

2.4 Number of cases

The challenge regarding the timeous filling of posts in this Directorate, which resulted in the Equality Review Committee Secretariat having the added functions of managing the running of the Equality Court Project, resulted in statistics being collated not being 100% reliable as there was insufficient capacity to follow up with Equality Courts that may have been receiving cases but not reporting. As at last financial year the information received was less than 700 cases had been received since the 2003.

Statistics for January – August 2005 reveal that 362 cases were reported nationally and the break down per provinces is as follows:

PROVINCE	COURT	CASES JAN – AUG 2005	COURT	CASES JAN – AUG 2005
LIMPOPO = 6	Louis Trichardt	0	Mhala	0
	Mapulaneng	0	Nebo	0
	Mokerong	0	Nylstroom (Modimolle)	0
	Polokwane (Pietersburg)	0	Phalaborwa	0
	Ritavi	0	Praktiseer	1
	Bela Bela (Warmbaths)	1	Sekgosese	0
	Bochum	0	Sekhukhune	0
	Bolobedu	0	Thabazimbi	0
	Ellisras	0	Thohoyandou	4
	Giyani	0	Thabamooopo	0
	Hlanganani	0	Tzaneen	0
	Malamulele	0	Vuwani	0
	Mankweng	0		
GAUTENG = 146 CASES	Germiston	10	Krugersdorp	3
	Kempton Park	4	Nigel	0
	Pretoria	78	Oberholzer	1
	Pretoria North	0	Randfontein	0
	Randburg	3	Roodepoort	0
	Johannesburg	32	Soshanguve	0
	Alberton	0	Springs	0
	Benoni	1	Vanderbijlpark	2
	Boksburg	10	Vereeniging	1
	Brakpan	0	Westonaria	1
	Bronkhorstspuit	0		
	Cullinan	0		
	Heidelberg	0		

MPUMALANGA= 18 CASES	Barberton	0	Carolina	0
	Eerstehoek	0	Delmas	0
	Evander	0	Ekangala	0
	Mdutjana	0	Lydenburg	8
	Middelburg	4	Mbibane	0
	Nsikazi	0	Mkobola	0
	Witbank	4	Standerton	0
	Nelspruit	0	Volksrust	0
	Balfour	0	Wakkerstroom	0
	Belfast	0	Waterval-Boven	0
	Bethal	0	White River	2
NORTH WEST = 48 CASES	Bafokeng	0	Mankwe	0
	Potchefstroom	14	Molopo	0
	Vryburg	9	Moretele	0
	Bloemhof	0	Odi	0
	Brits	9	Schweizer-Reneke	
	Delareyville	1	Taung	0
	Ganyesa	0	Ventersdorp	2
	Klerksdorp	4	Wolmaransstad	0
	Kudumane	0	Zeerust	0
	Lichtenburg	9		
	Madikwe	0		
NORTH CAPE = 5	De Aar	0	Carnarvon	0
	Fraserburg	0	Colesberg	0
	Kimberley	4	Hartswater	0
	Kuruman	0	Kenhardt	0
	Springbok	0	Prieska	0
	Upington	0	Postmasburg	0
			Victoria-West	1
WESTERN CAPE = 20 CASES	Atlantis	0	George	0
	Worcester	0	Kuils River	15
	Bellville	0	Beaufort West	0
	Cape Town	5	Caledon	0
	Clanwilliam	0	Goodwood	0
	Montagu	0	Mitchells Plain	0
	Paarl	0	Mossel Bay	0
	Piketberg	0	Oudshoorn	0
	Stellenbosch	0	Prince Albert	0
	Vredenburg	0	Riversdale	0
	Vredendal	0	Swellendam	0
			Wynberg	0
EASTERN CAPE = 12 CASES	Port Elizabeth	8	Mdantsane	0
	Somerset East	0	Queenstown	0

