Department of Correctional Services, was also supported by the committee secretary who had previously served the PCCS, her intervention seems to explain why the PCJCS proactively called for public input on the annual reports of the DCS but not regarding those of the DJCD in the October oversight period.

Other factors include the capacity and resources of various entities across civil society, including civil society organisations, trade unions, professional councils or bodies or private sector actors, and the extent to which these are organised and able to form alliances or coalitions.

A proactive approach by members of the public, organisations, trade unions, businesses, and alliances requesting opportunities to present information to committees is clearly a strong factor in committee's rates of public engagement. The fact that only a few such structures regularly do this indicates a missed opportunity in the strategies of many organisations focussed on promoting human rights, social justice, and transformation to influence committees through sustained interactions. It is through repeated messaging that the agendas of organisations can be asserted to committees, increasing their potential for influence at that level.

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<sup>78</sup> Madonko T and Waterhouse S. 2014. House of the Rising Sums. Mail and Guardian. Published 05 December 2014. Accessed at <http://mg.co.za/article/2014-12-05-house-of-the-rising-sums> on 17 February 2015.

<sup>79</sup> Friedman refers to this in respect of the secrecy bill in Friedman S. 2012. 'Fiercely (in-)dependent: South Africa's Parliament. *Perspectives: Political analysis and commentary from Africa*. 2:2012 p14. Regarding the TCB the then Minister of Women, Children and Persons with Disabilities Lulu Xinxwana clearly took a different approach to the bill than that of other senior ANC members in her submission to the Justice committee on xxyy. Further Joubert J. 2014. Women force rethink on traditional courts law. Published in the Sunday Times 02 February 2014. Accessed at [http://www.lrg.uct.ac.za/usr/lrg/docs/TCB/2014/SundayTimes\\_02022014.pdf](http://www.lrg.uct.ac.za/usr/lrg/docs/TCB/2014/SundayTimes_02022014.pdf) on 18 February 2015. Refers to the ANC women's league's position influencing the process.



## Part III

# Provincial Legislatures and Constituency Offices - A question of access

### Introduction

In Part III we explore the question of accessibility of provincial legislatures and constituency office linking it to their mandates to facilitate public participation and transparency.

Like the executive and judicial branches of government, the legislative branch also works at national, provincial and local levels. While there is much attention paid to the national Parliament, this is less true of the nine PLs.<sup>80</sup> Furthermore, at local level in addition to local councils, are parliamentary constituency offices which should offer a further point of contact between the public and elected representatives.

This investigation started looking at the question of access to information relating to the Western Cape Provincial Parliament (WCPP) and ANC constituency offices in the Western Cape. We believe that PLs and constituency offices are important entry points for public participation and should be equally, if not more, accessible than national Parliament. PLs in particular have oversight duties over the provincial executive who in turn has a significant responsibility for the delivery of basic services. Access to information is a key indicator of transparency and a critical link to meaningful participation. We felt that access to information should be examined at these levels, before we engage with the question of their effectiveness or influence in future phases of the research.

In 2014 and 2015 the Women and Democracy Initiative (WDI) conducted capacity building workshops on engaging in advocacy generally and specifically on advocacy with the legislatures with civil society organisations in both the Eastern Cape and Western Cape provinces. The WDI has extensive experience and expertise in advocacy work with the national legislature but less so with provincial legislatures and constituency offices, yet many of our civil society partners were working on provincial and local levels and wanted to include advocacy work on those levels as well. We thus embarked on this investigation to begin to broaden our own knowledge base as well and provide our partners with information and support.

### Provincial Legislatures

#### Background

The South African Constitution requires that, as with the national legislature, the nine PLs also have an obligation to facilitate public participation and transparency.<sup>81</sup> PLs are autonomous entities and operate independently from one another, but are meant to include cooperative governance practices.<sup>82</sup> The South African Legislative Sector (SALS) was formed in 2010 consisting of the nine PLs and national Parliament in an attempt to provide collective strategy to the sector. SALS developed its Public Participation Framework for the legislative sector in which one of the strategic goals were: Deepening and entrenching a people-centred democracy in South Africa. This indicated, on paper at least, a commitment to strengthening public participation in the legislatures in general.<sup>83</sup>

Our investigation into access to PLs involved desktop research of public hearings on bills across provinces and of committee meetings for the WCPP; attempting telephonic contact with the WCPP in general and with the administration and support staff for the social cluster specifically; and monitoring selected committee meetings at the Western Cape Provincial Parliament.<sup>84</sup> Although we explored the

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<sup>80</sup> The Western Cape Legislature is the only provincial legislature that refers to itself as a Parliament.

<sup>81</sup> Act 108 of 1996. *Ibid.* Section 118, 1996.

<sup>82</sup> South African Legislative Sector official website, <http://www.sals.gov.za/show.php?show=16>.

<sup>83</sup> The South African Legislative Sector, *The Legislative Sector Policy and Strategic Framework*, 2007.

<sup>84</sup> This cluster consists of the following standing committees: Community Safety, Cultural Affairs and Sport, and Community Development, Education and Premier. Taken from the WCPP official website: <http://www.wcpp.gov.za/node/2978>

performance of PLs on law reform, we primarily focused the investigation in on the more fundamental issues of access to information about committee meetings and access to committee meetings.

## Findings

As a result of their constitutional mandate in respect of 'Section 76' bills, PLs hold public hearings on numerous pieces of legislation.<sup>85</sup> Examples include the Children's Act Amendment Bill (in 2006 and 2007) Housing Development Agency Bill (during 2008), Restitution and Land Rights Amendment Bill (in 2013 and 2014), Children's Act Amendment Bill and Traditional Courts Bill (during 2012). We could not determine on what basis PLs decided which bills to hold public hearings for or the extent of those hearings. However, given the nature of the bills on which we found evidence of more significant public participation processes at this level, we suspect that political and public interest in a particular bill were important determinants, as seems to be the case with the decision-making in this regard in the national Parliament.<sup>86</sup>

The discretion to decide and unpredictability contributes to the uneven and inconsistent implementation of public hearings on the same bill across provinces. For example in the processing of the Housing Development Agency Bill during 2008, while the Eastern Cape Legislature reported hosting 32 public hearings, the Gauteng and Limpopo Legislatures only hosted one each, and the Western Cape and Kwazulu-Natal Legislatures' negotiating mandates make no mention of public hearings.<sup>87</sup> Because many provinces have weak online footprints it was often only possible to get a full picture of what occurred at a public hearing if civil society organisations tracked the process.

The processing of some bills has resulted in significant public consultation processes which are implemented in rural towns and villages, led by the PLs, by way of example, in the processing of the Traditional Courts Bill [B1 of 2012] (TCB) the PLs hosted a 30 hearings in all nine provinces in the first half of 2012.<sup>88</sup> Monitors from the Alliance for Rural Democracy (ARD) recorded attendance at most of these, indicating that approximately 6 688 people attended the 26 meetings at which this was recorded. Monitors also counted 510 oral submissions made at 25 of the 30 provincial hearings.<sup>89</sup> In addition to the provincial public hearings, the NA committee held public hearings in 2008 at which 21 written and 16 oral submissions were recorded.<sup>90</sup> In 2012 the NCOP committee hosted hearings at which 67 written and 31 oral submissions were recorded.<sup>91</sup>

Similarly PLs invested in broad consultations on the Children's Act Amendment Bill [B19B of 2006] during 2006 and 2007. Records show that 25 hearings were implemented in 26 provinces.<sup>92</sup>

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<sup>85</sup> Section 76 of the Constitution deals with the processing of 'ordinary bills affecting the provinces. Act 108 of 1996. *Ibid.*

<sup>86</sup> By searching the term 'public hearings' and the name of a PL, one is able to ascertain from the online presence, which bills PLs advertised for or reported on as having hosted public hearings. However the PLs online footprint is weak and it is thus difficult to establish the full picture of public hearings hosted by a legislature unless a civil society organisation has tracked the processing of the bill.

<sup>87</sup> A record of the negotiating mandates from all provinces can be accessed on the Parliamentary Monitoring Group website at <https://pmg.org.za/committee-meeting/9263/> accessed on 14 February 2015.

<sup>88</sup> Information obtained from Center for Law and Society and the Alliance for Rural Democracy monitoring reports on the hearings.

<sup>89</sup> Alliance for Rural Democracy monitors reports. The information on attendance is not available for four hearings, and information on the number of submissions made is not available for five hearings.

<sup>90</sup> <http://www.pmg.org.za/report/20080513-traditional-courts-bill-b15-2008-department-justice-briefing-and-publ> accessed on 17 August 2013

<sup>91</sup> Accessed from the PMG website records of the four days of hearings. <http://www.pmg.org.za/committees/NCOP%20Security%20and%20Justice> on 30 December 2014.

<sup>92</sup> Jamieson L. 2007a. *Children's Amendment Bill Progress Update: 20 March 2007*. Children's Institute, University of Cape Town. Accessed at <http://www.ci.org.za/depts/ci/plr/pdf/progress/Update20March2007.pdf> on 14 February 2015.

## Nature of meetings hosted by the Western Cape Provincial Parliament

Number of meetings of select committees<sup>93</sup>

Committee	May 2014 to June 2015		
	Total meetings	# Meetings on law reform	# Meetings on oversight and accountability
Community Development	27	7	20
Community Safety	26	3	23
Education	20	3	17

Meetings on law reform typically refer to meetings where committees are engaging with new laws or reforming existing ones. Oversight and accountability meetings refer to meetings where the committees are dealing with annual reports, strategic plans, budgets, progress reports and oversight visits with regards to departments. The above table tells us that the three committees researched focused significantly more on oversight and accountability than on law reform matters.

Total number of minutes posted on the official website of the WCPP<sup>94</sup>

	SCOLG <sup>95</sup>	Premier <sup>95</sup>	ComDev <sup>95</sup>	EOTA <sup>95</sup>	SCOF <sup>95</sup>	Environ <sup>95</sup>	Human <sup>95</sup>	SCOPA <sup>95</sup>
May 2014	0	0	0	0	0	0	0	0
June 2014	0	0	0	0	0	0	0	0
July 2014	0	0	0	0	0	0	0	0
Aug 2014	0	0	0	0	0	0	0	0
Sept 2014	0	0	0	0	0	0	0	0
Oct 2014	0	0	0	0	0	0	0	0
Nov 2014	0	0	0	0	0	0	0	0
Dec 2014	0	0	0	0	0	0	0	0
Jan 2015	0	0	0	0	0	0	0	0
Feb 2015	1	1	4	1	2	2	2	3
March 2015	1	0	2	0	2	1	2	0
April 2015	0	0	0	0	0	0	0	0
May 2015	0	0	0	0	0	0	0	0
June 2015	0	0	0	0	0	0	0	0

Access to online information for the WCPP was weak. By comparing the amount of committee meetings to the amount of minutes posted, illustrated in the two tables above, it becomes clear that minutes of scheduled meetings were hardly ever posted online. Where minutes were posted they contained very little information about the proceedings or decisions made, thereby rendering it useless as a source of information.

Our attempts to call the WCPP to access information about committee meetings were characterised by the contact person not having the relevant information or not being certain of who to refer us to. We were able to make contact with a committee secretary who provided us with committee meeting schedules because we could not find updated schedules on the WCPP website. Due to this information we were able to attend and monitor three committee meetings and observed that there were limited civil society presence.

In two instances we were asked to leave when the committee deliberated. In one instance in public

<sup>93</sup> This data extracted from the Western Cape Parliament Website, specifically from the calendar. The calendar only has events starting from the first sitting of the fifth parliament in May 2014. <http://www.wcpp.gov.za/event-created/month/2014-05>

<sup>94</sup> According to the Western Cape Provincial Parliament website there are 15 different committees.

<sup>95</sup> SCOLG: Standing Committee on Local Government; Premier: Standing Committee on Premier; ComDev: Standing Committee on Community Development; EOTA: Standing Committee on Economic Opportunities, Tourism and Agriculture; SCOF: Standing Committee on Finance; Environ: Standing Committee on Environmental Affairs and Development Planning; Human: Standing Committee on Human Settlements; SCOPA: Standing Committee on Public Accounts.

hearings held by the Standing Committee on Premier, after oral submissions were made, the chairperson asked the public the leave so the committee could deliberate.<sup>96</sup>

**Conclusion**

Our experiences and feedback from our partners’ experiences of the WCPP led us to conclude that the WCPP is unaccustomed to civil society monitoring and have developed the practice of asking people to leave for deliberations. This practice would be considered unacceptable in national Parliament. We believe that it would be difficult for civil society and even more so for the public in general to access reliable and timely information relating to the PLs making it difficult to participate in the work of the legislature. We recognise however that to gain a more full understanding how provincial legislatures are implementing its public participation and transparency mandates require more research and monitoring.

