

INVESTIGATIVE REPORT
NEHAWU COMPLAINTS AGAINST THE MANAGEMENT OF KHAYELITSHA DISTRICT
HOSPITAL

23 APRIL 2018

1. INTRODUCTION

The PSC received correspondence from the Chairperson of the NCOP dated 23 February 2018. The correspondence dealt with complaints from NEHAWU regarding various issues at the Khayelitsha District Hospital. The correspondence from the NCOP Chairperson together with the letter of complaint from NEHAWU is listed under annexure 1.

The Chairperson of the PSC, Adv RK Sizani, appointed Commissioners P Nzimande, M Leballo and S Mafanya to lead the investigation into matters raised by NEHAWU.

The investigating officer's powers of inquiry are contained in section 10 of the *Public Service Commission Act, 1997*, which determines that the investigating officer may-

- a) summons any person who may be able to give information of material importance concerning the subject of the inquiry or who has in his/her possession or custody or control any book, document or object which may have a bearing on the inquiry;
- b) call upon and administer an oath to, or accept an affirmation from any person present at the inquiry who has or might have been summonsed before the inquiry; and
- c) examine or require any person who has been called upon, to produce any book, document or object in his/her possession or custody or under his/her control which may have a bearing on the inquiry.

2. BACKGROUND

The NEWAHU complaints are listed as follow:

Category A - Staffing issues

1. The staffing issues cited by the union were raised with the management of the hospital on previous occasions. The union tried to discuss matters within the IMLC [union/ employer forum]. Some procedural issues were raised at the time and these were never discussed.
2. Vacant funded posts have been frozen over time as the management instituted cost-saving measures. Management uses funding from vacant posts to fill other posts, according to their assessment of the priorities at the hospital.
3. The issue of nepotism – Mr Plaatjies [Assistant Manager Nursing] served on the panel where his brother was also interviewed. According to NEHAWU the matter was pursued by management and Mr Plaatjies received a written warning. Their complaint is that this was not commensurate with the seriousness of the irregularity. NEHAWU did not report this to the Forensic Division for investigations. The matter was also not reported to any other authority for investigation.
4. Employment Equity – the union is proposing that targets be applied at the institution level. An example is that currently most of the middle managers are coloured. The regional targets [which is the current approach used by the department] do not work in this context and must be reviewed.

Category B - Management of Service Providers

5. Outsourcing of cleaning services and catering services – service provider was only supposed to focus on the OPDP section but the practice is that outsourced staffers are working in other areas of the hospital as well.
6. Poor contract management of service providers – security service provider [cameras, CCTV not in working order]; ventilation system service provider [staff are at risk of contracting TB due to the system not functioning optimally].

Category C - Finance issues

7. Award to the hospital [CARE club] of R60000 from the provincial department in 2016 - to date the staff do not know what happened to the money. These funds are intended for use to acknowledge the good performance of the staff as a whole.
8. Not everyone being treated equally in terms of unused leave - some managers receive the cash payouts for leave credits not utilized. In general, staff are denied these payouts.
9. NEHAWU representatives explained that the skills courses and conferences must be proposed to the Skills Committee. The two employees who attended a conference were not authorized by the committee to attend the conference. The Deputy Director that

authorized the attendance of the course [cost of R7000 each] was aware of the processes. Nothing has been done in terms of disciplining the Deputy Director.

Category D - Other issues

10. *Staff doctor* - There is no staff doctor; or the doctor is only available on a Saturday. There is no clarity on the assigning of a staff doctor.
11. *Quality Care Manager* - NEHAWU indicates that the Quality Assurance manager is above pensionable age and on contract – why can the post not be filled permanently?
12. *Grievances* - Grievances are not finalized within 30 days. This can be improved.

3. PROCESS

The Public Service Commission investigative team endeavoured to engage all affected parties during this investigation and to gather all the necessary information. The process included:

Step 1

Preliminary meeting conducted with NEHAWU leadership at the institution level.

Step 2

Development of Terms of Reference for the investigation.

Step 3

Investigative meetings conducted with all parties [NEHAWU; Khayelitsha District Hospital Management; and Metropole Management]. Refer to annexure 11 as evidence.

Step 4

Scrutiny of all documentary evidence provided by all parties.

Step 5

Analysis of evidence and drafting of report.

Step 5

Submission of report to PSC Chairperson, NCOP Chairperson, and engagement with all parties on content and recommendations.

The Terms of Reference for the investigation is listed under annexure 2.