	Zwelitsha	0	Steynsburg	0
	Alice	0	Stutterheim	0
	Cradock	2	Uitenhage	0
	East London	2	Aliwal North	0
	Graaff-Reinet		Elliotdale	0
	Grahamstown	0	Ngqeleni	0
	Humansdorp	0	Umzimkulu	0
	Keiskammahoek	0		
FREE STATE = 0	Bloemfontein	0	Jacobsdal	0
	Botshabelo	0	Koffiefontein	0
	Phuthaditjhaba	0	Marquard	0
	Edenburg	0	Philippolis	0
	Ladybrand	0	Wepener	0
	Thaba Nchu	0	Odendaal	0
	Harrismith	0	Kroonstad	0
	Ficksburg	0	Bethlehem	0
	Jagersfontein	0	Bothaville	0
	Rouxville	0	Hoopstad	0
	Boshof	0	Koppies	0
	Brandfort	0	Lindley	0
	Clocolan	0	Parys	0
	Excelsior	0	Theunissen	0
	Fauresmith	0	Villiers	0
	Fouriesburg	0	Virginia	0
			Vrede	0
			Welkom	0
KWAZULU-NATAL = 95 CASES	Durban	83	Pinetown	0
	Camperdown	0	Port Shepstone	0
	Chatsworth	0	Scottburgh	0
	Emlazi	0	Stanger	0
	Esikhawini (Ongoye)	0	Verulam	7
	Greytown	0	Pietermaritzburg	5
	Ixopo	0	Hlanganani	0
	Kokstad	0	Ladysmith	0
	Mtubatuba	0	Newcastle	0
	New Hanover	0	Nongoma	0
	Ndwedwe	0	Nqutu	0
	Ngwelezane (Enseleni)	0	Bergville	0
			Dundee	0
	Eshowe	0	Melmoth	0
	Estcourt	0	Msinga	0
	Glencoe	0	Nkandla	0
	Howick	0	Paulpietersburg	0
	Impendle	0	Pongola	0
	Mahlabathini	0	Ubombo	0
	Vryheid	0		
	Weenen	0		

The highest numbers of complaints were received from Gauteng 146 followed by KwaZulu Natal (95), with Free State having reported no cases. Racism and hate speech combined make up the highest numbers of cases received being 253 cases.

2.5 Human Capacity

Although the Directorate is unable to provide exact details in terms of human capacity (both Magistrates and support staff) that is dedicated to or assists in Equality courts, the data base, (**Annexure "A"**), with a list of Magistrates, Judges, Registrars and clerks trained on the Equality legislation, provides an indication as to the pool/human capacity that is available to assist in Equality Court when the need arise.

2.5.1 Appointment of clerks as Equality Court clerks

The Act makes provision for the training and appointment of clerks that are performing clerical functions in the Equality courts. The issues relating to training will be dealt with under paragraph 3 and in this paragraph the focus will be on appointment of Equality clerks. A large numbers of the clerks that have been trained have not been appointed as clerks of the Equality courts, but these clerks are able to perform Equality court clerk functions and assist in court upon designation by an Equality Court Magistrates. The Equality Act makes provision for the Director General of the Department to appoint trained clerks as Equality Court clerks. The document seeking to delegate these powers to court managers has been finalized. The Minister has now signed the delegations and once made effective, court managers will have powers to appoint Equality Court clerks. By the end of this financial year all trained clerks will be appointed accordingly.

2.5.2 Permanent appointment of clerks

In the last financial year 139 Equality court clerks were appointed on a contract basis and their contracts terminated on 31 March 2006 and were not renewed as the Directorate was moving towards making those posts permanent. These 139 posts are now being made permanent with some Regions having advertised their permanent posts. **R6 million** has been transferred to the Regions for the appointment of permanent staff.

The table below indicates with a "P" the Equality Courts where the permanent posts will be.

PROVINCE	COURT	PERMANENT POST	COURT	PERMANENT POSTS
LIMPOPO	Louis Trichardt	P	Mhala	
	Mapulaneng		Nebo	
	Mokerong	P	Nylstroom (Modimolle)	P
	Polokwane (Pietersburg)		Phalaborwa	P
	Ritavi		Praktiseer	P
	Bela Bela (Warmbaths)	P	Sekgosese	
	Bochum		Sekhukhune	
	Bolobedu		Thabazimbi	
	Ellisras	P	Thohoyandou	P
	Giyani	P	Thabamooopo	P
	Hlanganani	P	Tzaneen	
	Malamulele		Vuwani	P
	Mankweng			
GAUTENG	Germiston	P	Krugersdorp	
	Kempton Park	P	Nigel	
	Pretoria	P	Oberholzer	
	Pretoria North	P	Randfontein	P
	Randburg	P	Roodepoort	P
	Johannesburg		Soshanguve	
	Alberton		Springs	P
	Benoni		Vanderbijlpark	P
	Boksburg	P	Vereeniging	P
	Brakpan	P	Westonaria	P
	Bronkhorstspuit	P		
	Cullinan			
	Heidelberg			
MPUMALANGA	Barberton	P	Carolina	P
	Eerstehoek		Delmas	P
	Evander		Ekangala	