**Constituency Offices**

**Background**

Constituency offices, also called parliamentary constituency offices (PCOs), are Parliament’s link to communities and communities’ link to Parliament through members of parliament (MPs) and members of provincial legislature (MPLs). Constituency offices are funded by Parliament but those funds are channeled through political parties.<sup>97</sup>

Roles and responsibility of Parliament and political parties in relation to constituency offices<sup>98</sup>

Parliament	Political parties
Provides the money	Must establish the office and recruit admin staff
Determines certain regulations regarding constituency offices operated by parties	Assigns MPs and MPLs to constituencies.
Assigns every Monday and several weeks during the year for constituency work.	

Constituency offices have been subject to some research and writing, and consistently the issue of access to information about the location of constituency offices and which MPs or MPLs have been assigned it have been highlighted as problematic. For example the People’s Assembly found that: ‘Despite policy requiring that parties provide Parliament with information regarding the location of its offices and the members assigned to each, efforts by the People’s Assembly to source this information from both Parliament and political parties has proved difficult.’<sup>99</sup> The Report of the Independent Panel Assessment of Parliament (RIPAP) released in 2009 dedicated specific attention to the question of constituency offices in particular as it relates to the broader issue of public participation. RIPAP noted that: ‘Ideally, constituency offices provide a direct link between Parliament and the public.’<sup>100</sup> RIPAP however came to the conclusion that ‘constituency offices were performing poorly as a link between Parliament and the public’.<sup>101</sup> Scott comes to the same conclusion: ‘While there are some well-functioning offices, the constituency system on the whole has not proven successful’.<sup>102</sup>

Further concerns raised regarding constituency offices include how constituency offices have become political party spaces rather than extended spaces of the legislature; that there currently are no systems in place to monitoring the performance of constituency offices or MPs and MPLs; that community members hardly use constituency offices; and even where community members were raising issues at

<sup>96</sup> Public Hearing, Amendments to the Constitution of the Western Cape, Committee on Premier, Western Cape Legislature, 26 May 2015.

<sup>97</sup> The Panel for Assessment of Parliament Report, 2009.

<sup>98</sup> The Panel for Assessment of Parliament Report, 2009.

<sup>99</sup> People’s Assembly, Parliamentary Monitoring Group, <http://www.pa.org.za/blog/83-do-not-know-where-their-local-constituency-offi>

<sup>100</sup> The Panel for Assessment of Parliament Report, 2009, P58

<sup>101</sup> The Panel for Assessment of Parliament Report, 2009, p85

<sup>102</sup> Scott, R. An analysis of public participation in the South African legislative sector. Masters Degree, University of Stellenbosch March 2009, P93

constituency levels there are no clear systems or monitoring to ensure that their issues were reaching parliament.<sup>103</sup>

For this investigation we targeted ANC constituency offices in Cape Town and surrounding areas. Parliament's website recommends either contacting the political party or using the telephone directory to obtain the contact information for a particular constituency office.<sup>104</sup> Using the telephone directory (assuming that this would be the method most commonly available to the general public) we were able to locate the telephone numbers of 19 ANC constituency offices.<sup>105</sup> This contact information was cross checked with information available on the People's Assembly's website. We attempted to contact the 19 constituency offices twice: once during a constituency period and once on a constituency day.

## Findings

In total we were able to reach ten of the 19 constituency offices: in six instances we were able to speak to the administrator, thrice we spoke to either a volunteer or someone else in the building because neither the administrator nor the MP was present and once to an MP. The other nine constituency offices could not be reached because there was no answer, it was a wrong number, the number was a fax line, or it was not a constituency office. During our investigation we discovered that most of the constituency offices on our list had been assigned MPs. Yet our review of the literature refers to both MPs and MPLs having constituency duties. We were able to obtain a list of details for ANC PCOs for the Western Cape that also only contained details where MPs had been assigned. Despite numerous attempts, we were unsuccessful in obtaining the ANC's MPL list from the Western Cape Provincial Legislature.<sup>106</sup>

Most of the administrators we spoke to saw themselves as the link between MPs/MPLs and the public accessing the constituency office. The administrators confirmed that MPs and MPLs were hardly ever physically present, but some assured us that they could contact them if needed. Most administrators would only contact the MP or MPL if they felt they could not deal with an issue themselves. This suggests that administrators are acting as de facto gatekeepers and screening access to MPs/MPLs, without any training, support or guidelines to fulfil this role.

Four administrators indicated that MPs and MPLs were too busy to come to the constituency offices and that parliamentary and party political work took priority over their assigned constituency office duties. Our research found that some parliamentary committees have busier schedules than others resulting in some MPs having a heavier workload than others depending on what committee work they have. We noticed that some MPs were assigned to two constituency offices.

Just over a year after the start of the fifth parliament, when we conducted this investigation, one administrator had not seen or heard from the MP assigned to that constituency office. She explained that this affected her ability to access resources particularly for events and campaigns. One administrator felt that MPLs were better suited for constituency work because they have more time and are closer to the community than MPs. Another administrator thought that Mondays were too busy to be assigned as constituency days and that another day later in the week would work better.

## Conclusion

Clearly the greatest difficulty was tracking down contact details for constituency offices. Even where we were able to access contact details, we only managed to reach a single MP. The administrators to which we spoke seemed to accept, without question, the practice that MPs and MPLs were seldom present at constituency offices. The result is a serious failure of an important objective of constituency offices: MPs and MPLs having direct interaction with communities. Our investigation confirms that the constituency offices we contacted were not functioning the way they are intended and therefore compromising their potential as a powerful vehicle for public participation.

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<sup>103</sup> The Panel for Assessment of Parliament Report, 2009. Scott, R. An analysis of public participation in the South African legislative sector, 2009.

<sup>104</sup> Obtained from National Parliament's official website: [http://www.parliament.gov.za/live/content.php?Category\\_ID=55](http://www.parliament.gov.za/live/content.php?Category_ID=55)

<sup>105</sup> The ANC PCO list for the Western Cape for 2015 shared with us by one of the administrators contains details of 32 offices.

<sup>106</sup> We were referred by one of the administrators to the ANC PCO coordinator in the Western Cape Provincial Legislature who in turn requested that we formally write to her via email with which we complied. She then responded: "However, I can only advise you to contact the ANC Western Cape Provincial Secretary, Mr Faiez Jacobs". We were unable to make contact with Mr Jacobs.

## **PART IV**

# **FACTSHEETS ON THE PERFORMANCE OF THREE NATIONAL ASSEMBLY COMMITTEES**

The following sections provide a detailed look into the performance of the Portfolio Committees on Health, Basic Education and Police. They specifically provide a more detailed picture of the nature of issues on which these committees engaged the public and on which sectors of the public interact with the committees.

# PORTFOLIO COMMITTEE ON HEALTH

## Responsible for oversight over:

Department of Health  
 Council for Medical Schemes  
 National Health Laboratory Services  
 Medical Research Council  
 Compensation Commissioner for Occupational Diseases

## Meetings of the PC Health - Overview

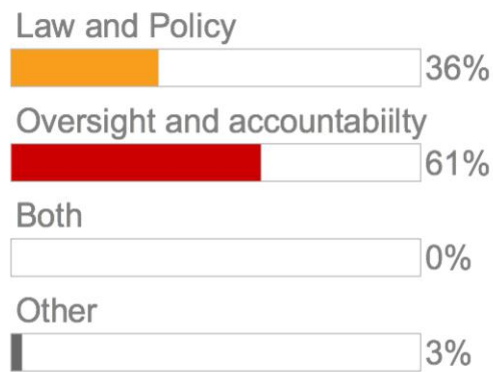
May 2009 to May 2014					June 2014 to June 2015				
Total	law and policy reform	oversight and account	OA and LR	Other	Total	law and policy reform	oversight and account	OA and LR	Other
<b>121</b>	<b>12</b>	<b>104</b>	<b>1</b>	<b>5</b>	<b>36</b>	<b>13</b>	<b>22</b>	<b>0</b>	<b>1</b>

PC Health: 2009 to 2014



TOTAL: 121 Meetings

PC Health: 2014 to 2015

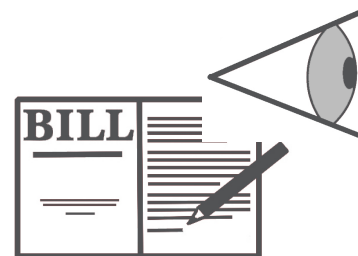
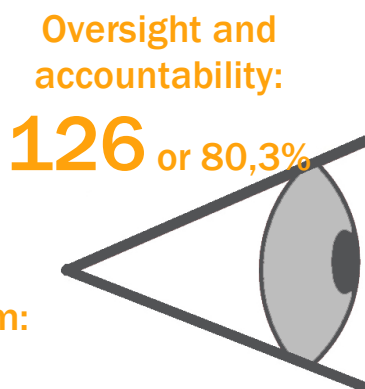


TOTAL: 36 Meetings

Total 2009 - 2015: **157** meetings



Law and policy reform:  
**25** or 15,9%

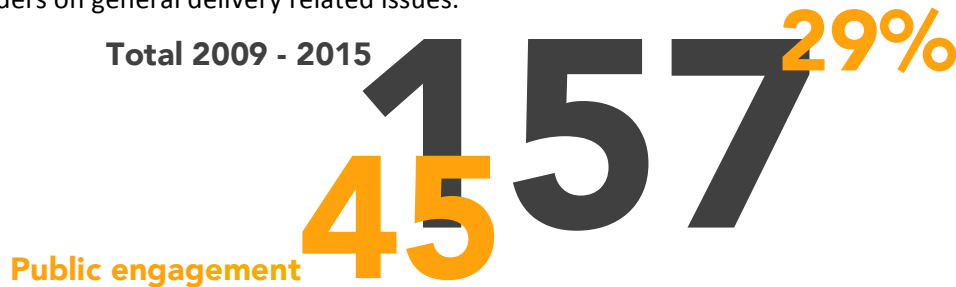


Both: **1** or 0,6%

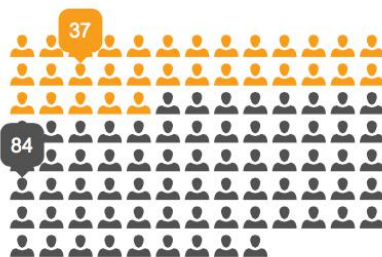
Other: **6** or 3,8%

## Number of meetings in which there was public participation

Of the 121 meetings between May 2009 and May 2014, 37 of these (or 30,5%) involved inputs from the public or statutory bodies/councils. In comparison to committees such as those on police or basic education, at 29 per cent, the Health Committee has a relatively high rate of public engagement. In light of the fact that this committee has a low law reform load, this indicates the committee's openness to inputs from stakeholders on general delivery related issues.



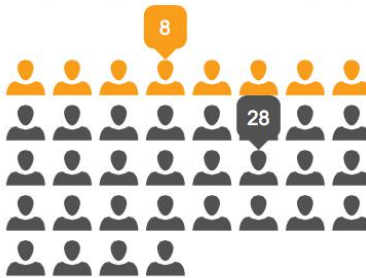
Public engagement with PC Health 2009 - 2014



Public engagement (31%)  
No public engagement (69%)

Total meetings: 121

Public engagement with PC Health 2014 - 2015



Public engagement (22%)  
No public engagement (78%)

Total meetings: 36

Public engagement with PC Health 2009 - 2015



Public engagement (29%)  
No public engagement (71%)

Total meetings: 157

We have used two categories to define 'public engagement': Public hearings and Stakeholder inputs.



**'Public hearings'** refer to processes in which there is a public call for submissions on a bill or an issue and after which, time is set aside for hearings at which some of the entities that have submitted written submissions also make oral submissions to a committee. Not all parties who make written submissions will also make oral submissions.

### HEALTH: 2009 - 2015: 4 Issues over 8 meetings

2009 - 2014: 2 issues over 3 meetings | 2014 - 2015: 2 issues over 5 meetings

**'Stakeholder inputs'** refers to situations where the committee invites targeted stakeholders to present information to it. It also includes situations where people or organisations approach a committee requesting an opportunity to present issues to the committee. These inputs are different from public hearings as they are not the result of a public call for participation. Departments and entities that are mandated to report to the portfolio committees are not included in this number.