4. FINDINGS

Category A – Staffing Issues

A1. IMLC meetings

The interface between the employer and organized labour at an institution level is known as the IMLC [Institutional Management Labour Committees]. This platform is intended to facilitate discussion on all matters affecting staff of the hospital as well as serve as a communication forum for discussing critical matters regarding the management and governance of the institution.

The IMLC meetings have collapsed and this has been acknowledged by both the management and NEHAWU. The issues pertaining to this investigation, amongst others, have led to a breakdown in communication and trust. There has not been an IMLC meeting convened for several months as a result.

This is a critical interface structure and must be resuscitated in order for a productive working relationship to flourish between management and organized labour.

The PSC strongly advises that one of the first steps following this report is for a mediation process to be pursued in normalizing relations between the parties at the hospital level, but also at the Metropole level.

A2. Freezing of posts

NEHAWU contends that they have been raising this issue for a while in the IMLC structure. Management's response is that the freezing of posts is happening across the system in all other hospitals [refer to annexure 6].

NEHAWU highlighted the fact that from time to time vacant-funded posts are used to fill other posts in the hospitals – an example is that an admissions clerk post funds [vacant] will be used to rather fill other clinical staff vacancies.

The management at the hospital and the Metropole Management acknowledged instances where funding for vacant administrative posts would be used to fill more critical posts. They explained that they needed to manage the demands and risks and make decisions on which posts to fill based on needs.

NEHAWU further states that EPWP personnel are used on occasions to cover for administrative staff that are absent or where there is a vacancy. Commissioner Leballo asked that a written submission [as proof] in this regard be made to the investigation panel - names of EPWP personnel being used; which posts are vacant where they are used; and any other relevant information.

The list requested from NEHAWU was not received by the investigative team. Nonetheless, this did not reduce the sharpness of the enquiry since the assertions were affirmed by Management.

Management elaborated on the fact that the cleaning services have two streams – outsourced personnel, and permanent hospital staff. Often a post is filled by outsourced staff who are familiar with the hospital. Posts for cleaners are normally filled when these become vacant.

The PSC found the explanation from Management on balancing priorities and needs as plausible. Given the financially constrained environment in the health sector and public sector generally, it would be common cause that such decisions [not to fill posts] need to be made by the leadership of an institution.

The PSC does, however, strongly recommend that information with regards to the post establishment, utilization of staff, vacancies and the criteria for identifying posts for advertising be shared with Organized Labour through the IMLC engagements. There is no need for these matters to be kept secret and for suspicion or confusion to be given an opportunity to breed. Having said this, it is important for all parties to understand their roles so that a situation does not develop where Organized Labour and Management are now jointly managing the institution. This will be untenable. On the contrary, the information shared in an open and transparent manner will lead to greater understanding and will grow the confidence amongst all that decisions are rationally based and objectively applied.

A3. Nepotism and other irregular appointments

A3.1 NEHAWU contends that there is nepotism and favoritism being exercised in the appointment of staff and that there are instances of staff not possessing the necessary qualifications and work experience for the posts that they are occupying.

The PSC investigated each of the examples cited by NEHAWU. Documentary proof was also scrutinized to test the veracity of the claims made by NEHAWU.

A comprehensive analysis is attached at annexure 3. In summary the PSC found as follows:

Number of substantiated irregular appointments from list provided	2
Number of unsubstantiated irregular appointments from list provided	9
Number of cases where the information from NEHAWU is verified or found partially substantiated.	3
Total	14

In the two cases of irregular appointments the number of years' experience was incorrectly calculated by the selection panel.

The partially substantiated cases are instances where the South African Nursing Council [SANC] registration was produced, but the qualification to obtain the SANC registration could not be verified. In another case the years' service was borderline with one month's service being in question. The third matter was proved accurate in terms of NEHAWU citing that Employment Equity considerations were taken into account in the eventual appointment of the candidate [no irregularity was found].

A3.2 NEHAWU cites an instance where the department made an irregular appointment and where the department had to settle an amount of R95000. This was verified by Management as true. This irregularity is being dealt with in terms of the disciplinary case of the HR manager at the hospital. The PSC Investigators can confirm that this is part of the charge sheet.

A3.3 The inaction on the part of Mr Plaatjies by not fully recusing himself from the panel where his brother was also an applicant is another example cited by NEHAWU. Mr Plaatjies was given a written warning.

Circumstances of this case point to the fact that Mr Plaatjies was not fully aware of the procedure in terms of recusal. In fact, Mr Plaatjies immediately supported the decision to stop the process when his conflict of interest was explained to him [refer to annexure 4]. This could explain the fact that he only received a written warning and not a more severe sanction.