	Mdutjana	P	Lydenburg	P
	Middelburg	P	Mbibane	P
	Nsikazi		Mkobola	
	Witbank	P	Standerton	P
	Nelspruit		Volksrust	P
	Balfour		Wakkerstroom	
	Belfast		Waterval-Boven	P
	Bethal	P	White River	P
NORTH WEST	Bafokeng		Mankwe	
	Potchefstroom	P	Molopo	
	Vryburg	P	Moretele	P
	Bloemhof		Odi	P
	Brits		Schweizer-Reneke	
	Delareyville	P	Taung	
	Ganyesa		Ventersdorp	P
	Klerksdorp		Wolmaransstad	
	Kudumane		Zeerust	
	Lichtenburg	P		
	Madikwe	P		
NORTH CAPE	De Aar	P	Carnarvon	
	Fraserburg		Colesberg	
	Kimberley	P	Hartswater	
	Kuruman		Kenhardt	
	Springbok		Prieska	P
	Upington	P	Postmasburg	P
			Victoria-West	
WESTERN CAPE	Atlantis		George	P
	Worcester		Kuils River	
	Bellville	P	Beaufort West	P
	Cape Town	Px2	Caledon	
	Clanwilliam	P	Goodwood	P
	Montagu		Mitchells Plain	P
	Paarl	P	Mossel Bay	
	Piketberg		Oudshoorn	
	Stellenbosch	P	Prince Albert	
	Vredenburg		Riversdale	
	Vredendal		Swellendam	
			Wynberg	P
EASTERN CAPE	Port Elizabeth	0	Mdantsane	P
	Somerset East	P	Queenstown	P
	Zwelitsha	P	Steynsburg	
	Alice	P	Stutterheim	P
	Cradock	0	Uitenhage	0
	East London	0	Aliwal North	P
	Graaff-Reinet	P	Elliotdale	P
	Grahamstown	0	Nggeleni	P
	Humansdorp	0	Umzimkulu	P

	Keiskammahoek	P		
FREE STATE	Bloemfontein	P	Jacobsdal	0
	Botshabelo	P	Koffiefontein	0
	Phuthaditjhaba	P	Marquard	0
	Edenburg	P	Philippolis	0
	Ladybrand	P	Wepener	0
	Thaba Nchu	P	Odendaal	P
	Harrismith	P	Kroonstad	P
	Ficksburg	0	Bethlehem	P
	Jagersfontein	0	Bothaville	0
	Rouxville	0	Hoopstad	0
	Boshof	0	Koppies	0
	Brandfort	0	Lindley	0
	Clocolan	0	Parys	P
	Excelsior	0	Theunissen	0
	Fauresmith	P	Villiers	0
	Fouriesburg	0	Virginia	P
			Vrede	0
			Welkom	P
KWAZULU-NATAL	Durban		Pinetown	
	Camperdown		Port Shepstone	P
	Chatsworth		Scottburgh	
	Emlazi		Stanger	P
	Esikhawini (Ongoye)		Verulam	P
	Greytown		Pietermaritzburg	P
	Ixopo		Hlanganani	P
	Kokstad		Ladysmith	P
	Mtubatuba		Newcastle	P
	New Hanover	P	Nongoma	P
	Ndwedwe	P	Nqutu	P
	Ngwelezane (Enseleni)	P	Bergville	
			Dundee	
	Eshowe		Melmoth	
	Estcourt		Msinga	P
	Glencoe		Nkandla	
	Howick		Paulpietersburg	
	Impendle		Pongola	P
	Mahlabathini		Ubombo	
	Vryheid			
	Weenen			

2.5.3 Availability of Equality court clerks

Despite the creation of a permanent post for the clerk to assist in the Equality court, the approach that is being adopted is that all clerks should be trained on the Equality legislation and appointed as such, so that there is a pool of trained

clerks available at all times. The same approach is being adopted with the Magistrates as provided for by Section 131 of the Equality Act.

2.5.4 Lay Assessors

The Template (Annexure "C ") setting out the Minimum requirements in order for a Equality Court to be compliant, also set out the requirement that a court must have a list of a pool of lay assessors who can be approached to assist the Equality court as when their services are required. Some Equality Courts already have such lists.

3 TRAINING

3.1 Procedure

Justice College is the Unit within the Department that provides training to clerks and Magistrates. The training is for four (4) days and covers the areas of social context, jurisdiction, *locus standi*, the Regulations, Section 21 orders, development of the Equality Rights, analysis and application of case law and cause of action (unfair discrimination, hate speech and harassment)

There has been criticism leveled at the training being offered by Justice College in that it does not equip the persons being trained to handle Equality cases. Clerks especially feel that the training does not capacitate them to be able to assist clients and the feeling was that they would benefit from a training course that looked at practical examples of the types of cases that would fall under the ambit of the Equality Act. A meeting that was set with Justice College had to be postponed due to none availability of the Deputy Director General of Justice in charge and the meeting had to be postponed to later in October 2006.