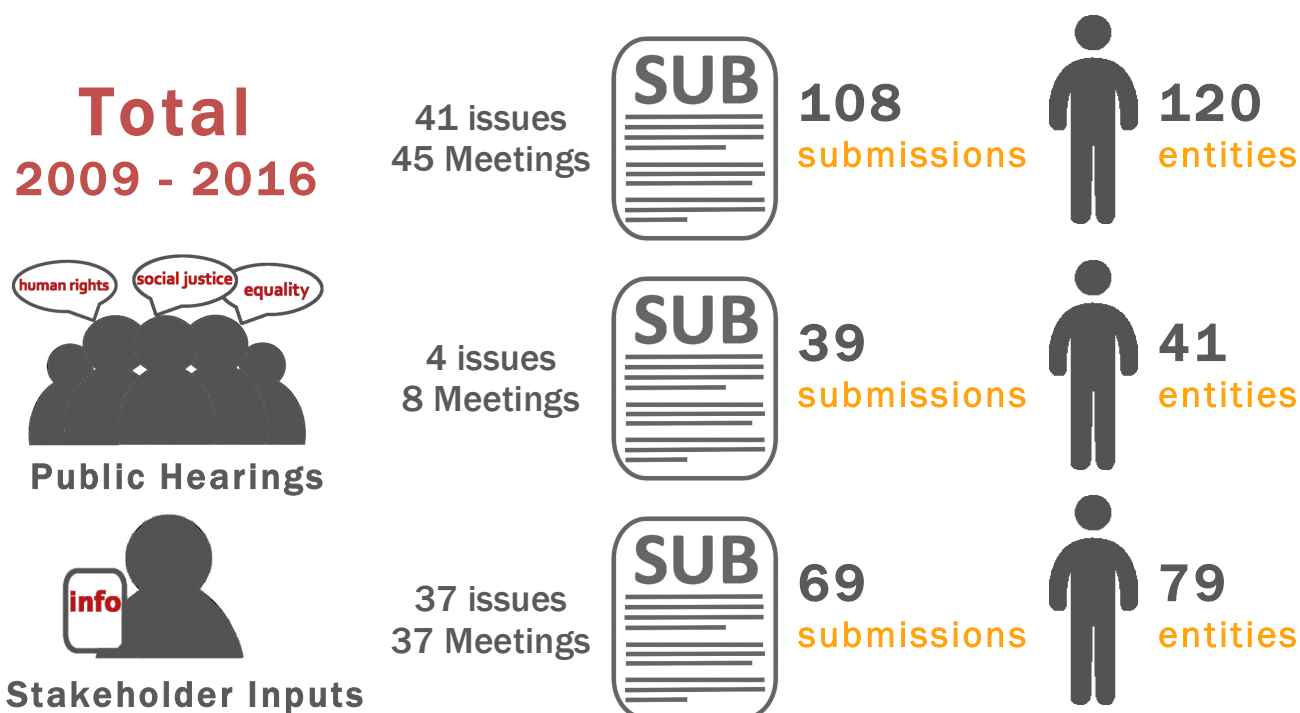
### HEALTH: 2009 - 2015: 37 issues over 37 meetings

2009 - 2014: 34 issues over 34 meetings | 2014 - 2015: 3 issues over 3 meetings



## Submissions received by the committee

Over the six-year period the committee has received a total of **108 submissions** from **120 entities** although some of these submitted more than once. Considering the submissions to Basic Education (54 submissions from 63 entities) and Police (94 submissions from 95 entities), the Health committee compares well, and appears to be a committee that is particularly open to input from the public. There are a number of instances in which more than one individual, organisation or structure make joint submissions to the committee, this accounts for the higher number of entities making submissions. The Health committee has been significantly receptive to ad-hoc inputs from stakeholders, unrelated to formal public hearings.



	2009 - 2014		2014 - 2015		2009 - 2015	
	Submissions	Entities	Submissions	Entities	Submissions	Entities
Submissions through public hearings	17	18	22	23	39	41
Submissions through stakeholder inputs	65	72	4	7	69	79
<b>Total submissions</b>	<b>82</b>	<b>90</b>	<b>26</b>	<b>30</b>	<b>108</b>	<b>120</b>

## Issues on which there were submissions and public input

This section explores three questions, seeking to understand the nature of the issues on which the committee engages with the public. Firstly, did the committee only hold public hearings in relation to law reform (which is more standard) or were formal public hearings also hosted regarding the performance of the Health department or the experiences of the public in relation to accessing health care services more generally? Secondly, how does this committee perform in terms of engaging with the public regarding its oversight annual oversight cycles? And finally, on what general issues was the committee open to receiving inputs from stakeholders?



## Issues on which there were public hearings

All public hearings hosted by the Health committee related to law reform. Between 2009 and 2015 the committee processed four bills; two in the five-year period between May 2009 and May 2014, and two in the year after the May 2014 general election. The single oral submission made on the Mental health Care Amendment Act is notable. The committee indicates that they received three written submissions but that two were not relevant to the legislation. In relation to the low public interest, the chairperson indicates that two newspapers and possibly some radio stations were used. The secretary indicates that the notice was published in four languages.<sup>107</sup> Eight months later on the commemoration of World Mental Health day, the committee held a workshop, organized by the UCT-based, PRIME SA. At this meeting 9 stakeholders – individuals and organizational representatives are recorded as speaking, the record of the meeting also gives an indication that a larger number of stakeholders were present besides those who formally addressed the meeting.<sup>108</sup> A simple Google search using the phrase ‘mental health South Africa’ easily identifies a number of relevant organisations and demonstrates the failure of the secretariat to take steps to ensure that relevant stakeholders were informed of the opportunity to participate.

PC Health: Public Hearings			
PH issues summary 2014-2015	Days	# submissions	# entities
Medicines & Related Substances Amendment Bill [B6-2014]	4	18	19
Medical Innovation Bill [PMB1-2014]	1	4	4
<b>Total 2014 - 2015</b>	<b>5</b>	<b>22</b>	<b>23</b>
PH issues summary 2009-2014	Days	# submissions	# entities
National Health Amendment Bill [B24-2011]	2	16	17
Mental Health Care Amendment Bill [B 39-2012]	1	1	1
<b>Total 2009 - 2014</b>	<b>3</b>	<b>17</b>	<b>18</b>
<b>Total 2009 - 2015</b>	<b>8 days</b>	<b>39 submissions</b>	<b>41 entities</b>



## Were stakeholder inputs made relating to annual oversight cycles?

Unlike committees such as those responsible for Police or Correctional Services, it is extremely rare for the Health committee to hear inputs from the public on the strategic plans, budgets and annual reports of the department. The instance of the 2013/2014 Annual Report came about at the request of the civil society organisations.<sup>109</sup> Further these inputs were not well received by the committee, the Chairperson indicated that some stakeholders who presented were ‘lucky’ that she did not have them thrown out of the meeting.<sup>110</sup>

PC Health: stakeholder inputs relating to oversight cycles		
Issue	# submissions	# entities
<b>2014 - 2015</b>		
2013/14 Annual Report	2	4
<b>Total 2014 - 2015</b>	<b>2 submissions</b>	<b>4 entities</b>
<b>2009 - 2014</b>		
None	0	0
<b>Total</b>	<b>2 submissions</b>	<b>4 entities</b>

<sup>107</sup> Portfolio Committee on Health 27 February 2013 <https://pmg.org.za/committee-meeting/15440/>

<sup>108</sup> Portfolio committee on Health 10 October 2013 <https://pmg.org.za/committee-meeting/16506/>

<sup>109</sup> The Community Law Centre Parliamentary Programme approached the committee requesting that four organisations present to the committee.

<sup>110</sup> Madonko T and Waterhouse S. 2014. House of the Rising Sums. Mail and Guardian. Published 05 December 2014. Accessed at <http://mg.co.za/article/2014-12-05-house-of-the-rising-sums> on 17 February 2015.



## General issues on which stakeholders made input

Of the Health committee's 126 oversight and accountability related meetings in the six years from 2009 to 2015, 36 (28,6%) included inputs from stakeholders. Over the 2009-2014 period, 34 of the 104 oversight/accountability related meetings (33%) included stakeholder inputs and in the 2014/15 year, two of the 22 (9%) involved stakeholder input. Reading the PMG record of the meetings it appears that the majority of these meetings are hosted at the request of stakeholders to the committee. It is clear that these are largely ad-hoc, they do not seem to be influenced by the committee's strategy and there is no evident continuity or follow up on issues.

<b>PC Health: stakeholder inputs general</b>		
<b>Issue</b>	<b>submissions</b>	<b>entities</b>
<b>2014 - 2015</b>		
Limpopo and Mpumalanga district hospitals. Medicine, equipment and staff	1	1
Organ donation in South Africa	1	2
<b>TOTAL 2014 - 2015: 2 meetings</b>	<b>2</b>	<b>3</b>
<b>2009 - 2014</b>		
Academic Health Complexes	3	3
Book launch on KZN medicinal plants	1	1
Business briefing	2	2
Challenges faced by the SA Nursing Council	1	1
Challenges facing Traditional Healers	2	2
Chamber of Mines briefing on Mine Health issues	1	1
Childhood Cancer Foundation on challenges & solutions	1	1
Commemoration of World Mental Health Day	9	9
Community Concerns About New Tsolo Hospital and impact on St Lucy Hospital	1	2
Council for medical aid schemes on private sector licencing	1	1
Council of Scientific and Industrial Research (CSIR) contribution to the country's health research	1	1
Eastern Cape Health Crisis Action Coalition on findings and recommendations by National and Provincial Departments on Eastern Cape's Systems Intervention Plan	1	7
Former Heads of State on the fight against the spread of HIV in the Sub-Saharan African Region: briefing	2	2
Health systems trust briefing	1	1
Hospice Palliative Care	1	1
Humana People to People briefing	1	1
Impumelelo Social Innovations Centre briefing	1	1
Love Life on their programmes and on the 2010 Annual Report*	1	1
Medical Schemes on operations, services and charges	3	3
Medical School Admission Criteria and Curriculum by 8 Deans of Health Sciences Faculties	8	8
Medical tariffs	5	5
Mortality and causes of death in the country: briefing by Statistics South Africa	1	1
National Female and Child Homicide Study findings: Medical Research Council briefing	1	1
National Health Act: SA Medical Association concerns about Section 46 & Chapter 8 regulations	1	1
National Health Insurance	1	1
Nursing Colleges	1	1
Patients' services and charges	1	1
Pharmaceutical Logistics Association of South Africa on Single Exit Price	1	1
Rural Medical Doctors on challenges facing rural doctors	3	3
Self-Regulation of Doctors and Health Professions Council of South Africa (HPCSA): South African Medical Association briefing	1	1
South African Blood Service briefing on services they provide, their challenges & achievements	1	1
South African Medical Association briefing	1	1
Tariffs of private hospitals	3	3
TB Vaccine Development	2	2
<b>Total 2009 - 2014: 34 meetings</b>	<b>65</b>	<b>72</b>
<b>Total 2009 - 2015: 36 meetings</b>	<b>67</b>	<b>75</b>

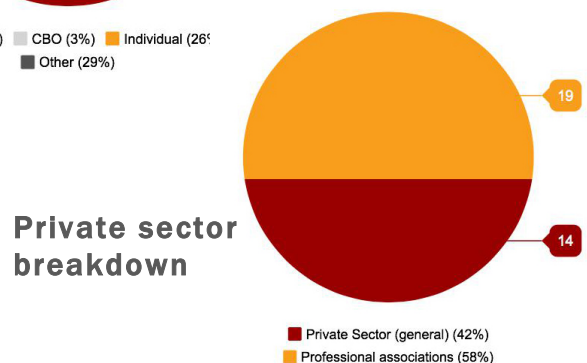
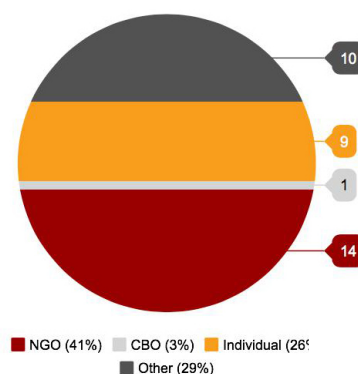
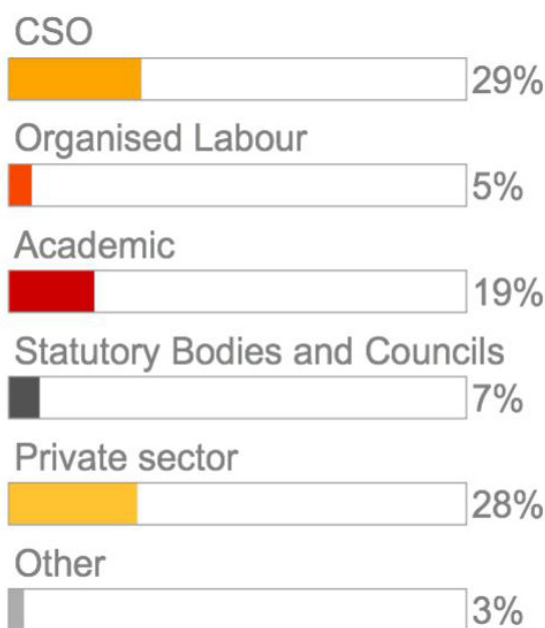
## Public participation – who participates in the Health committee?

