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Commission reports that many of the problems are at school level, with poor record keeping at provincial level

### SAHRC FINDS AGAINST THE DEPARTMENT OF BASIC EDUCATION IN THE MATTER INVOLVING THE DELIVERY OF TEXTBOOKS

#### Background to the investigation

In 2012, widespread media reports suggested that there were major shortcomings in textbook delivery in the Limpopo Province. Following these media reports, a civil society campaign resulting in litigation and several court orders created heightened public awareness of this problem. In response to these reports, Parliament requested the Commission to report on actions it intended taking to address this matter.

Responding to these events, and to the request of Parliament, the Commission resolved to undertake a preliminary assessment into whether schools in other provinces were facing similar challenges. This preliminary assessment took the form of sample-based study of a selected number of schools in each province to determine whether shortages and delays in the delivery of learning material were prevalent. While this preliminary study revealed that shortages and delays in Limpopo also experienced shortages in the delivery of learning materials, the data collected was not sufficiently informative and conclusive to enable the Commission to make a finding and propose remedial action.

To enable the Commission to undertake a uniform and comprehensive data collection exercise, and to obtain authoritative responses from provincial and national government, and other key role-players in the education sector, the Commission constituted a National Investigative Hearing into the delivery of learning materials across the country. This hearing commenced in mid 2013 and was concluded early in 2014.

#### Respondents and Informants

The hearing called upon Members of the Executive Councils (MECs) of the respective Provincial Departments of Basic Education (PDEs), upon formal written notice, to appear before the Commission and make submissions on the state of the delivery of textbooks in each of the provinces.

The submissions were directed by a set of pre-determined questions which called for information and documentation that would assist the Commission to establish the extent of the challenges relating to the provision of learning and teaching support materials.

In addition to state departments, the Commission also received submissions from three non-state parties, namely Edu-solutions a private service provider contracted by the state to design IT-based procurement solutions for the delivery of learning materials to schools; the Teachers' Union of South Africa, a body representing the interests of teachers across the Republic; and Snelton27 a public-spirited non-governmental organisation interested in fulfilling the right to education in the Republic.

#### Record of Attendances

The panel received both written and oral submissions from representatives of the DDC, and the PDEs in the Western Cape, Northern Cape, Mpumalanga, KwaZulu-Natal, Gauteng and the Free State. Given that the Eastern Cape and Limpopo Provinces were under National Administration in terms of section 100(1) of the Constitution, the Commission directed the DDC to present on their behalf. The MECs of these two provinces were invited to supplement the submissions of the DDC.

There was one non-compliant state party in this investigation. The office of the MEC for Basic Education in the North West failed and/or refused to appear before the Commission's investigative panel to provide documentation and information despite being given no less than three opportunities to do so. Documentation was eventually submitted by the MEC after the close of investigative proceedings. Even then, the information provided was disparate and unhelpful. The Commission was ultimately unable place any marked degree of credibility on the information provided.

#### Issues for Determination

In determining the underlying causes for the challenges in the delivery of textbooks as well as the extent of the challenge, the Commission directed the investigative hearing around 7 (seven) pre-determined questions:

- 1) The number of schools in the province, including the number of section 21 (or self-governing) schools;
- 2) The process employed by schools in the procurement of primary learning materials;
- 3) The success of the procurement methods employed;
- 4) The major challenges faced in the delivery of primary learning materials;
- 5) The steps taken by provincial education departments to overcome these challenges;
- 6) The mechanisms employed by the Department of Basic Education and the Provincial Departments to monitor and assess the delivery of primary learning materials; and
- 7) The steps taken to address the interests of learners with disabilities.

#### Summary of Findings

The Commission found that there were vast disparities between provinces in terms of their proficiency and success at managing the delivery of textbooks. Some PDEs had greater success than others in the delivery of textbooks. However, acknowledging provincial variances in performance, the Panel identified a general and over-arching range of underlying causes that account for the challenges faced by the country in delivery of primary learning materials in schools. These include the following:

##### (a) Poor projection of demand at School level

The Commission found that not all schools managed to make accurate projections of the number of the learners that would enrol in each grade in the following academic year. In some instances the under-projection of demand was on account of the school's technical and managerial capacity to make meaningful estimates. In other instances, the variances were explained by the incidence of last minute movements and changes of subject choices.

##### (b) Poor communication infrastructure for rural Schools

The Commission found that in rural schools that the lack of modern modes of communication such as telephones, facsimile machines and internet access affected the ability of such schools to communicate their orders, confirm

deliveries and report shortages to their respective Departments. The reliance on physical modes of communication caused unfortunate delays and errors in the delivery of materials to learners.