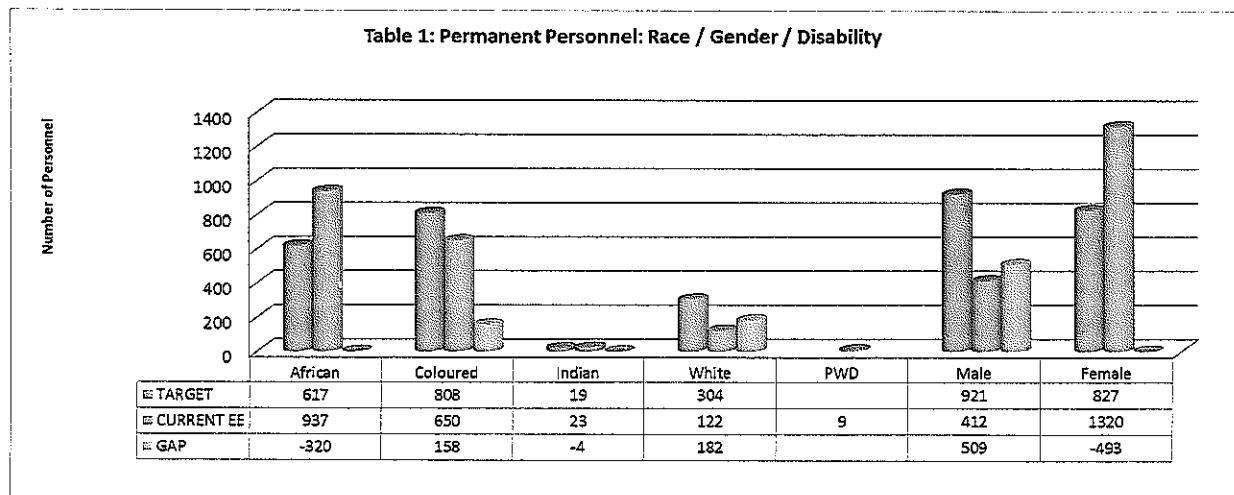
The management of recruitment and selection processes and the observance of norms and standards leaves much to be desired. The PSC concludes that this presents as an area of weakness at the hospital. The PSC further recommends that the overseeing management structure and the department Head Office intervene in terms of appropriate training and mentoring of supervisors and HR staff at the hospital with regards to recruitment and selection procedures. Stringent monitoring of these processes must be undertaken and the Department should consider removing the recruitment and selection delegations at the hospital until such time that the standards have improved.

A4. Employment Equity

NEHAWU asserted that the hospital management does not reflect the demographic composition of the community.

The factual situation is that the hospital management is not representative of the community with only the Head of Nursing being a black female.

The department explained that regional targets are used in determining the employment equity imperatives for all vacant posts. This has unintentional consequences in that regional targets could skew the statistics at an institution level. On the other hand, the regional targets do have utility in allowing for a broader look at recruitment across a larger proportion of posts. The latest Employment Equity Statistical overview for the Eastern Substructure Region [5 March 2018] is attached as annexure 5. The summary breakdown for the region is reflected below:



As a region, and without taking post levels into account, the representation of African employees is far above the target. Female employees are also over the target.

However, the assertion made by NEHAWU that the management levels are not representative enough was readily conceded by the Metropole Management. To illustrate the point the Employment Equity Trend analysis of the Department [August 2017], annexure 7, indicates that province-wide the status for middle managers is:

MMS NON-OSD POSTS	Filled	Target
African Female	4.8%	16.2%
African Male	6.3%	19.1%

Whilst these figures highlight the discrepancies for the health sector provincially, this is experienced more acutely at Khayelitsha District Hospital. The fact that a major institution in a significant Western Cape community such as Khayelitsha reflects an unrepresentative management corps is wholly untenable.

A solution lies in artfully applying the regional targets in a way that also considers the dynamics at an institutional level.

The PSC advises that the Employment Equity policy be reviewed in order to respond to such an unintentional consequence being entrenched at major institutions.

Category B – Management of Service Providers

NEHAWU complained about the management of the outsourced cleaning and catering services and the standards of work delivered by the service provider.

The second complaint was about the security systems and the ventilation systems at the hospital not functioning properly.

The management of the hospital explained that all tenders for all main services are concluded by the Head Office – the hospital can only procure for services below R500000. The ventilation, catering, and security are huge tenders that are not processed at the hospital.

The management of service providers do follow a stringent monitoring aspect – at times penalties for non-performance have been instituted.