### Overview of who participated in the Health committee

Entity	2009 - 2014		2014-2015		2009-2015	
	instances	entities	Instances	entities	instances	entities
NGO	8	8	6	8	14	16
CBO	1	1	0	0	1	1
Individuals	8	8	1	2	9	10
Civil Society Other	9	9	1	1	10	10
<b>Civil Society sub-total</b>	<b>26</b>	<b>26</b>	<b>8</b>	<b>11</b>	<b>34</b>	<b>37</b>
<b>Organised labour</b>	<b>5</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>6</b>	<b>3</b>
<b>Academic</b>	<b>19</b>	<b>19</b>	<b>3</b>	<b>4</b>	<b>22</b>	<b>23</b>
<b>Statutory bodies and councils</b>	<b>5</b>	<b>4</b>	<b>3</b>	<b>3</b>	<b>8</b>	<b>6</b>
Private Sector general	11	11	3	3	14	14
Professional associations	13	9	6	6	19	13
<b>Private sector sub-total</b>	<b>24</b>	<b>20</b>	<b>9</b>	<b>9</b>	<b>33</b>	<b>27</b>
<b>Other</b>	<b>3</b>	<b>4</b>	<b>1</b>	<b>1</b>	<b>4</b>	<b>5</b>
<b>Total</b>	<b>82</b>	<b>74</b>	<b>25</b>	<b>28</b>	<b>117</b>	<b>101</b>

This table categorises who appeared before the committee over the periods. It provides an overview of the number of entities that appeared before the committee and the number of instances in which this occurred. The lower figure of 101 entities in this table, compared with the 120 indicated above is the result of individuals and organisations that presented more than once are only counted once in the 'entities' column. The seeming miscalculation in some categories of the total number over the six-year period (such as in the category 'statutory bodies') is the result of some entities, appearing once in each period, and only being counted once over the full six-years.

The percentage of instances in which private sector stakeholders engaged with the committee between 2009 and 2015 (28%) is marginally lower than the percentage of instances in which civil society organisations (29%) presented before the committee. However this is affected by the attendance at a World Mental Health Day commemoration event, organised by PRIME SA. which includes a number of civil society organisations or individuals. It's also notable that of the private sector stakeholders that engage the committee a large proportion are professional associations, thus representing collective interests.



## **Academia 2009 – 2015**

**22,7% of the entities and 18,8% of the times**

A significant proportion of the stakeholders that access this committee are academic. 23% of the stakeholders that presented before the committee from 2009 to 2014 were Academic, during that period all appeared only once. This committee's relationship to academic institutions, is more complex than most other committees (except perhaps the committee on higher education). Thus at times, academic institutions present new information to the committee in order to support its oversight over the Department or the development of new law, but at others they address the committee on the performance of academic hospitals and medical school admissions and curriculum. Although the committee is directly responsible for oversight over the MRC, the MRC has been counted as a stakeholder in instances where it presented research findings to the committee; the oversight-related meetings have not been counted.

## **Civil society organisations 2009 – 2015**

**36,6% of the entities and 29% of the times**

NGOs, CBOs, FBOs, private individuals and 'other' civil society structures account for around 29% of the instances in which there was stakeholder engagement with the committee during both periods. Except for one individual who addresses the committee twice on one issue, no NGOs or CBOs appear before the committee on more than one occasion, showing clearly the lack of systematic engagement by civil society organisations with the committee. That said, the Eastern Cape Health Crisis Coalition includes a number of members, including the Treatment Action Campaign (TAC), TAC does engage the committee in partnership with a second organisation on another occasion.

## **Trade Unions 2009 – 2015**

**2,9% of the entities and 5,1% of the times**

The South African Medical Association is the entity that appears before the committee the more times than any other (5). However there's no record of SAMA engaging with the committee in the 2014/15 period. In this period the Congress of South African Trade Unions (COSATU) and the National Education, Health and Allied Workers' Union (NEHAWU) do jointly address the committee.

## **Statutory bodies and councils 2009 – 2015**

**5,9% of the entities and 6,8% of the times**

There are many statutory bodies relating to health services, in instances where these were not accounting for their performance but providing the committee with information on law reform or its oversight over the department they have been counted as stakeholder inputs. Of these, two addressed the committee on more than one occasion, both the Council for Medical Schemes and the South African Nursing Council engaged with the committee on two occasions.

## **Private Sector – professional associations, businesses and individuals representing business interests 2009 – 2015**

**26,7% of the entities and 28,2% of the times**

There are significant private sector interests in the health sector. 24 of the 82 stakeholder inputs (29%) between 2009 and 2014, and nine of the 25 (36%) made in the 2014/15 period were made by stakeholders representing private sector interests. The Hospital Association of South Africa presented before the committee on four occasions and the Board of Healthcare Funders (medical aids), SA Medical Device Industry Association, SA Laboratory Diagnostics Association all presented twice. In addition, four different pharmaceutical associations addressed the committee between 2009 and 2015. In addition to the associations, individual medical aids, pathology service companies, and pharmaceutical companies addressed the committee on various issues.

## Breakdown of entities that presented to the Health committee

### Civil Society – NGO 2009 to 2015

<b>2014-2015</b>
Amnesty International and Community Law Centre
Doctors without borders (MSF) SA
Medi Q - sustainable healthcare solutions
Regulatory Discussion Group
Traditional and natural health alliance
Treatment Action Campaign and Budget Expenditure Monitoring Framework
<b>Six instances, eight entities</b>
<b>2009- 2014</b>
Areas Global TB Vaccine Foundation
Cape Mental Health
CHOC children cancer foundation
EC Health Crisis Action Coalition
Health systems trust
Impumelelo
SA Depression and anxiety group
SA Traditional Healthers organisation
<b>Eight instances, eight entities</b>
<b>CS – NGO 2009-2015 totals: 14 instances, 16 entities</b>

### Civil society – CBO 2009-2015

<b>2014 – 2015</b>
0
<b>2009-2014</b>
Humana People to People
<b>One instance, one entity</b>
<b>CS-CBO 2009-2015 totals: One instance, one entity</b>

### Civil Society – Individuals 2009-2015

<b>2014-2015</b>
Mr and Mrs Lowe
<b>One instance, two individuals</b>
<b>2009-2014</b>
Centre for Mental health representative - "service user"
community members x 2
Dr Nqabisile Nyushiman
Dr Susan Christiane
Elsabe Brits
Jessica Johnson
Mr Mbara
Mr Mbara
<b>Eight instances, eight individuals</b>
<b>CS-I 2009-2015 totals: Nine instances, 10 individuals</b>

### **Civil Society - Other: 2009 - 2015**

<b>2014-2015</b>
Pharmaceutical Society of SA
<b>One instance, one entity</b>
<b>2009-2014</b>
Hospice and palliative care association of SA
Innovative Medicine SA
National unitary professional association for African traditional health practitioners
Authors of plant book from turn of 1900
Pure Health Consulting
SA Federation of Mental Health
SA Institute of environmental health
SA national blood service
Traditional and National Health Alliance
<b>Nine instances, nine entities</b>
<b>2009-2015 totals: 10 instances, 10 entities</b>

### **Academic 2009-2015**

<b>2014-2015</b>
Medical Research Council
Prof Solomon Rataemane: African Psychiatrists Association And Sefako Makgatho Health Sciences University 2 x
SU Clinician Experts (prof Willie Pienaar)
<b>Three instances, four entities</b>
<b>2009-2014</b>
CSIR research on health in SA
Medical Research Council
Nelson Mandela School of Medicine
Prof Petersen PRIME SA
Stats SA
SU Medicine and Health Sciences Dean
SU South to South
UCT Centre for public mental health
UCT Department of Medicine
UCT Health Sciences Dean
UFS Health Sciences Dean
UCT SA TB Vaccine Initiative
UFS School of Medicine
UKZN Medical School
UP Health Sciences Dean
UWC School of Dentistry
UWC SoPH
Walter Sisulu U Tech
Wits Health sciences dean
<b>19 instances, 19 entities</b>
<b>Civil Society - Academic 2009-2015 totals: 22 instances, 23 entities</b>

### **Organised Labour 2009 - 2015**

<b>2014-2015</b>
COSATU and NEHAWU joint
<b>One instance, two entities</b>
<b>2009-2014</b>
SAMA
SAMA
SAMA
SAMA
SAMA
<b>Five instances, one entity</b>
<b>2009-2015 totals: Six instances, three entities</b>

### **Statutory Bodies and Councils 2009 - 2015 totals**

<b>2014 - 2015</b>
Allied Health Professionals Council to SA
National Pharmaceutical Council - Dr Naidoo
Pricing Committee
<b>Three instances, three entities</b>
<b>2009 - 2014</b>
Council for Medical Aid Schemes
Council for Medical Aid Schemes
Health Professionals Council of SA
South African Nursing Council
South African Nursing Council
<b>five instances, three entities</b>
<b>2009-2015 totals: Eight instances, six entities</b>

### **Private sector - Professional Associations 2009 - 2015 totals**

<b>2014 - 2015</b>
Health products association of Southern A Assoc
Innovative Pharmaceutical association SA
Pharmaceuticals made in SA (Pharmisa)
SA Laboratory diagnostics Association
SA Medical Device Industry Association
Self Medication Manufacturers Association of SA (SMASA)
<b>Six instances, six entities</b>
<b>2009 - 2014</b>
Board of Healthcare funders
Board of Healthcare Funders
Hospital Association SA
Hospital Association of SA
Hospital Association of SA
Hospital Association SA
Pharmaceutical industry association SA



Pharmaceutical logistics association of SA
SA Dental association
SA laboratory diagnostics association
SA Medical Device Industry Association
SA private practitioners forum
SA Society of anaestheasiologists
<b>13 instances, nine entities</b>
<b>2009-2015 totals: 19 instances, 13 entities</b>

### **Private sector general 2009 - 2015 totals**

<b>2014 - 2015</b>
Dr Roy Jobson - clinical pharmacologist
Johnson & Johnson
Roche Diagnostics
<b>Three instances, three entities</b>
Bonitas
Business Unity SA
Business Unity SA and Financial Planning Institute 2 x
Cabontory Medicine Group
Chamber of Mines
Discovery
FedHealth
National Pathology group
PathCare
SA Business coalition on HIV/Aids
SA Private Practitioners Forum
<b>11 instances, 11 entities</b>
<b>2009 - 2015 totals: 14 instances, 14 entities</b>

### **Other 2009 - 2015 totals**

<b>2014-2015</b>
Public Service Commission
<b>One instance, one entity</b>
<b>2009-2014</b>
Botswana and Mozambique ex heads of state delegations
SA Military Health Service and SA society of psychiatrists
Loveliflife*
<b>Three instances, three entities</b>
<b>2009-2015 totals: 4 instances, five entities</b>

## PORTFOLIO COMMITTEE ON BASIC EDUCATION

**Responsible for oversight over:**  
 Department of Basic Education  
 South African Council for Educators  
 Education Labour Relations Council  
 General and Further Education and Training Quality Assurance Council (UMALUSI)

### Meetings of the PC Basic Education - Overview

May 2009 to May 2014					June 2014 to June 2015				
Total	law and policy reform	oversight and account	OA and LR	Other	Total	law and policy reform	oversight and account	OA and LR	Other
<b>141</b>	<b>5</b>	<b>130</b>	<b>3</b>	<b>3</b>	<b>34</b>	<b>0</b>	<b>33</b>	<b>0</b>	<b>1</b>

PC Basic Education: 2009 to 2014



TOTAL: 141 Meetings

PC Basic Education: 2014 to 2015



TOTAL: 34 Meetings

## Total 2009 - 2015: 175 meetings



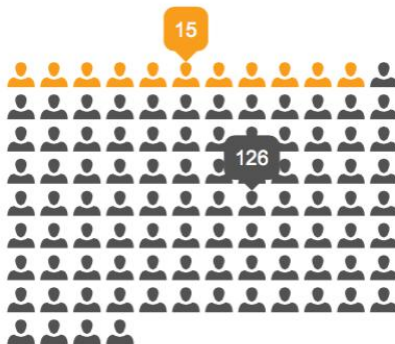
This committee has undertaken very little law reform over the past six years – only 3,6% of its time was spent on law reform from May 2009 to May 2014. The committee processed one bill, the Basic Education Laws Amendment Bill.