The Directorate is also initiating a project on the production of Law Journals on decided Equality cases. The production of this Journals will result in the creation of jurisprudence on Equality cases, as well as, ensure uniformity and some certainty in the procedures used for lodging and adjudicating cases in the Equality Courts, hopefully alleviating some of the problems that have been identified by attorneys and advocates on procedures that are not user friendly. Another area that requires to be addressed relates to complaints form which is not user friendly and again the Journal project will be of assisting in resolving this problem.

3.2 Training manual

The Directorate during July 2006 attended a meeting called by the Human Rights Commission where one of the issues under discussions was collaboration and working together in activities related to the implementation of the Equality Act. One area that was identified with respect to training is around consolidating the different training manuals that are in existence and used by Chapter Nine institutions, Justice College and academic institutions. The process of consolidation of training manual will provide the opportunity for key stakeholders, which will include Justice College, to meet in order to interrogate existing training manuals and there after rework the manual in order to have a training manual that will be user friendly and also address needs of clerks, judiciary and any other persons interested in same.

3.4 Numbers trained

The information received is that in the last financial year 88 Judges and 815 Magistrates and 334 Clerks had been trained by Justice College, with last training of clerks and Magistrates having been conducted during February and March 2006.

The information that the Directorate has in the database that it is developing reveal that and 984 presiding officers (Magistrates and Judges) and 368 clerks were trained and this excludes information for Eastern Cape. The table below gives a breakdown on numbers per province:

Province Name	No: of the Presiding Officer Trained	No: of the Clerks Trained	No: of Court managers& registrars Trained
Eastern Cape			
Free State	118	27	0
Gauteng	313	94	20
KZN	100	50	17
Limpopo	124	37	18
Mpumalanga	100	72	37
Northern Cape	65	29	01
North West	52	24	0
Western Cape	112	35	0
	984	368	93

Further training is being conducted for this financial year by Justice College for Magistrates in Port Elizabeth on 26 – 29 September 2006, and training for clerks will be conducted in Pretoria from 3 – 6 and 24 – 26 October 2006 in Umtata and again in Pretoria in November 2006. More training for clerks and Magistrates is planned for this financial year and the persons to be trained, courts and provinces where the training is to be conducted will be guided by the data base (**Annexure A**) containing the names of all the persons who have been trained, as well as, the courts where no staff was trained.

3.5 Database

The compilation of a **comprehensive data base** of all Magistrates and clerks who were trained since 2001 to date began in June 2006 and will be finalised end October 2006. This data base covers the training done for Magistrates, Judges and clerks in all 366 magisterial districts and not only the 220 magisterial districts courts designated as Equality Courts. The database contains names of Magistrates, Judges and clerks trained, date they were trained, date of

appointment as Magistrate or clerk of the Equality court and whether the clerk is a permanent or a temporary clerk.

With the finalization of this database the Directorate will then be able to determine the following:

- ❖ Designated courts that do not have trained Equality court clerks and Magistrates,
- ❖ Designated courts that have trained Magistrates and clerks, but that have not been appointed as Equality Court personnel, (and then begin the process of having the personnel appointed, as the Equality courts require duly appointed staff to be involve in cases);
- ❖ Designated court that have temporary clerks trained, so that Justice College can be requested to train permanent clerks in that court;
- ❖ All Magistrates and clerks trained in 2001 – 2004 so that they can be taken for a refresher training course, as many of them have not had the opportunity to apply what was taught to them then and have forgotten how to apply the Act;
- ❖ Whether the 146 Magisterial districts that do not have Equality courts have trained clerks and Magistrates, and if they do, whether the clerks and Magistrates were appointed, as one of the essential requirements for designation of a Court as an Equality court is that it must have trained and appointed personnel

5. PUBLIC EDUCATION AND AWARENESS

A major concern with respect to the Equality courts is their under utilization, considering South Africa's history of racial, gender and other forms of discrimination. Two reasons have been sighted for the under utilization, is that of lack of public awareness and education, as well as, the legalistic nature of the Equality legislation, (which makes it difficult for lay persons to know when an

action is discriminatory or amount to hate speech and therefore falls within the ambit of the Equality court).