The PSC obtained copies of the service level agreements and found this to be in order. In addition, a physical inspection was undertaken by the panel of Commissioners. Wards were inspected where there were claims of poor ventilation. This was found to be in working order and in compliance with the standards.

The security camera system was inspected by the Commissioners. The system did present with minor deficiencies in terms of camera positioning and picture clarity. However, there were no major deficiencies that would render the premises at serious risk. In fact, the Commissioners were apprised of a software system in place to check on maintenance matters and to ensure that major engineering systems are fully functional.

The PSC recommends that regular briefing sessions be held with organized labour in an attempt to give all interested parties improved understanding and insight into the measures that are in place to monitor service providers.

Category C – Finance Issues

Donation of R60000

The hospital was award R60000 from the provincial department in 2016 - to date the staff do not know what happened to the money. These funds are intended for use to acknowledge the good performance of the staff as a whole as part of the CARE CLUB initiative.

During interviews with both the management of the hospital and the Metropole Management it was confirmed that this award was given to the hospital. The money was added to the baseline budget allocation that the hospital receives in terms of operational expenses. The money has not been spent as yet.

The Management undertook to engage labour on how the funding could be spent and the activities and programme will be jointly developed by all parties to the IMLC. This would ensure inclusion in the decision-making on how to use the monetary award.

Unused Leave Payouts

The complaint from NEHAWU centred on the principle of fairness in the decision-making process with regards to unused leave payouts.

A focal point was the leave payout to the CEO, Dr Kharwa. The PSC investigation established this was procedurally correct and that the necessary authority was obtained for this payout [refer to annexure 8]. Attached under annexure 8 is also the leave that Dr Kharwa initially applied for and that was turned down.

The Commissioners interrogated the principle of fairness regarding these financial decisions. The Metropole Management acknowledged that the current situation of leave payouts puts them in an unenviable position in having to approve some applications and deny others, albeit that these decisions have a rational basis. The undertaking from the Metropole management was that leave utilization would be stringently monitored in order to avoid payouts altogether.

The claim of NEHAWU has merit and this undertaking from management serves to acknowledge that this is a problem that must be solved in the immediate term.

Skills course process of approval

The issue of staffers attending the conference was clarified. The two staffers attended and paid, and the hospital re-imbursed the staffers. The circumstances described by NEHAWU accords with information obtained by the PSC investigators. The Skills Committee involvement in the process was undermined. However, there is no evidence to suggest that the persons involved wilfully defied the protocols.

A recommendation is that there is a clear policy on training and attendance of conferences and the procedure that must be followed. The protocols and procedures for approval of training programmes must be documented and communicated to all line managers.

Category D

Availing a Staff Doctor and Occupational Health and Safety Act compliance

NEHAWU impressed on the need for a staff doctor to be made available to staff who are sick. They also raised general concerns on OHS standards at the hospital.

The management explained that a staff doctor cannot be made available as a daily practice. The financial resources prohibit such accessibility at this point. However, the management undertook to explore an arrangement that allowed for a doctor to be available for defined hours during the week. This doctor would support the staff nurse who is more accessible and competent to attend to staff health care needs.

The Metropole Management advised that a full evaluation of OHS imperatives be made by an independent entity and that the recommendations be implemented as soon as possible.

In both aspects the PSC is in agreement with the approach proposed and deem these as appropriate under the circumstances.

Quality Care Manager

NEHAWU correctly states that the present incumbent is already retired from the public service and is now being utilized in a post that could very well have been filled permanently. The motivation for this contract appointment was that no suitable person was found when this post was advertised previously.

The investigation included interviews with management and verification of documents. The current contract ends on 30 June 2018 [Refer to 9]. The Metropole Management has undertaken to advertise this post and hereby resolve this matter.

The PSC agrees with this decision to advertise the post.

Grievances

The speed and efficiency with which grievances should be dealt with was highlighted as a shortcoming.

The PSC engaged with the Substructure Management on the processing of grievances and have resolved to assist with the training in this respect.

There were specific examples cited by NEHAWU during the course of the investigation. These are listed below with the explanations provided and verified by the PSC.

Witbooi case – There is a letter from the department dated 30 March 2016. Herein he is advised that his “grievance” was not in compliance with a definition of a grievance. Refer to 10A.

Warnick case – The “grievance” does not comply with the definition of a grievance. Her supervisor informed her as such on 23 August 2016 [10B].

Drs Anele, Anyikwa and Xotyeni – There is no record of grievances for Anele and Xotyeni. The grievance of Dr Anyikwa [June 2013] was investigated and he was given feedback in July 2013. He did not pursue the matter further because he was not a public servant. Dr Anyikwa was a locum doctor contracted by a service provider. Refer to 10C.