## Number of meetings in which there was public participation

The Basic Education Committee has an extremely low rate of public participation in its meetings, out of 141 meetings between May 2009 and May 2014 only 15 involved public participation (less than 11%). Of the 34 meetings between June 2014 and June 2015 none involved any form of public participation. From 2011 to June 2015 there is no record of the Basic Education Committee hosting public hearings. Total meetings with public engagement is 15 over the six years – 9% of the committee’s meetings.

Total 2009 - 2015 **175** <sup>9%</sup>  
Public engaged **15**

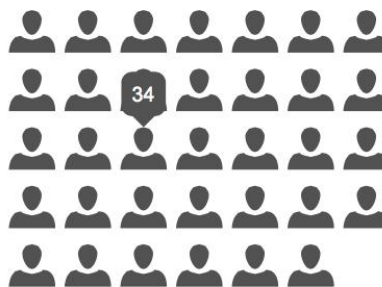
Public engagement with PCBE 2009 - 2014



Public engagement (11%)  
No public engagement (89%)

Total meetings: 141

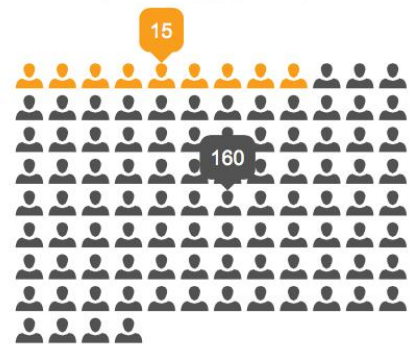
Public engagement with PCBE 2014 - 2015



Public engagement (0%)  
No public engagement (100%)

Total meetings: 34

Public engagement with PCBE 2009 - 2015



Public engagement (9%)  
No public engagement (91%)

Total meetings: 175

We have used two categories to define ‘public engagement’: Public hearings and Stakeholder inputs.



**‘Public hearings’** refer to processes in which there is a public call for submissions on a bill or an issue and after which, time is set aside for hearings at which some of the entities that have submitted written submissions also make oral submissions to a committee. Not all parties who make written submissions will also make oral submissions.

**BASIC EDUCATION: 2009 – 2015: 2 Issues over 8 meetings**  
2009 – 2014: 2 issues over 8 meetings | 2014 – 2015: 0 issues over 0 meetings

**‘Stakeholder inputs’** refers to situations where the committee invites targeted stakeholders to present information to it. It also includes situations where people or organisations approach a committee requesting an opportunity to present issues to the committee. These inputs are different from public hearings as they are not the result of a public call for participation. Departments and entities that are mandated to report to the portfolio committees are not included in this number.



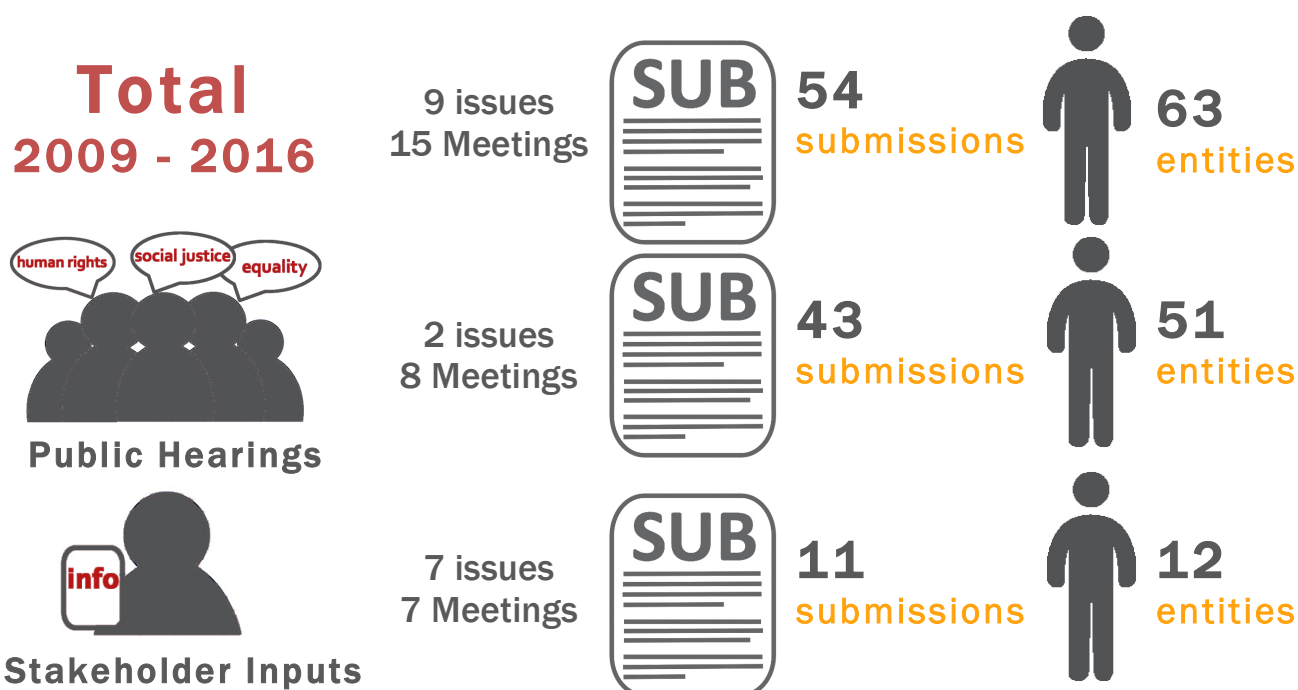
**BASIC EDUCATION: 2009 – 2015: 7 inputs over 7 meetings**  
2009 – 2015: 7 inputs over 7 meetings | 2014 – 2015: 0 inputs over 0 meetings

Given the relevance of the Basic Education Committee’s mandate, the limited public participation in its processes is surprising. Given that education is primarily a provincial function, it will be useful to examine the extent to which stakeholders are engaging with provincial legislatures in this regard.

## Submissions received by the committee

Over the six-year period the committee received a total of 54 submissions from 63 different entities. There are a number of instances in which more than one individual, organisation or structure make joint submissions to the committee, this accounts for the higher number of entities making submissions. The numbers for this committee compare badly to committees such as the Health committee, which received 108 submissions from 120 entities, and Police, which received 94 submissions from 95 different entities. The Basic Education Committee’s public engagements on nine different issues spread over 15 of its 175 meetings over six years, considered against the Health Committee which had public engagement on 41 issues, spread over 45 of its 157 meetings further demonstrates the low priority placed on public engagement by this committee.

Further, of the 54 submissions made to the committee over the six years, 36 of these were made in a single robust participation process over seven days in 2010. That process stands as an outlier, not only in terms of this committee but also when considering a range of committees. In addition to the 36 oral submissions, the committee received at least 169 additional written submissions and the record indicates that they engaged seriously with the issues that were raised. It is thus more stark that, besides the strong public engagement process on public hearings regarding access to and quality education, it means that the committee only received 18 submissions from 19 entities over eight of its meetings in the five-year period that followed.



	2009 - 2014		2014 - 2015		2009 - 2015	
	Submissions	Entities	Submissions	Entities	Submissions	Entities
Submissions through public hearings	43	51	0	0	43	51
Submissions through stakeholder inputs	11	12	0	0	11	12
<b>Total submissions</b>	<b>54</b>	<b>63</b>	<b>0</b>	<b>0</b>	<b>54</b>	<b>63</b>

## Issues on which there were submissions and public input

This section explores three questions, seeking to understand the nature of the issues on which the committee engages with the public. Firstly, did the committee only hold public hearings in relation to law reform (which is more standard) or were formal public hearings also hosted regarding the performance of the Department of Basic Education or the experiences of the public in relation to education more generally? Secondly, how does this committee perform in terms of engaging with the public regarding its oversight annual oversight cycles? And finally, on what general issues was the committee open to receiving inputs from stakeholders?

### Issues on which there were public hearings



The Basic Education committee heard a total of 43 submissions from 51 entities over eight days of public hearings in the six-year period. As noted previously, the public hearings on access to and quality of education that were held by the committee in 2010 resulted in significant public participation. In addition to the 36 oral submissions that were heard by the committee over the seven days of public hearings dedicated to this, the committee received a further 169 written submissions. The Committee also dedicated nine meetings to deliberations, which related to both the written and the oral submissions that it had received. This process took place early in the fourth Parliament term and served to provide the committee with a wide range of perspectives on the issues relating both to access to and quality of education. The second notable point is that it is unusual for committees to host formal public hearings on implementation, oversight or accountability related issues; more frequently public hearings relate to law reform and any engagement on oversight is achieved through ad-hoc stakeholder engagements.

After the robust start in 2010, there was only one other issue on which the Basic Education committee hosted public hearings. The Basic Education laws Amendment Bill (2011). On this issue the committee received seven oral submissions at one meeting in 2011.

PC Basic Education: Public Hearings			
<b>PH issues summary 2014-2015</b>	<b>Days</b>	<b># submissions</b>	<b># entities</b>
None	0	0	0
<b>Total 2014 - 2015</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>PH issues summary 2009-2014</b>	<b>Days</b>	<b># submissions</b>	<b># entities</b>
Access to and Quality of Education (2010)	7	36	44
Basic Education Law Amendment Bill (2011)	1	7	7
<b>Total 2009 - 2014</b>	<b>8</b>	<b>43</b>	<b>51</b>
<b>Total 2009 - 2015</b>	<b>8 days</b>	<b>43 submissions</b>	<b>51 entities</b>



## Were stakeholder inputs made relating to annual oversight cycles?

The Basic Education committee generally does not engage with stakeholders on the strategic plans, budgets and annual reports of its entities. The only occasion on which this took place during the period reviewed was in 2012 when Equal Education presented its shadow report on the performance of the Department to the committee. This was at the request of Equal Education and not the result of an invitation from the committee. The Basic Education committee (as with the Health committee) thus fares badly in this regard, it only received 1 out of a total 54 submissions (1,8%) on oversight cycles. Due to its very low rate of stakeholder inputs that 1 submission represents 9% of its stakeholder inputs (excluding submissions through public hearings) that the committee received.

PC Basic Education: stakeholder inputs relating to oversight cycles		
Issue	# submissions	# entities
<b>2014 - 2015</b>		
None	0	0
<b>Total 2014 - 2015</b>	<b>0 submissions</b>	<b>0 entities</b>
<b>2009 - 2014</b>		
Annual Report 2012	1	1
<b>Total</b>	<b>1 submissions</b>	<b>1 entities</b>



## General issues on which stakeholders made input

Given the limited range of meetings in which stakeholders made contributions, the range of issues is also limited, over the full period only 11 entities made inputs to the committee on general issues, these 11 include NGOs, Academia and Chapter 9 Institutions.

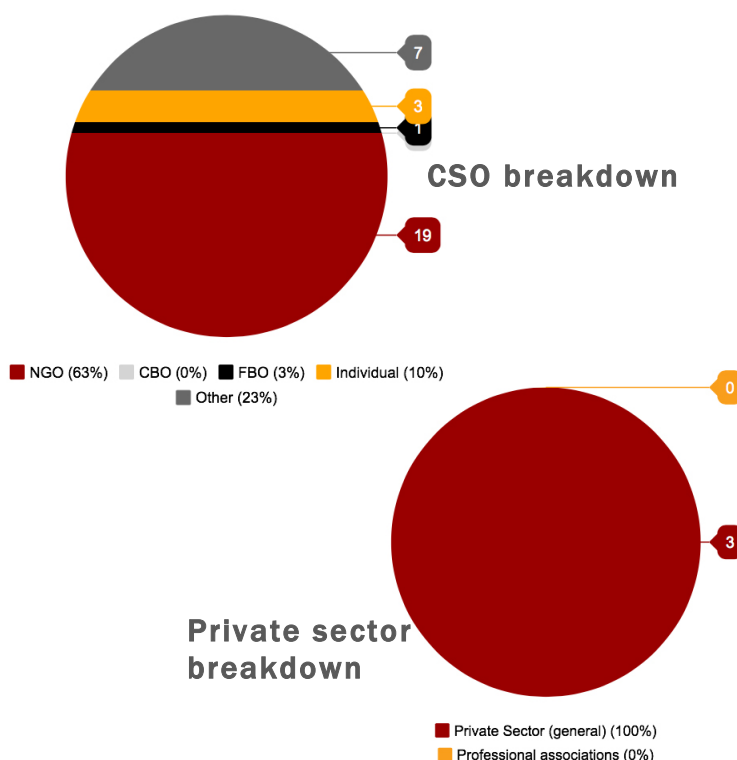
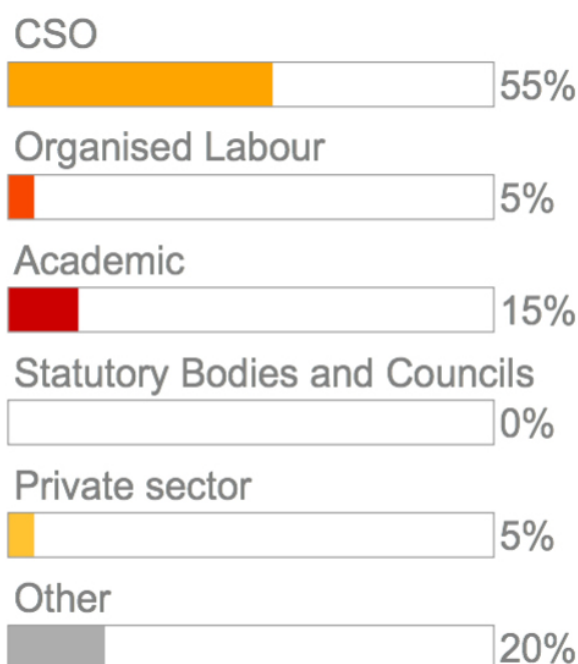
PC Basic Education: stakeholder inputs general		
Issue	submissions	entities
<b>2014 - 2015</b>		
African Languages and ECD	1	1
<b>TOTAL 2014 - 2015: 1 meeting</b>	<b>1</b>	<b>1</b>
<b>2009 - 2014</b>		
Salary structures	1	1
Educational programmes on television	1	1
Literacy and Numeracy	5	5
Inclusive education	2	1
SAHRC charter on basic education	1	1
Drug testing in schools and sport	1	1
<b>Total 2009 - 2014: 6 meetings</b>	<b>11</b>	<b>10</b>
<b>Total 2009 - 2015: 7 meetings</b>	<b>12</b>	<b>11</b>

## Public participation – who participates in the Basic Education committee?

### Overview of who participated in the Basic Education committee

Entity	2009 - 2014		2014-2015		2009-2015	
	instances	entities	Instances	entities	instances	entities
NGO	19	19	0	0	19	19
CBO	0	0	0	0	0	0
FBO	1	1	0	0	1	1
Individuals	3	3	0	0	3	3
Civil Society Other	7	6	0	0	7	6
<b>Civil Society sub-total</b>	<b>30</b>	<b>29</b>	<b>0</b>	<b>0</b>	<b>30</b>	<b>29</b>
<b>Organised labour</b>	<b>3</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>3</b>
<b>Academic</b>	<b>8</b>	<b>9</b>	<b>0</b>	<b>0</b>	<b>8</b>	<b>9</b>
<b>Statutory bodies and councils</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
Private Sector general	3	3	0	0	3	3
Professional associations	0	0	0	0	0	0
<b>Private sector sub-total</b>	<b>3</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>3</b>
<b>Other</b>	<b>11</b>	<b>11</b>	<b>0</b>	<b>0</b>	<b>11</b>	<b>11</b>
<b>Total</b>	<b>55</b>	<b>55</b>	<b>0</b>	<b>0</b>	<b>55</b>	<b>55</b>

This table categorises who appeared before the committee over the periods. It provides an overview of the number of entities that appeared before the committee and the number of instances in which this occurred. The 55 entities in this table, lower compared with the 63 indicated above, is the result of individuals and organisations that presented more than once are only counted once in the 'entities' column in this section.



### **Academia 2009 – 2015**

**16,4% of the entities and 14,5% of the times**

Over the period Academia represented nearly 15% (14.8%) of the instances of stakeholder inputs to the committee.

### **Civil society organisations 2009 – 2015**

**52,7% of the entities and 54,5% of the times**

The majority of the stakeholder inputs were made by civil society organisations or individuals, these made up 29 of the 54 oral submissions (54%) made to the committee. Of these NGOs made up the majority (19 submissions) – of the NGOs only one, Equal Education, appeared more than once before the committee (three times). The only other structure to appear before the committee more than once is Federation of Governing Bodies of South African Schools (FEDSAS).

### **Trade Unions 2009 – 2015**

**5,5% of the entities and 5,5% of the times**

Teacher unions were not particularly active in their engagements with this Committee, over the full six-year period National Professional Teachers Organisation of South Africa (NAPTOSA), South African Democratic Teachers Union (SADTU), Suid-Afrikaanse Onderwysunie (SAOU) SA Teachers Union (SATU) each appeared before the committee only once.

### **‘Other’ 2009 – 2015**

**20% of the entities and 20% of the times**

The 2010 hearings regarding access to and the quality of education also resulted in numerous teachers and schools making submissions to the committee. These have been categorised as ‘other’ as they were not making submission on behalf of the department, but rather based on their own experiences.

### **Statutory bodies and councils 2009 – 2015**

**0% of the entities and 0% of the times**

### **Private Sector – professional associations, businesses and individuals representing business interests 2009 – 2015**

**0% of the entities and 0% of the times**



## Breakdown of entities that presented to the Basic Education committee

### Civil Society – NGO 2009 to 2015

<b>2014 – 2015</b>
None
<b>Total: none</b>
<b>2009 – 2014</b>
Children's Rights Project, CLC, UWC and R2E CWD 2 x
CORMSA and Lawyers for Human Rights 2x
Educational Support Services Trust
Equal Education
Equal Education
Equal Education
Funda Afrika
Grahamstown Amasango Career School
Izingane Zethu Partnership
Junior Achievement South Africa
Maths Centre
Mental Health & Poverty Project
Mind Lab
Pestalozzi Trust
Projects Abroad Human Rights Office (PAHRO)
Siyahamba Foundation for Academic Excellence
Social Surveys Africa – Access to education in SA
South African Institute of distance Education
Western Cape Primary Science Program Trust
<b>Total. 19 instances; 19 entities</b>
<b>Totals 2009 – 2015: 19 instances; 19 entities</b>

### Civil society – CBO 2009-2015

<b>2014 – 2015</b>
None
<b>Total: none</b>
<b>2009 – 2014</b>
None
<b>Total: none</b>
<b>Totals 2009 - 2015</b>

### Civil society – FBO 2009-2015

<b>2014 – 2015</b>
None
<b>Total: None</b>
<b>2009 – 2014</b>
Southern African Catholic Bishops Conference
<b>Total. One instance, one entity</b>
<b>Totals 2009 – 2015: one instance, one entity</b>

### Civil Society – Individuals 2009-2015

<b>2014 – 2015</b>
None
<b>Total: none</b>
<b>2009 – 2014</b>
B Zondi
J Knipe
M H Jooste
<b>Total: three instances, three individuals</b>
<b>Totals 2009 – 2015: three instances, three individuals</b>

### Civil Society - Other: 2009 - 2015

<b>2014 - 2015</b>
None
<b>Total: none</b>
<b>2009 - 2014</b>
Federation of Governing Bodies of South African Schools (FEDSAS)
Federation of Governing Bodies of South African Schools (FEDSAS)
Governor's Alliance (SGB Association)
General Motors South Africa foundation
Project for study of alternative education in SA
SA Institute for Drug Free Sports
SA Media
<b>Total: six instances, five entities</b>
<b>Totals 2009 - 2015: six instances, five entities</b>

### Academic 2009-2015

<b>2014 - 2015</b>
None
<b>Total: none</b>
<b>2009 - 2014</b>
Centre for education rights and transformation - University Fort Hare
Centre for Multi Grade Education, CPUT
Human Sciences Research Council
North West University
North West University: DBD-Support In Education. Prof HJ Steyn
UFS, Optima Academy and North West U - impact of school readiness on school performance (3 orgs)
WITS Centre for education policy development
WITS Centre for education policy development
<b>Total: eight instances, nine entities</b>
<b>Totals 2009 - 2015: eight instances, nine entities</b>

### Organised Labour 2009 - 2015

<b>2014 - 2015</b>
None
<b>Total: none</b>
<b>2009 - 2014</b>
National Professional Teachers Organisation of South Africa (NAPTOSA)
South African Democratic Teachers Union (SADTU)
Suid-Afrikaanse Onderwysunie (SAOU) SA Teachers Union (SATU)
<b>Total: three instances, three entities</b>
<b>Totals 2009 - 2015: three instances, three entities</b>

### Statutory Bodies and Councils 2009 - 2015 totals

<b>2014 - 2015</b>
None
<b>Total: none</b>
<b>2009 - 2014</b>
None
<b>Total: none</b>
<b>Totals 2009 - 2015: none</b>

### Private sector - Professional Associations 2009 - 2015 totals

<b>2014 - 2015</b>
None
<b>Total: none</b>
<b>2009 - 2014</b>
None
<b>Total: none</b>
<b>Totals 2009 - 2015: none</b>

### Private sector general 2009 – 2015 totals

<b>2014 – 2015</b>
None
<b>Total: none</b>
<b>2009 – 2014</b>
Cape Town Studies and Tours
Ukufunda
Leaders in Learning
<b>Total: three instances, three entities</b>
<b>Totals 2009 – 2015: four instances, four entities</b>

### Other 2009 – 2015 totals

<b>2014 – 2015</b>
None
<b>Total: None</b>
<b>2009 – 2014</b>
JET Educational Services
SABC
SAHRC
Textbook Development Institute
Bergville Primary
Faithway Christian School
Livingstone Primary School Curriculum Content
Meredale Primary School
Thandulwazi Saturday School
Westcliff
Yussuf Dadoo Primary School
<b>Total: 11 instances, 11 entities</b>
<b>Totals 2009 – 2015: 11 instances, 11 entities</b>

## PORTFOLIO COMMITTEE ON POLICE

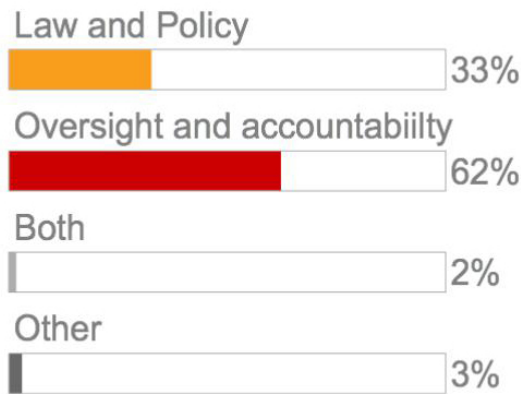
Responsible for oversight over:  
 South African Police Service  
 Independent Police Investigative Directorate  
 Civilian Secretariat for Police  
 Private Security Industry Regulatory Authority

### Meetings of the PC Police - Overview

May 2009 to May 2014					June 2014 to June 2015				
Total	law and policy reform	oversight and account	OA and LR	Other	Total	law and policy reform	oversight and account	OA and LR	Other
<b>226</b>	<b>74</b>	<b>141</b>	<b>4</b>	<b>7</b>	<b>45</b>	<b>0</b>	<b>43</b>	<b>1</b>	<b>1</b>

The police committee is relatively more active than most, of the six committees counted the only committee that was busier was the committee on Justice and Constitutional Development. Around one third of this committee's meetings related to law reform in the 2009 - 2014 period, during which the committee processed five pieces of legislation.