During the 2003/2004 financial year public education and awareness campaigns were undertaken in the areas indicated in the Table below:

Mpumalanga	1. KwaMhlanga 2. Nkomazi 3. Kabokweni
Gauteng	Tsakane (Brakpan)
Northern Cape	Galeshewe (Kimberly)
Eastern Cape	1. Ngqeleni 2. Elliotdale 3. Alice 4. Somerset East 5. Queenstown 6. Stutterheim
Western Cape	1. Khayelitsha
Limpopo	1. Mokerong 2. Mapulaneng (Bushbuckridge) 3. Ritavi 4. Ellisras
KwaZulu Natal	Sasolburg (Moses Kotwane Stadium in Zamdela Township)
North West	1. Potchefstroom 2. Vryburg 3. Bafokeng (Rustenburg) 4. Madikwe 5. Atamelang 6. Lichtenburg

The reason for the public education and awareness campaign not being conducted is attributable to the fact this task was left up to the Equality Review Committee Secretariat to undertake, which Secretariat was already over stretched in terms of capacity. The Department's Chief Directorate Public Education and Communication which is tasked with such function has been approached to undertake public awareness, especially during the period that the Department will be designating the 146 courts. Public Education and

Communication will also be running print media adverts to popularize the Equality Courts.

The approach that has also been adopted is to engage other stakeholders to assist with public education and awareness, and generally assist victims of discrimination to access courts and in this regard the following has been done:

❖ **Meeting with the Legal Aid Board**

A meeting was held with the National Operation Executive, Legal Development Executive from the Legal Aid Board to discuss, amongst other, the role that can be played by the Legal Aid Board in assisting litigants to institute their cases; advising litigants of the nature of their cases and whether they are discrimination cases as envisioned by the Equality Act; to refer clients to the appropriate forum in cases which do not fall within the ambit of the Equality Act etc. The Legal Aid Board has offices in all the provinces and also has a presence in semi rural areas, and accordingly partnering with them in this manner will enhance and improve access to Equality courts.

❖ **Meeting with Office of the Status of Disabled Persons**

A meeting was held with the Director of the Office of the Status of Disabled Persons in the Office of the Presidency to discuss amongst other their functioning, programmes that they have planned, their interaction, if any, with the Equality Courts. It was resolved that the Office of the Status of Disabled Persons will be invited to strategic meetings looking at accessibility of Equality Courts and related matters

❖ **Provincial Stakeholder workshops**

The first of the provincial workshops theme ***Making Equality A Reality for All through Partnership*** that was to have been held in Gauteng on 25 and 26 October 2006 was postponed. The target group for these workshops is other government departments (SAPS, Health, Social Workers, Teachers etc), Legal Aid Board officials, Office of the Status of Women, Traditional leaders, organizations with the office of the Presidency, MEC representatives, FBO, NGOs, CBOs etc. The workshop will present an opportunity for monitoring what impact the Equality Act has made and can still make on the lives of South African.

A minimum of four workshops will be held before the end of the financial year with the balance being held in the next financial year. These workshops will be accompanied by public awareness in the courts, which public awareness is meant to popularize the existence of Equality courts in the 220 designated courts.

❖ **Promotional Material**

R419 200 has been spent on acquiring 650 000 Equality Court Booklets to be distributed to the Equality Courts. User friendly brochures are also being developed to able easier understating of the Act and the procedures.

A further R100 000 will be spent acquiring Equality poster, translating the posters into the 11 official languages.

Advertising campaign as indicated previously is also another avenue that will be utilized to popularize the Equality Courts and their functioning.

❖ **Translation of the Equality legislation in all official languages**

The Department of Art and Culture has been approached to assist with the translation of the Equality Act and its Regulations into all the official languages.

❖ Signage at courts

The audit that is being conducted at the courts also includes the existence of signage clearly indicating the existence of an Equality Court and the courts which do not have signage will be provided with signage.

6. COLLATION OF STATISTICS

A system is being put in place to enable the collection of reliable monthly statistics, which will assist the Directorate in monitoring the utilization of Equality Courts. The template for the collection of statistics has also been amended to include the capturing of information on duration of case from the time that it is lodged to date finalized as well as referral made. The amended template is attached as **Annexure 'D'**. Previously statistics were not submitted on a month to month basis making same not be reliable. Reliable and comprehensive statistics are important for our policy formulation and also determining whether the Act is assisting the intended beneficiaries.

7. COLLABORATIONS WITH OTHER ENTITIES

Collaborations with other key stakeholders in ensuring the effective implementation of the Equality Act and functioning of the Court is important and as indicated in paragraph 5 the Directorate is already engaged in a process of strengthening these collaborations, especially with Chapter Nine institutions.