

2022/2023 FINANCIAL YEAR

TRANSFORMATION COLLABORATIVE COMMITTEE:

HEALTH, SAFETY, PUBLIC PROTECTION AND UNIVERSAL ACCESS

PROGRESS REPORT

October 2022

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ACRONYMS

APP - Annual Performance Plan

CBE - Council for the Built Environment

COIDA - Compensation for Occupational Injuries and Diseases Act

DPWI - Department of Public Works and Infrastructure

HSPPUA – Health, Safety, Public Protection and Universal Access

TCC - Transformation Collaboration Committee

ToR - Terms of Reference

WPRPD - White Paper on the Rights of Persons with Disabilities

1. Purpose

The purpose of this report is to provide an overview of the activities undertaken by the Health, Safety, Public Protection and Universal Access Transformation Collaborative Committee (HSPPUA TCC) during Quarter 2 of the 2022/2023 financial year.

2. Background

The Council for the Built Environment (CBE) is a statutory body established under the Council for the Built Environment Act (No. 43 of 2000). It is an overarching body that coordinates the following six councils for the built environment professions - Architecture, Landscape Architecture, Engineering, Property Valuation, Project and Construction Management, and Quantity Surveying – and through memoranda of understanding these include Town and Regional Planning, Land Surveying and Environmental Assessment. Sections 3(a) and (e) of the CBE Act mandate the CBE to promote and protect the interests of the public and promote appropriate standards of health, safety and environmental protection within the built environment.

In line with the above, Transformation of the Built Environment Professions is one of the key imperatives of the CBE. As per the CBE Strategic Plan, the CBE is to facilitate participation by the Built Environment Professions in integrated development in the context of national goals, specifically regarding Transformation as a key priority of the sixth term government. The CBE's third Transformation Indaba, hosted in October 2019, produced a number of key resolutions, in relation to challenges impeding Transformation in the sector. The CBE expects to deliver on these resolutions to ensure transformational progress. The main vehicle for driving these activities is the Transformation Collaborative Committees (TCCs), constituted in collaboration with the Department of Public Works and Infrastructure (DPWI) to specifically address these challenges. These TCCs, with support from the DPWI, are commissioned to engage with all relevant departments and industry role players to resolve key challenges identified by stakeholders. These Transformation Collaborative Committees (TCC) comprise of the following:

- i. Health, Safety, Public Protection and Universal Access (HSPPUA)
- ii. Occupation Specific Dispensation (OSD)
- iii. Procurement, Policy, Legislation and Socio-Economic Development (PPLSED)
- iv. Professional Skills and Capacity Development (PSCD)
- v. Women Empowerment and Gender Equality (WEGE)

Health, Safety, Public Protection and Universal Access (HSPPUA)

The HSPPUA TCC was established as part of CBE's priority area of public protection, to address matters of Universal Design, Accessibility and Health and Safety within the South African Built Environment. The section below provides an update on progress of the HSPPUA TCC in Quarter 2 of the 2022-2023 financial year.

3. Health, Safety, Public Protections and Universal Access TCC Quarter 2 Progress Report

3.1 Overview

The HSPPUA TCC was formally established on 13 May 2022. The draft Terms of References (TOR) and list of deliverables were presented to the committee for further input and finalisation. The CBE hosted a Workshop in July 2022 on all the TCC TOR to ensure full alignment and accommodation of the relevant CBE objects. Thus far, the HSPPUA has representation from the following organisations and statutory councils:

- i. Councils for the Built Environment Professions (ECSA, SACPCMP, SAVPVP, SACQSP and EAPASA)
- ii. Disability Info South Africa (DiSA)
- iii. Federated Employers Mutual Assurance Company (FEM)
- iv. Department of Public Works and Infrastructure (DPWI)
- v. Department of Women, Youth and Persons with Disabilities (DWYPWD)
- vi. Department of Higher Education and Training
- vii. ChangeAbility
- viii. South African Institute of Occupational Safety and Health (SaioSh)
- ix. Consulting Engineers South Africa (CESA)

The HSPPUA TCC developed a workplan as per the BEMC's resolution for continuous reference and monitoring against its goals, objectives, and tasks set out by the HSPPUA TCC which encompasses two of the CBE's 2022/23 financial year targets.