#### PC Police: 2009 to 2014



TOTAL: 226 Meetings

#### PC Police: 2014 to 2015



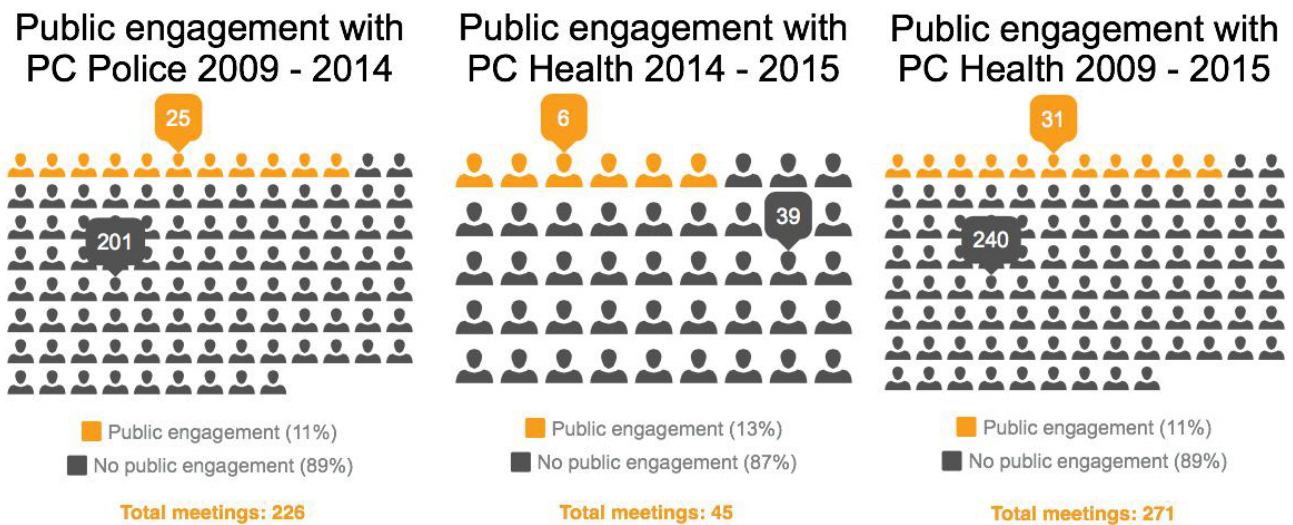
TOTAL: 45 Meetings

## Total 2009 - 2015: **271** meetings



## Number of meetings in which there was public participation

Of the 226 meetings of this committee between 2009 and 2014, only 11% involved some form of public participation. This is slightly higher in 2014/14 period, in which 6 of the 43 meetings (around 14%) of meetings included public participation.



We have used two categories to define 'public engagement': Public hearings and Stakeholder inputs.



**'Public hearings'** refer to processes in which there is a public call for submissions on a bill or an issue and after which, time is set aside for hearings at which some of the entities that have submitted written submissions also make oral submissions to a committee. Not all parties who make written submissions will also make oral submissions.

**POLICE: 2009 - 2015: 6 Issues over 11 meetings**  
 2009 - 2014: 6 issues over 11 meetings | 2014 - 2015: 0 issues over 0 meetings

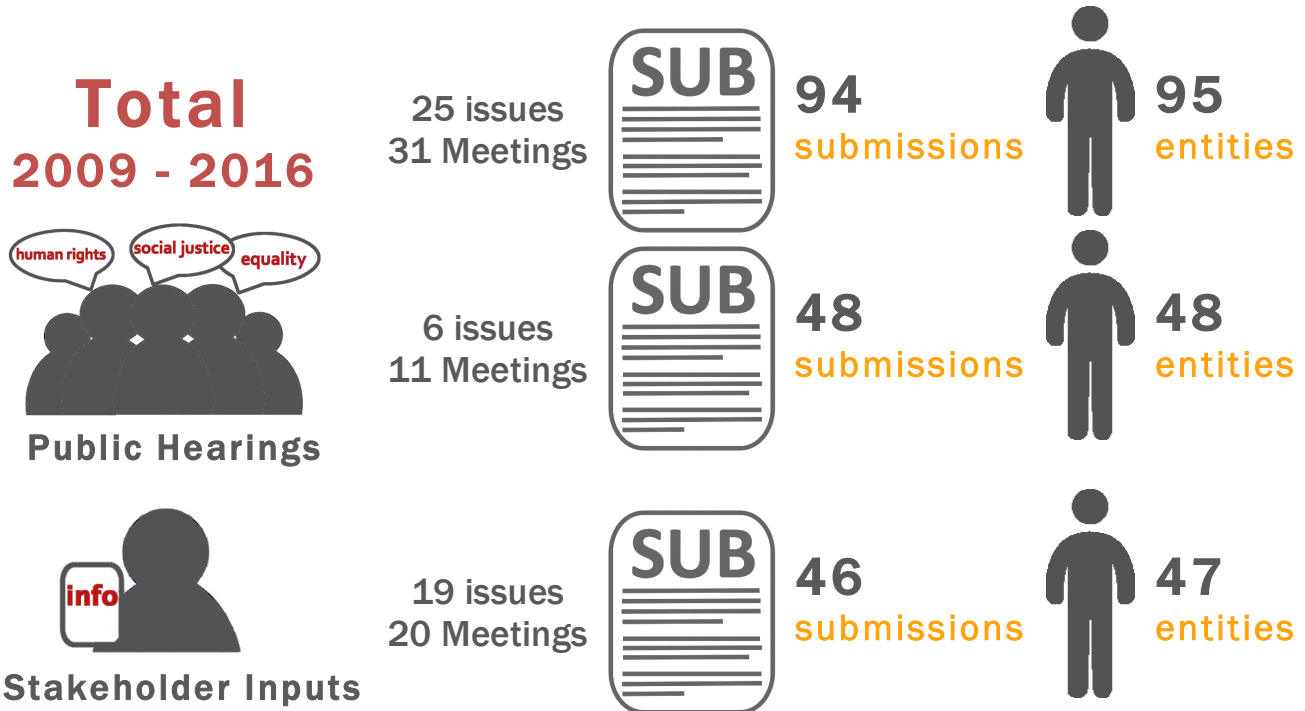
**'Stakeholder inputs'** refers to situations where the committee invites targeted stakeholders to present information to it. It also includes situations where people or organisations approach a committee requesting an opportunity to present issues to the committee. These inputs are different from public hearings as they are not the result of a public call for participation. Departments and entities that are mandated to report to the portfolio committees are not included in this number.



**POLICE: 2009 - 2015: 19 issues over 20 meetings**  
 2009 - 2014: 14 issues over 14 meetings | 2014 - 2015: 5 issues over 6 meetings

## Submissions received by the committee

Over the six-year period the committee has received a total of 94 submissions from 95 entities. Overall the committee appears to have been relatively open to public engagement. The extent to which CSOs and trade unions repeatedly engage with the Police committee is notable. The absolute number of 95 entities is actually comprised of 62 organisations, businesses or other structures. It implies that the committee and structures engaging the committee have invested in sustaining the relationships.



	2009 - 2014		2014 - 2015		2009 - 2015	
	Submissions	Entities	Submissions	Entities	Submissions	Entities
Submissions through public hearings	48	48	0	0	48	48
Submissions through stakeholder inputs	33	33	13	14	46	47
<b>Total submissions</b>	<b>81</b>	<b>81</b>	<b>13</b>	<b>14</b>	<b>94</b>	<b>95</b>

## Issues on which there were submissions and public input

This section explores three questions, seeking to understand the nature of the issues on which the committee engages with the public. Firstly, did the committee only hold public hearings in relation to law reform (which is more standard) or were formal public hearings also hosted regarding the performance of the SAPS or the experiences of the public in relation to policing more generally? Secondly, how does this committee perform in terms of engaging with the public regarding its oversight annual oversight cycles? And finally, on what general issues was the committee open to receiving inputs from stakeholders?

### Issues on which there were public hearings

All of the public hearings of the Police committee relate to law reform, the committee processed six bills during the 2009 to 2014 period. It called for written submissions on all of these, but only had public hearings in relation to five. The Criminal Law [Forensic Procedures] Amendment Bill of 2009 (DNA bill) was split into two and the committee dedicated a day to consider the written submission on this bill in 2009. A second DNA bill was processed in 2013, in this case there were public hearings.



PC Police: Public Hearings			
PH issues summary 2014-2015	Days	# submissions	# entities
None	0	0	0
<b>Total 2014 - 2015</b>	<b>0</b>	<b>0</b>	<b>0</b>
PH issues summary 2009-2014	Days	# submissions	# entities
Independent Police Investigative Directorate Bill [B15-2010]	3	13	13
Dangerous Weapons Bill [B37-2012]	2	11	11
South African Police Service (Hawks) Amendment Bill 2012	2	9	9
Private Security Industry Regulation Amendment Bill 2012	2	8	8
Criminal Law (Forensic Procedure) Amendment "DNA" Bill 2013	2	7	7
<b>Total 2009 - 2014</b>			
<b>Total 2009 - 2015</b>	<b>11 days</b>	<b>48 submissions</b>	<b>48 entities</b>

Note: on the Criminal Law (Forensic Procedures) Amendment Bill (B2-2009) The committee considered 11 written submissions from 11 entities. These are not included in the count of oral submissions.



## Were stakeholder inputs made relating to annual oversight cycles?

The Police committee is unusual in that it is one of very few that regularly invite stakeholders to provide inputs into their discussions relating to the SAPS strategic plans, budgets and annual reports. This means that stakeholders have the opportunity to provide their views relating to any issue linked to the police and to do so in a process that allows for structured reflection by the committee as it identifies its recommendations to the SAPS. Over the full six years, 26,6% (25 of 94) of all public engagement with the police committee, and 54% (25 of 46) of stakeholder inputs (excludes public hearings) is through regular and systematic engagements on the committee's oversight processes.<sup>111</sup> This far exceeds the performance of the Health committee, in which 1,9% (2 of 108) of total public engagements is structured around the oversight cycles, or the Basic Education committee in which only 1,8% (1 of 54) of public engagements relate to this. Analysis of five committees over the period indicates that the only other committee with this level of systemic engagement of stakeholders in oversight was the Portfolio Committee on Correctional Services. Whereas there is some degree of this in the oversight work of the Portfolio Committee on Justice and Constitutional Development, the records indicate that the few instances of stakeholder inputs on annual reports or strategic plans were the result of requests made by organisations to the committee, not at the committee's invitation as with the Police committee.

PC Police: stakeholder inputs relating to oversight cycles		
Issue	# submissions	# entities
<b>2014 - 2015</b>		
Strategic plan 2014	2	2
Strategic plan and budget 2015	5	6
Budget outcomes, timelines and control	1	1
<b>Total 3</b>	<b>8 submissions</b>	<b>9 entities</b>
<b>2009 - 2014</b>		
Annual Report 2013	3	3
Strategic Plan 2013	2	2
Strategic Plan 2012	5	5
Annual Report 2011	1	1
Strategic Plan and Budget 2011	3	3
Annual Report 2010	1	1
Strategic Plan and Budget 2009-2010	2	2
<b>Total 7</b>	<b>17 submissions</b>	<b>17 entities</b>
<b>Total 2009 to 2015</b>	<b>25 submissions</b>	<b>26 entities</b>

<sup>111</sup> 17 of the 33 stakeholder inputs (51.5%) between 2009 and 2014 were related the oversight cycle. In the 2014/15 period, 61.5% of stakeholder inputs were made in relation to these cycles



## General issues on which stakeholders made input

There have been few general or ad-hoc issues over the six years on which stakeholders have provided input to the Police committee. However when considered in relation to the strong more systematic stakeholder engagement in oversight cycles, it presents a positive picture; the Police committee engage with the public in ways that are more directed than that, for example, of the Health committee which engages a tremendous number of stakeholders on ad-hoc issues but which appears not to include any structured integration of these inputs into its oversight over the department.