[Please note that the allegations by NEHAWU that the PSC did not deal appropriately with grievances from Khayelitsha Hospital was unfounded. This was communicated to the NCOP Chairperson by letter dated 04 April 2018 [refer to annexure 10D].

5. RECOMMENDATIONS AND CONCLUSION

The investigation aimed to test each of the allegations by cross-referencing these with oral and written evidence. The veracity of each of the allegations was established through this process.

The PSC has during the course of this enquiry highlighted matters that can be immediately resolved by the management of the hospital and the Metropole Management. On matters of policy there would need to be a medium-term application of creative thought and sensitivity to the changing circumstances at the hospital.

The following are pointed recommendations for consideration by all parties:

ISSUE	RECOMMENDED ACTION	RESPONSIBILITY
1. IMLC Resuscitation	A mediation process to be instituted to normalize relations between the parties.	Metropole Management
2. Staff shortages and advertising of posts	Information to be made available to IMLC members regarding posts, vacancies, and criteria for advertising of posts.	Metropole and Hospital Management
3. Recruitment and Selection Standards	Delegations to be revoked as an interim measure; training to be provided; and stringent monitoring of R and S processes.	Metropole Management
4. Employment Equity	Policy to be reviewed in terms of regional targets; a more nuanced approach to targets must be explored.	Department Head Office
5. Managing of service providers	A more rigorous measure of monitoring service level agreements to be instituted.	Hospital Management
6. R60000 donation	IMLC members to develop a joint plan on activities.	IMLC
7. Unused leave payouts	Stringent monitoring to be instituted leading to nil payouts.	Metropole Management
8. Skills Committee training approval	A protocol and procedure to be developed and communicated to all staff.	Hospital Management
9. Staff doctor available for staff	A viable arrangement to be made that allows for access to a doctor.	Hospital Management
10. OHSA compliance	An independent evaluation of compliance to be undertaken.	Metropole Management
11. Quality Care Manager post	The contract to end on 30 Jun 2018. The post to be advertised.	Metropole Management
12. Grievances	Grievances procedures to be observed; training provided.	PSC

The PSC notes the recent media reports detailing the visit of Parliament's Select Committee on Petitions and Executive Undertakings to Khayelitsha District Hospital amidst allegations which have some overlap with this investigation. In this regard the PSC stresses the imperatives of

section 195 of the Constitution which binds all organs of state to adhere to the Constitutional Values and Principles for Public Administration. To this end, the Constitution reads:

“195. (1) Public administration must be governed by the democratic values and principles enshrined in the Constitution, including the following principles:

- (a) A high standard of professional ethics must be promoted and maintained.*
- (b) Efficient, economic and effective use of resources must be promoted.*
- (c) Public administration must be development-oriented.*
- (d) Services must be provided impartially, fairly, equitably and without bias.*
- (e) People’s needs must be responded to, and the public must be encouraged to participate in policy-making.*
- (f) Public administration must be accountable.*
- (g) Transparency must be fostered by providing the public with timely, accessible and accurate information.*
- (h) Good human-resource management and career-development practices, to maximise human potential, must be cultivated.*
- (i) Public administration must be broadly representative of the South African people, with employment and personnel management practices based on ability, objectivity, fairness, and the need to redress the imbalances of the past to achieve broad representation.”*

In order for the District Hospital to provide the level of care that it is intended to provide, the hospital needs to be well-managed and to adhere to these Values and Principles.

The PSC trusts that all parties will show commitment to improving the governance and management of the institution and show motivation and intent to restoring relations in the workplace.

The Public Service Commission wishes to thank all parties for their cooperation during the course of this investigation.

6. LIST OF ANNEXURES

The following documents formed the bundle of evidence for the investigation.

ANNEXURE NUMBER	DESCRIPTION
1	Correspondence from NCOP Chairperson together with NEHAWU letter
2	Terms of Reference for the Investigation
3	Comprehensive Analysis on Alleged Irregular Appointments Annexure 3 has further attachments that verify the information
4	Report from HR on the recruitment and selection process involving Mr Plaitjies as Chairperson
5	Employment Equity Statistical Overview of the Eastern Substructure
6	Directive on the austerity measures
7	Trend analysis on EE targets [extract]
8	Authorization of Dr Kharwa's leave payout and initial leave application
9	Contract of Quality Care Manager
10	Extracts of grievance cases and correspondence in this regard
11	Attendance lists for meetings conducted during this investigation