*(c) Delayed and erroneous orders for learner materials by Schools*

The Commission found that many schools either placed their orders for the supply of learner materials late, placed orders for the incorrect quantity, or in some instances did not place any orders at all. For the 2012 academic year, the Commission found that the CAPS Catalogue of learning material was released late in 2011. The phasing in of the CAPS system meant that certain school grades would receive new materials in 2012 and 2013. This meant there was a corresponding delay in the placement of orders and the delivery of learning materials to learners. It was also reported that in the same academic year, certain books were unavailable at the time schools required supply.

*(d) Delayed procurement and payments processes by Schools*

The Commission found that the supply of books to Section 21 schools was generally frustrated by the refusal of these schools to allow the Department to procure books for them centrally. Other problems with Section 21 schools related to their failure to pay the publishers for consignments either on time or at all. This has caused late delivery of orders for materials, and the refusal of service providers to grant further credit to these schools.

*(e) Poor delivery verification systems in Schools*

The Commission found that in many schools, the School Principals did not carry out physical verification exercises to ensure that the materials that they had received were correct. This simple practical and procedural oversight has accounted for many of the instances of receipt of incorrect numbers and incorrect materials to schools.

*(f) Inadequate datasets, statistics and record keeping at Provincial Department level*

The Commission found that most of the Departments did not have an accurate record of the number of schools in their province, the medium of instruction or the numbers of learners in each school. Consequently, Departments were largely unable to reconcile their supply records with delivery records. Therefore, whilst Departments claimed that their rates of delivery were high, further analysis revealed that these rates of delivery did not correspond to school records of receipt of materials. In part, although not wholly, this tended to be because schools place orders for material on the basis of their enrolment rates in the year preceding the year of delivery. Therefore, in instances where the number of learners in the school changed in the succeeding year, or where learners had registered change in subject selection, this would automatically result in delivery deficits.

*(g) Poor budget management*

The Commission found that one of the biggest challenges affecting almost all 9 provinces related to budget management. There appeared to be poor management of budgets allocated to PEDs for the provision of learner material. In most provinces, the amount allocated to schools for the procurement of learning materials was consumed by the payment of staff salaries, often depleting that which was allocated for the procurement of materials. It was also apparent that Departments lacked mechanisms to track and monitor the spending patterns of schools.

*(f) Inadequate procurement management systems*

The Commission found that whilst certain provinces have elected to adopt a centralised model of procurement, other provinces and the National Department do not have a credible procurement system and distribution system that can be monitored centrally. It was reported that provincial IT systems do not interface with national IT systems. Consequently, this makes it difficult for national government to track, monitor, verify provincial and school expenditure on learner material.

*(h) Inadequate arrangements for the delivery of materials to learners with disabilities*

The Commission found that there were significant challenges presented to learners who were blind or partially sighted in accessing primary learning materials. There appeared to be no coherent plan outlining the process for converting learning materials into Braille. The difficulties in this regard appear to emanate from the absence of accurate statistics of the number of learners with disabilities; the inadequate sensitisation of educators and department officials to the requirements of such learners; the insufficient attention paid to learners with disabilities in rural areas; the lack of co-ordination within government as to how the challenges of design and development of learning materials for these children will be overcome.

**Key Recommendations**

In light of the findings of the Commission, the following are the main recommendations advanced by the Commission to address these challenges:

- 1) An independent National Audit of the LTSM Procurement and Delivery System and Process must be undertaken by the Department of Education to address the systemic challenges identified by the Commission;
- 2) A comprehensive data management system to track, record and update the number of schools and learners (per school, per district and per province) must be established.
- 3) A feasibility study that considers the development of a National LTSM Electronic System capable of interfacing with existing Provincial Systems must be undertaken;
- 4) Disciplinary Mechanisms to increase levels of accountability of School Principals for the timely and correct procurement of learning materials to schools must be put in place by the Department and School Governing Bodies;
- 5) Regulatory Mechanisms to monitor service delivery levels of private service providers must be put in place;
- 6) Communication infrastructure and equipment for schools in rural areas must be budgeted for and expedited;
- 7) A comprehensive and cohesive plan to address the design and development of suitable learning materials for learners with disabilities must be developed and implemented.

**Way Forward**

The Commission plans to take steps, including but not limited to the following, to monitor state compliance with the above-listed recommendations:

- a) Report to Parliament on the findings and recommendations of the Investigative Panel;
- b) Convene high-level advocacy engagements with key policy makers within National and Provincial Government to foster compliance with recommendations;
- c) Monitor and Assess compliance levels and impact of the recommendations over time, in consultation with key stakeholders;
- d) Conduct Awareness Sessions with Policy Makers and Implementers on human rights approaches to service delivery in the education sector.

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