PC Police: stakeholder inputs general		
Issue	submissions	entities
<b>2014 - 2015</b>		
Central Firearms Registry: SAPS progress report and stakeholder inputs	5	5
Summit on Firearms Control in South Africa: day 1	Unknown	Unknown
Summit on Firearms Control in South Africa: day 2	Unknown	Unknown
<b>Total 2014 - 2015: 3 meetings</b>	<b>5</b>	<b>5</b>
<b>2009 - 2014</b>		
Corruption within the Police	2	2
Violence against the elderly	1	1
Domestic Violence Act: implementation	5	5
Impact of SAPS restructuring	1	1
Safety and security of farmers, farm workers and farm dwellers	4	4
SAPS promotion policy (Major and Lieutenant ranks) & alleged top heavy structure	2	2
Violent Crime in South Africa	1	1
<b>Total 2009 - 2014: 7 meetings</b>	<b>16</b>	<b>16</b>
<b>Total 2009 - 2015: 10 meetings</b>	<b>21 submissions</b>	<b>21 entities</b>

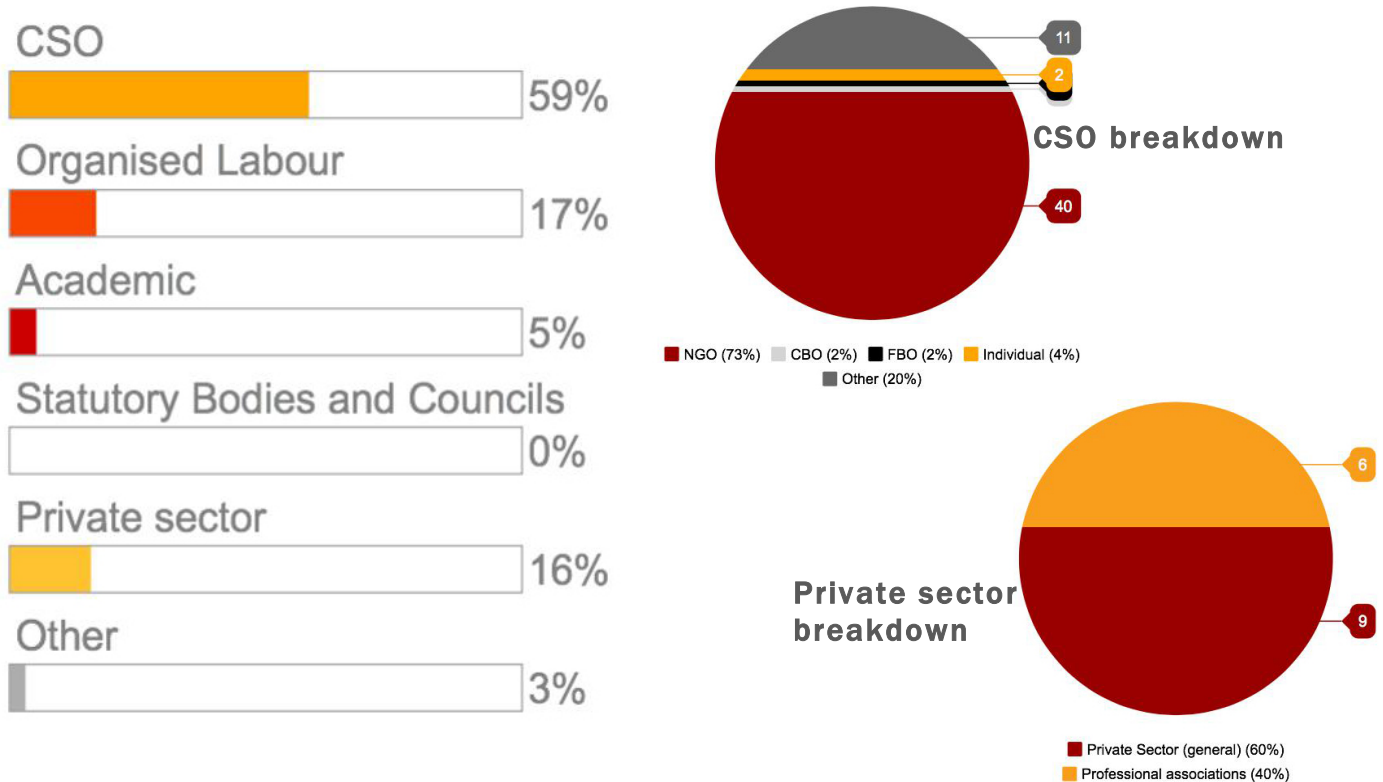
## Public participation – who participates in the Police committee

### Overview of who participated in the Police committee

Entity	2009 - 2014		2014-2015		2009-2015	
	instances	entities	Instances	entities	instances	entities
NGO	35	21	5	5	40	23
CBO	1	1	0	0	1	1
FBO	1	1	0	0	1	1
Individuals	2	2	0	0	2	2
Civil Society Other	9	9	2	2	11	11
<b>Civil Society sub-total</b>	<b>48</b>	<b>34</b>	<b>7</b>	<b>7</b>	<b>55</b>	<b>38</b>
<b>Organised labour</b>	<b>13</b>	<b>3</b>	<b>3</b>	<b>2</b>	<b>16</b>	<b>3</b>
<b>Academic</b>	<b>4</b>	<b>4</b>	<b>1</b>	<b>1</b>	<b>5</b>	<b>5</b>
<b>Statutory bodies and councils</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
Private Sector general	8	8	1	1	9	8
Professional associations	5	5	1	1	6	5
<b>Private sector sub-total</b>	<b>13</b>	<b>13</b>	<b>2</b>	<b>2</b>	<b>15</b>	<b>13</b>
<b>Other</b>	<b>3</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>3</b>
<b>Total</b>	<b>81</b>	<b>57</b>	<b>13</b>	<b>12</b>	<b>94</b>	<b>62</b>



This table categorises who appeared before the committee over the periods. It provides an overview of the number of entities that appeared before the committee and the number of instances in which this occurred. The lower figure of 62 entities in this table, compared with the 95 indicated above is the result of individuals and organisations that presented more than once are being counted once in the ‘entities’ column in this section. The seeming miscalculation in some categories of the total number over the six-year period (such as in the categories ‘civil society’, ‘organised labour’ and ‘private sector’) is the result of some entities, appearing in each period, and only being counted once over the full six-years.



**Civil society organisations 2009 – 2015**  
**61,3% of the entities and 58,5% of the times**

Civil society organisations predominate among the entities that engage with the Police committee with 48 of the 81 entities (59%) falling into these categories. Noticeably a number of organisations engage with the committee repeatedly which suggests continuity in the engagements. The Institute for Security Studies (ISS) engaged with the committee 11 times during the six-year period. Other organisations that engaged repeatedly include the African Police Civilian Oversight Forum (APCOF) at four times; Tshwaranang Legal Advocacy Centre and Gun Free South Africa three times and the Centre for the Study of Violence and Reconciliation (CSV), Centre for the Advancement of the South African Constitution (CASAC), and the Civil Society Prison Reform Initiative all engaged with the committee twice. This implies a high degree of continuity in the issues presented by these organisations to the committee.

The organisations that engage this committee is not only limited to rights-based or progressive civil society. Those with more conservative approaches include associations and confederations that deal with gun ownership and hunting as well as entities that focus on forensic analysis, these account for around 20% of the civil society structures that engage the committee.

**Trade Unions 2009 – 2015**  
**4,8% of the entities and 17% of the times**

The relatively strong interaction of trade unions with the committee is essentially a number of repeated interactions with the committee over time by two unions. Out of the 16 instances in which trade unions

engage with the committee, nine of these are by the South African Police Union and six by the Police and Prisons Civil Rights Union (POPCRU).

### **Academia 2009 – 2015**

**8% of the entities and 5,3% of the times**

### **Private Sector – professional associations, businesses and individuals representing business interests 2009 – 2015**

**21% of the entities and 16% of the times**

Submissions from stakeholders in the private sector are also significant, they account for 16% of the submissions that were received by the police committee. They include a number of submissions from private security companies and gun and hunting businesses.

### **‘Other’ 2009 – 2015**

**4,8% of the entities and 3,2% of the times**

### **Breakdown of entities that presented to the Police Committee**

#### **Civil Society – NGO 2009 to 2015**

<b>2014 – 2015</b>
African Police Civilian Oversight Forum
Gun Free South Africa
Institute for Security Studies
Institute for Security Studies
Social Justice Coalition and Ndifuna Ukwazi (2x)
<b>Total: five instances, five entities</b>
<b>2009 – 2014</b>
African Police Civilian Oversight Forum
African Police Civilian Oversight Forum
African Police Civilian Oversight Forum
Association for the Prevention of Torture
Centre for the Study of Violence and Reconciliation
Centre for the Study of Violence and Reconciliation
Civil Society Prison Reform Initiative
Civil Society Prison Reform Initiative
Council for Advancement of the South African Constitution (CASAC)
Council for Advancement of the South African Constitution (CASAC)
Forensic4Africa
Gun Free South Africa
Gun Free South Africa
Institute for Accountability in Southern Africa
Institute for Security Studies
Institute for Security Studies
Institute for Security Studies
Institute for Security Studies
Institute for Security Studies
Institute for Security Studies
Institute for Security Studies
Institute for Security Studies
Institute for Security Studies
Institute for Security Studies

Jes Foord Foundation
Legal Resources Centre
Open Society Foundation, Legal Resources Centre and Corruption Watch (3x)
Parliamentary Programme, Community Law Centre
RAPCAN
SA Older Persons's Forum
SA Society of Human Genetics
South African No Torture Consortium
Tshwaranang Legal Advocacy Centre
Tshwaranang Legal Advocacy Centre
Tshwaranang Legal Advocacy Centre
Women's Legal Centre
<b>Total: 35 instances, 21 entities</b>
<b>Totals 2009 - 2015: 40 instances; 23 entities<sup>112</sup></b>

### **Civil Society - CBO 2009 to 2015**

<b>Civil Society - CBO</b>
<b>2014 - 2015</b>
None
<b>Total: none</b>
<b>2009 - 2014</b>
Limpopo Legal Advice Centre
<b>Total: one instance, one entity</b>
<b>Totals 2009 - 2015: one instance, one entity</b>

### **Civil society - FBO 2009-2015**

<b>2014 - 2015</b>
None
<b>Total: none</b>
<b>2009 - 2014</b>
SA Catholic Bishops Conference
<b>Total: One instance, one entity</b>
<b>Totals 2009 - 2015: one instance, one entity</b>

### **Civil Society - Individuals 2009-2015**

<b>2014 - 2015</b>
None
<b>Total: none</b>
<b>2009 - 2014</b>
Mr M Matidze
G Van Onselen
<b>Total: two instances, two individuals</b>
<b>Totals 2009 - 2015: two instances; two individuals</b>

### **Civil Society - Other: 2009 - 2015**

<b>2014 - 2015</b>
Gun Owners South Africa
Professional Hunters Association of South Africa
<b>Total: two instances, two entities</b>
<b>2009 - 2014</b>
DNA Project
Forensic DNA Consultants
Forensic Genetics Policy Initiative
Helen Suzmann Foundation
Knifemakers Guild of SA
National Arms and Ammunitions Collectors Confederation of SA

<sup>112</sup> Except for the joint submission by the Social Justice Coalition and Ndifuna Ukwazi, all of the other organisations that presented to the committee in the 2014-2015 period are already counted in the 2009-2014 period, hence the apparent miscalculation

National Community Policing Forum
Rural Development Network
SA Hunters and Game Conservation Association
<b>Total: 9 instances, 9 entities</b>
<b>Totals 2009 - 2015: 11 instances; 11 entities</b>

### **Academic 2009-2015**

<b>2014 - 2015</b>
CSIR
<b>Total: one instance, one entity</b>
<b>2009 - 2014</b>
GHJRU
UNISA
Wits School of Law
Prof P de Vos
<b>Total: Four instances, four entities</b>
<b>Totals 2009 - 2015: five instances; five entities</b>

### **Organised Labour 2009 - 2015**

<b>2014 - 2015</b>
SAPU
SAPU
POPCRU
<b>Total: three instance, two entities</b>
<b>2009 - 2014</b>
SAPU
SAPU
SAPU
SAPU
SAPU
SAPU
SAPU
POPCRU
POPCRU
POPCRU
POPCRU
POPCRU
Food and Allied Workers Union
<b>Total: 13 instances; three entities</b>
<b>Totals 2009 - 2015: 14 instances; three entities</b>

### **Statutory Bodies and Councils 2009 - 2015 totals**

<b>Statutory bodies and councils</b>
<b>2014 - 2015</b>
None
<b>Total: none</b>
<b>2009 - 2014</b>
None
<b>Total: none</b>
<b>Totals 2009 - 2015: none</b>

### **Private sector - Professional Associations 2009 - 2015 totals**

<b>2014 - 2015</b>
Security Industry Alliance
<b>Total: one instance, one entity</b>
<b>2009 - 2014</b>
Association of Certified Fraud Examiners
Locksmiths Association of SA
Security Industry Alliance
Agri-SA

United SA Agricultural Association
<b>Total: Five instances, five entities</b>
<b>Totals 2009 - 2015: Six instances, five entities</b>

**Private sector general 2009 - 2015 totals**

<b>2014 - 2015</b>
Hood and Associates
<b>Total: One instance, one entity</b>
<b>2009 - 2014</b>
ADT
American Chamber of Commerce
Control Risks SA Ltd.
Gauteng Airsoft Club
Hood and Associates
SA Banking Risk Information Centre
SA Wingshooters Association (game hunting)
SSG Operation Risk Services
<b>Total: Eight instances, eight entities</b>
<b>Totals 2009 - 2015: nine instances, eight entities</b>

**Other 2009 - 2015 totals**

<b>2014 - 2015</b>
None
<b>Total none</b>
<b>2009 - 2014</b>
Cape Bar Council
SAHRC
FFC
<b>Total: Three instances, three entities</b>
<b>Totals 2009 - 2015: three instances; three entities</b>