3.1. Quarterly Progress

The section below provides an update on progress made by the HSPPUA TCC in Quarter 2 (July – September 2022) of the 2022/2023 financial year:

3.1.1. International Day of Disabled Persons – Awareness Campaign

Verbal presentation by the HSPPUA TCC Chairperson

3.1.2. Presentation by Federated Employers Mutual Assurance Company (FEM) update on COIDA and Health & Safety: Dr S Munnoo

Dr Munnoo's presentation covered the following:

Compensation for Occupational Injuries and Diseases Act (COIDA) Amendment Bill – is in the final stages of approval before enactment. Some changes anticipated are:

- i. Focus on rehabilitation and return to work of injured employees
- ii. If the accident is attributable to the serious and wilful misconduct of the employee, compensation will still be payable to the employee in terms of the Act
- iii. Continuation of pension to dependents upon the death of an injured employee, regardless of the cause of death
- iv. Recoveries from the Road Accident Fund will no longer occur
- v. Penalties for non-compliance with COIDA

3.1.3. Review of the Construction Health and Safety regulation

The proposed changes cover definitions, notification of construction work, duties of the designer, duties of principal contractor and contractor, management and supervision of construction work, risk assessment for construction work, etc.

3.1.4. Strategy to ensure compliance with the CH&S and OHS Act by the BE sector

Windapo, A. and Oladapo, A.A., (2012) identified that the following factors affect the level of contractor's compliance with Health and Safety:

3.1.4.1. Management commitment and attitude to health and safety

Haupt and Smallwood, as cited by Windapo, A. and Oladapo, A.A., (2012) argue that when management give workers instructions to perform tasks, they (management) do not refer to health and safety, workers are seldom provided with personal protective equipment (PPE), inspections and meetings are never conducted; workers perceive the supervisors and management not prioritising health and safety.

3.1.4.2 Knowledge and training

Workers who are not knowledgeable of the risks involved in their work and are not trained are likely to underestimate the inherent risks or hazards in their work.

3.1.4.3 Penalties for non-compliance

cidb as cited by Windapo, A. and Oladapo, A.A., (2012), is of the opinion that if potential loses relative to labour. Materials, plant and equipment are due to non-compliance with health and safety regulations are cited by regulatory authorities. Contractors will address health and safety issues and also argues that corruption enables contractors to get away with minor and major misdemeanours and escape severe penalties.

3.1.4.4 Cost of compliance

Compliance with health and safety regulations, according to Smallwood as cited by Windapo, A. and Oladapo, A.A., (2012) is an enabler and catalyst for enhanced performance relative to cost. According to Smallwood as cited by Windapo, A. and Oladapo, A.A., (2012), the estimated cost of complying with health and safety can be between 0.5% to 3% of total project costs, and for small construction sites can be higher and therefore perceive compliance as an additional burden.

3.1.5. Audit the implementation of the universal design and access matrix of the White Paper on the Rights of PWD

The DWYPWD indicated that the auditing process of universal design is very technical. It needs competent practitioners as there are legal implications (should the auditors get it wrong), retrofit costs a lot of money, and that their findings can be challenged through the courts. It was therefore proposed that the DWYPWD and DPWI continue with the auditing and report to the HSPPUA TCC on the audit findings.

3.1.6. Strategy to deal with construction mafia

The HSPPUA discussed how construction companies and developers can work together with business forums at the beginning of the construction stage.

3.1.7. Set-asides for emerging small and medium businesses owned by PWD

According to the White Paper on the Rights of Persons with Disabilities (WPRPD) at least 7% of all government and private purchasing under R30 000 are set aside for emerging small and medium-owned businesses by persons with disabilities. It was proposed that CBE, DPWI, professional councils and other organisations represented in the HSPPUA TCC review their procurement policy on the set aside for PWD and report back on progress at HSPPTUA TCC meetings.

3.1.8. 2022/23 Annual Performance Plan (APP) target

The following targets were outlined to form part of the HSPPUA TCC deliverables to be monitored and reported on a quarterly basis. The CBE committed to make update presentations at the next HSPPUA TCC scheduled for 19 September 2022.

3.1.8.1. Report on engagements with three stakeholders and deliberations

3.1.8.1.1. Engagement with Dept of Women, Youth and PWD (DWYPWD)

The CBE engaged with DWYPWD on 11 July 2022 on the impact of the White Paper on rights of persons with disabilities (WPRPD) and capacitating the CBE and the HSPPUA TCC on universal design and access. The meeting resulted in the DWYPWD delivering a presentation at the HSPPUA TCC on 3 August 2022 on universal design and access in the built environment in order to capacitate the HSPPUA TCC members how to conduct universal access audits on public buildings.

The DWYPWD indicated that the auditing process of universal design is very technical and needs competent practitioners - there are legal implications should the auditors get it wrong, retrofit costs a lot of money, and their findings can be challenged through the courts. It was therefore proposed that the DWYPWD and DPWI continue with the auditing and report to the HSPPUA TCC on the audit findings. DWYPWD enlightened the CBE that, according to WPRPD at least 7% of all government and private purchasing under R30 000 are set aside for emerging small and medium owned businesses by persons with disabilities.

3.1.8.1.2. **Engagement with professional councils**

The CBE invited all nine councils i.e., the six CBEP, Environment Assessment Practitioners Association of South Africa (EAPASA), South African Geomatics Council (SAGC) and the South African Council for Planners (SACPLAN) to a meeting on 30 August 2022 to discuss empowerment of professionals with disabilities; however only ECSA, SACPCMP and SACPVP attended. The objective of the meeting was to find out the following:

- **Does your profession have Persons with Disabilities and what are their challenges.**

ECSA and SACPVP indicated that they do not have the stats; SACPCMP indicated yes, they do have the professionals with disabilities and the information is provided to the CBE through SACPCMP quarterly reports.

- **Does your profession have Universal Design and Access in the curriculum**

ECSA and SACPVP indicated that they do not know; SACPCMP indicated that they have no curriculum so far. SACPCMP indicated the policy frameworks on Standard Generated Body (SGB) has not been provided by the CBE and therefore cannot be expected to influence the curriculum of the built environment institutions of higher learning.

- **What is the role of your profession in ensuring Universal Access**

There was a proposal that the curriculum on universal design and access is introduced to all professional councils which could, for example - enable the Architects to design for universal access; train Construction Managers and Project Construction Managers that when they plan and do work breakdown structures, they cater for PWD and manage that environment; Property Valuers factor in universal access to increase the value of the building, etc.

- **Ways to empower Professionals with Disabilities**

The three CBEP felt that there was nothing to contribute because the CBEP do not have jurisdiction and they also indicated that the CBE should provide guidance to the CBEP on ways to empower professionals with disabilities.

- **Any Other Business: Participation on TCC by CBEP**

The SACPCMP indicated that they are not prepared to participate in the TCCs as a regulatory body because they are in the committee with organisations they regulate like South African Institute of Occupational Safety and Health (Saioh).

3.1.8.1.3. **Engagement with NDPWI**

The CBE engaged with NDPWI on 8 September 2022 to discuss the challenges PWD are experiencing in the built environment, and their empowerment. The NDPWI highlighted that it is very expensive to reasonably accommodate the professionals or employees with disabilities. It was proposed that the CBE and organisations represented on the HSPPUA TCC start identifying occupations that are designated for PWD, so that when there are vacancies for such occupations the adverts can be sent to DWYPWD, NDPWI and the HSPPUA TCC specialist to circulate the adverts to national disabilities organisations.

3.1.8.2. **Conclusion and the Way Forward**

It was concluded that the auditing process of universal design is very technical and needs competent practitioners as it has legal implications should the auditors get it wrong. It was therefore proposed that the DWYPWD and DPWI continue with the auditing and report to the HSPPUA TCC on the audit findings.

It was also proposed that the DWYPWD and DPWI invite the CBE and some members of the HSPPUA TCC to accompany them when they conduct the audits so that they can appreciate the auditing process.

The meeting with professional councils was insightful, and it was proposed that universal design and access be a continuous professional development (CPD) for all BE professionals. It was concluded that it is important for the CBE to finalise that SGB regulation to enable the CBEP to have the power and guidelines to review that curriculum.

According to White Paper on the Rights of Persons with Disabilities (WPRPD) at least 7% of all government and private purchasing under R30 000 are set aside for emerging small and medium owned businesses by persons with disabilities. It was proposed that CBE, DPWI, professional councils and other organisations represented in the HSPPUA TCC review their respective procurement policy for set aside for PWD and report back on progress on HSPPTUA TCC meetings.

3.1.8.3. Recommendations

It is recommended that the CBE advise the minister of NDPWI to promulgate a regulation that DPWI should not lease buildings that do not comply to universal access and that no public building should receive an occupational certificate until it has complied with all the prescripts of universal design.

3.1.9. One report on the state of compliance with Construction Health and Safety within the Built Environment sector produced by 31 March 2023.

The CBE attended the Health and Safety meeting chaired by Federated Employers Mutual Assurance Company (FEM), attended by Black Business Council in the Built Environment (BBCBE), The Institute for Work at Height (IWH), South African Forum of Civil Engineering Contractors (SAFCEC), South African Institute of Occupational Safety and Health (Saioh), The Institute of Plumbing -SA (IOPSA) and Master Builders South Africa (MBSA)., in order to partner in identifying focus areas in terms compliance with CHS.

FEM is mutual insurance of employers in the construction industry against their liabilities under the Compensation for Occupational Injuries and Diseases Act 1993 (COIDA). The report findings from FEM health and Safety legislation Committee agrees Windapo, A.O., (2011), research finding that the level of compliance by construction companies in South Africa is influenced by **location of site, building type, project value and attitudinal disposition of the site manager/agent**.

3.1.9.1. Location of site

Windapo, A.O., (2011), found that construction sites that far from big towns and municipalities are likely to be found not complying with the requirements of the health and safety legislation because the department of employment and labour have few enforcement inspectors and are not likely to visit those construction sites. For example, construction sites in the Vredendal, Worcester, Port Alfred areas were found to have low compliance levels i.e., 60 to 70%.

3.1.9.2. Building type and Project Value

High compliance to Health and Safety requirements was found in high value homes, manufacturing facilities and plant/storage yards. The data analysed by Windapo, A.O., (2011) suggests that the higher the attention to details is required as is the case with **high value homes** and the more the knowledge of clients such as those found in the manufacturing industry is familiar to the requirements of health and safety, the higher would be the compliance by the contractors engaged to the legislative requirements.

3.1.9.3 Site Manager's Attitude

According to Smallwood et al (2009), as cited by Windapo, A.O., (2011) "minimum rules and regulations can be prescribed but, if management skills are not geared towards the realization of health and safety on site, then, there will be no compliance to regulatory requirements". Mentioned by Windapo, A.O., (2011) the MBSA audited scores that were analysed were found to be consistent with this assertion because the statistical test reveals that the attitude of the site manager in terms of his level of commitment which is based on his involvement in the implementation of Health and Safety requirements, does have a statistically significant effect on the level of compliance of the site he manages to Health and Safety requirements. Most site managers who showed commitment to Health and Safety requirements recorded more than 90% level of compliance on their sites.

4. Conclusion and Way Forward

Request the BEMC to authorise the awareness campaign on International Day of Disabled Persons so that planning can start as early as possible.