

PEOPLE'S COMMISSION OF INQUIRY INTO THE FREE STATE HEALTH SYSTEM

BACKGROUND

1. The Constitution of the Republic of South Africa, 1996 and the National Health Act 61 of 2003 provide for the right of everyone to access to health care services. However evidence suggests that in the Free State this right is not being fulfilled and the associated obligations placed on the state are not being met. It is to determine whether this is the case and, if so, the plans of the Free State Department of Health to stop the rights violations and to meet its obligations, that this inquiry is being held.

2. A range of problems have been identified in the province's healthcare system and can be organised into categories that include:
 - 2.1. The complete lack of services in certain areas;
 - 2.2. The shortage and incompetence of staff;
 - 2.3. The lack of equipment and supplies including medicines;
 - 2.4. Poor quality conditions and long waiting times in health facilities; and
 - 2.5. The unavailability and uncertainty of emergency medical services.

3. The problems in the healthcare system have been documented publicly, including in the following:
 - 3.1. The Mail & Guardian published a feature exposing the health system collapse in the province and makes allegations implicating the MEC in an "ICU bed for pal" scandal¹.
 - 3.2. The Stop Stockouts Project (SSP) published a report that indicated there is no improvement in the availability of essential medication in the Free State².
 - 3.3. The Treatment Action Campaign has opened a case related to possible corruption by Free State MEC for Health Benny Malakoane, Head of Free State Health Department Dr David Motau, Free State Deputy Director General for Health Teboho Moji and other senior officials in the provincial Department³. The investigation into this matter is ongoing but we are advised it is nearing completion.

¹ Mail & Guardian, (2014). Available at: <http://mg.co.za/article/2014-07-03-how-a-dying-womans-bed-was-taken-by-anc-official>

² Stop Stock Outs Report, (2014). Available at: http://stockouts.org/uploads/3/3/1/1/3311088/2014-08-11_fstate_press_release_final--.pdf

³ Treatment Action Campaign, (2014). Available at: <http://www.tac.org.za/news/tac-charges-mec-benny-malakoane-corruption-1>

THE PROCEEDINGS

4. Due to the above, the TAC will convene a People's Commission of Inquiry into the Free State Health System ("the People's Commission"). The inquiry concerns the prevailing state of the healthcare system in the Free State, the experiences of health care service users and health care workers across the provinces in using and accessing these services, and the plans and intentions of the provincial department of health in improving this. The purpose of the People's Commission is to investigate and report on the state of health care services in the province as well to provide relevant recommendations to stakeholders.
5. An independent Panel will preside over hearings of the People's Commission and be responsible for drafting a report from these hearings. The TAC will be responsible for convening the hearings and attending to all logistical arrangements.

The Panel

Composition of the Panel

6. The Panel will be comprised of:
 - 6.1. Chair: Ms Thembeke Gwagwa;
 - 6.2. Bishop Paul Verryn (Methodist Church);
 - 6.3. Thoko Madonko (AIDC).
7. In addition a Rapporteur will be assigned the responsibility of capturing a transcribed record of proceedings, and summarising the stage of proceedings each day.

Responsibilities of the Panel

8. The proposed scope of work of the Inquiry Panel is the following:
 - 8.1. To receive information and hear evidence from users of the public healthcare system, health care workers across the province and other relevant parties;
 - 8.2. To receive submissions from interested parties;
 - 8.3. To preside over and generally lead the hearings (see below);

- 8.4. To analyse the above evidence and information and ask further questions of those who provide it as the Panel sees fit; and
- 8.5. To issue a report that contains relevant findings and recommendations. The panel will be assisted in the information capturing and report writing process by a Secretariat including the rapporteur.

Logistics of proceedings

9. The Proceedings shall commence on **7th and 8th July 2015** in Bloemfontein.
10. People to testify before the Panel will be grouped based on the areas they reside and/or work in the Free State. They will include health care service users and health care workers across the province as well as duty bearers such as representatives of the Free State Department of Health (should such duty bearers accept our invitations).
11. The following will be adhered to:
 - 11.1. All those who testify before the Panel will do so under oath to be administered by a member of the Panel;
 - 11.2. The Panel will question those who testify before it as it sees fit;
 - 11.3. The proceedings will be recorded electronically; and
 - 11.4. The proceedings will be open to the public.

Preparation for and responsibility for convening the hearings

12. The TAC undertakes all responsibility for preparing and convening the hearings. It undertakes to hold at least 15 community consultations prior to the hearings. These consultations are intended to inform communities of the hearings in order that they might make submissions and/or provide testimony.
13. The TAC will cover all costs of participation of the Panellists. The Panellists will not be paid, however. The TAC will have no control over the conduct of the Panel or its report.
14. The TAC will arrange for a rapporteur to be responsible for providing a transcription of the hearings.

PREPARATION AND PUBLICATION OF THE REPORT

- 15. The Panel will be responsible for considering the evidence before it and, on the basis of such evidence, providing a report containing the findings and recommendations of the People’s Commission.
 - 15.1. The Panel will provide a draft report to the Free State Department of Health and any other duty bearers it deems relevant by 6th August 2015.
 - 15.1.1. The above duty bearers will be provided until 20th August 2015 to respond. The Panel is obligated to consider this response should it be provided.
 - 15.2. Whether or not a response has been provided, the Panel will issue a draft report (whether amended or not) to the TAC by 3rd September 2015.
 - 15.2.1. The TAC will be provided until 17th September 2015 to respond. The Panel is obligated to consider this response should it be provided.
 - 15.3. Whether or not a response has been provided, the Panel will issue a Final Report (whether amended or not) to the TAC by 1st October 2015.
 - 15.4. The TAC will release the Final Report in full and without censorship within [2 weeks] of having been issued to the TAC.
 - 15.4.1. Should the TAC fail to comply with this requirement, the Panel or any of its members, together or independently, may release the Final Report.
- 16. Should the Panel be of the view that further engagement with any stakeholders is required and therefore additional time is needed at any of the above stages, it may extend the relevant deadline by no more than two weeks. Should the Panel need to extend any time period, the final date for the release of the report may not be pushed back by more than a total of four weeks.

Signed by Commission panellist:

Name:

Signed:

Date:

Signed by Treatment Action Campaign:

Name:

Signed:

Date: