

# PARLIAMENT WATCH



## 2018 SCORECARD ON PARLIAMENTARY COMMITTEE PERFORMANCE

### Introduction

National Parliament recorded more than 1 400 committee meetings in 2018 that tackled various issues of national importance. Parliament Watch's scorecard zooms in on four case studies. Three of which span committee meetings of the Portfolio Committees in the National Assembly namely: The Portfolio Committee on Social Development, specifically pertaining to challenges in the Social Security Agency (SASSA); the Portfolio Committee on Police's deliberations on the allocation of police resources; and the Portfolio Committee on Communications' focus on the ongoing challenges at the South African Broadcasting Corporation (SABC). The fourth case study provides observations and scoring from monitoring committees in the Eastern Cape Legislature.

Section 59 of the Constitution states that the National Assembly must facilitate public involvement in the legislative and other processes of the Assembly and its committees, and that it must conduct its work in an open manner and hold its sittings, and the sittings of its committees, in public. Section 118 imposes the same obligations on provincial legislatures. It is within this context that Parliament Watch monitored selected committees in the National Assembly and the Eastern Cape Provincial Legislature and to a lesser extent the Western Cape Provincial Legislature during 2018 using a framework of four thematic areas: access and openness; responsiveness to the public; independence and oversight; and general effectiveness. This scorecard rates committees' performance across these three case studies with a five-point score. In the scoring we have used 1 equals a fail, 2 equals poor, 3 equals fair, 4 equals good and 5 equals excellent. Parliament Watch members acknowledge that their assessment is based on subjective analysis and have attempted to mitigate this by collectively agreeing on the scoring subsequent to debate and collective analysis. Opinions and analysis reflected in the Scorecard are supported by quotes from monitors.



## Case Studies

### Case Study 1: South African Social Security Agency (SASSA) Crisis

About 17 million South Africans depend on social grants. Problems with social grant pay-outs spanned over five years, starting with the Constitutional Court in 2013 declaring the contract between the South African Social Security Agency (SASSA) and the company Cash Paymaster Services (CPS) invalid due to tender irregularities. This marked the beginning of a long drawn out process to get out of this contract with the least possible impact on social grant beneficiaries. SASSA in 2015 informed the court it would take over the pay-out system but failed to make the deadline of end March 2017 as a result of SASSA's continued lack of readiness. This left the court with no choice but to extend the unconstitutional contract with CPS repeatedly.

It is against this background that Parliament's oversight role came under the spotlight. In 2018, the final deadline was set for 1 April 2018. Parliament Watch monitored the Portfolio Committee on Social Development's handling of the crisis at the height of the public confusion over pay-outs and the take-over process by the Post Office. The Portfolio Committee on Social Development met 22 times in 2018 of which Parliament Watch monitored 11. On average, the committee scored poor to fair, but demonstrated, at times, the capacity to function better. Below is a breakdown of the scoring of the committee's performance according to Parliament Watch's four themes.

#### Openness and Access

1: Fail	2: Poor	3: Fair	4: Good	5: Excellent
<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The committee scored low on openness and access. Although Parliament Watch monitors could gain entry into meetings, access to documents were not easy. Access to meetings are important, however without access to documents which form the substance of discussions in the committee, mere presence in a room is almost meaningless.

*"...the secretary who hands out the documents are not so keen to give us documents. She is only giving us certain things. [The] support staff is very unwelcoming."*

Our monitors also observed a concerning development around so called "working lunches" where meetings were continued away from the public eye thus undermining the obligation to conduct meetings in open.

*"[It is a] sneaky closure of meetings that carries on during lunch time. In one meeting [the chair said] the meeting is now closed but committee members will have a working lunch."*

On occasion, the chair would end a meeting because she had to attend another meeting elsewhere. Members would receive text messages to tell them at which venue the meeting will continue later. The result is that members of the public and monitors were not informed of where the meeting continued and therefore were unable to observe and track discussions on the issue. Our monitors also observed more obvious attempts to limit the committee's discussion in the public domain.

*"The chairperson would say – be careful what you are saying, the public is among us."*

## Responsiveness

<b>1: Fail</b> <input type="checkbox"/>	<b>2: Poor</b> <input type="checkbox"/>	<b>3: Fair</b> <input checked="" type="checkbox"/>	<b>4: Good</b> <input type="checkbox"/>	<b>5: Excellent</b> <input type="checkbox"/>
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The Portfolio Committee on Social Development did respond with a series of meetings when the public panic over grant pay-outs escalated. It should be noted however, that the committee was alerted of the impending crisis several months before but was slow to act. It is for this reason that we gave the committee an average score on responsiveness. Parliament Watch monitors observed that MPs responses were driven by what was reported in the media.

*“There is a media eye on this, so they become more serious. So, MPs are motivated to take the public’s side.”*

Some MPs were responsive to public concerns about the grants.

*“The committee discussed a lot of issues of public interest like transport issues in rural areas where the Post Office is 50 km away. This discussion is very good because people do not have money to get to pay points.”*

However, our monitors also noted that this responsiveness was limited in its impact on addressing the crisis regarding the delivery of social grants. Once the shift was made to the Post Office the committee seemed to accept what they were being told by the executive and lost the connection to the problems the public experienced with the new system:

*“[They are] responsive to what the public are talking about but there is still an element of not following up with current issues as it develops with SASSA and the Post Office. There are still the same problems, but the committee acts like all is okay now. They are not following up on if people are getting their grants and what is happening on the ground.”*

## Independence

<b>1: Fail</b> <input type="checkbox"/>	<b>2: Poor</b> <input checked="" type="checkbox"/>	<b>3: Fair</b> <input type="checkbox"/>	<b>4: Good</b> <input type="checkbox"/>	<b>5: Excellent</b> <input type="checkbox"/>
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Overall, our assessment is that the Committee was weak in its independence and holding the executive to account on the SASSA issue, especially when considered in conjunction with their only taking the issues on in a serious way after the situation was in crisis as discussed above under responsiveness. When the committee finally responded with a series of briefings by the Department of Social Development and SASSA demanding answers, its performance was inconsistent. This assessment was also informed by poor and inconsistent chairing practices, a tendency to defer to the Minister and Department of Social Development, and most importantly the ultimate failure of the committee to safeguard the payments of social grants by the Department, SASSA or the SAPO.

Our monitors had mixed observations regarding the independence of the Portfolio Committee on Social Development chairperson. We observed different standards of chairing depending on if the meeting was being chaired by the committee chairperson or an acting chairperson.

*“The chairperson looks like she is taking sides. When there is an acting chairperson, you can see that she is more impartial. The Chairperson is not impartial”*

Monitors indicated that a higher score could have applied if more meetings had been chaired by the acting chairperson, emphasising the important role that the chairperson plays in enabling the committee to fulfil its oversight and accountability mandate.

The Committee has a mandate to hold the Ministry, Department of Social Development as well as a range of other agencies, including SASSA to account. Monitors observed different standards of independence depending on which body was appearing before the committee.

Our observations were that the committee was, overall, inconsistent and weak in holding the Minister and officials from the Department of Social Development to account. However, the committee demonstrated an ability to hold other agencies under its oversight mandate to account. For example, in October 2018 the committee cracked the whip during a briefing by the Social Professions Council whose presentation lacked crucial detail.

*“The chairperson demanded the council goes back to draft a proper presentation that the committee can understand and that include finances.”*

Members of the committee often seemed ready to hold SASSA officials to account - monitors reported on some meetings relating to the grants where questions were thorough and relevant and SASSA officials were held to account.

*“The chairperson applied some of the rules in favour of SASSA and others against SASSA. The questions asked were good and relevant and the answers given was also good.”*

These observations demonstrate that a more deferential relationship of the committee to the Department and Minister appears to impact on its performance of its accountability functions with respect to the Ministry.

On a positive note, in some situations MPs in the committee would ask for more clarity and depth of the information that was provided and, in some cases, it was decided that the minister herself should come and explain. However, monitors also noted with disappointment that the chairperson would often need to cut questions and answers due to time constraints - limiting the impact of any probing questions on the executive. Of serious concern is that at times it appeared as if the committee, when they do get the answers, do not use the information properly to advance the delivery of social grants to the public.

*“[There is a lot of] misinformation. The committee hear plans, but their information does not get anywhere and concrete decisions don’t lead to any concrete changes. [It is] very hard to get information. They are not spreading information at all.”*

Monitors reflected on the positive effect of joint SCOPA and Social Development Committee meetings, held in 2017, on the exercise of independence over the executive. Monitors theorised that this positive effect was still evident in the Social Development Portfolio Committee in its handling of SASSA in 2018.

## Effectiveness

<b>1: Fail</b> <input type="checkbox"/>	<b>2: Poor</b> <input type="checkbox"/>	<b>3: Fair</b> <input checked="" type="checkbox"/>	<b>4: Good</b> <input type="checkbox"/>	<b>5: Excellent</b> <input type="checkbox"/>
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Many factors need to be in place for a committee to function well and the theme of general effectiveness cannot be separated from how the committee performs on access, independence and responsiveness. According to Parliament Watch’s assessment, this committee did respond to the issue but rather late and at times inadequately and inconsistently. Monitors were concerned about the few instances in 2018 where the committee found sneaky ways of limiting full access to meeting procedures.

Our monitors experienced the effects of meetings being posted on the z-list at short notice making it difficult to coordinate monitors to attend committee meetings particularly monitors traveling from rural areas. Monitors noted that meetings were mostly held at the stipulated venues and set times as scheduled. These meetings also started on time. Monitors observed that the acting chairperson would require members to switch their phones off.

### Case Study 2: Crisis at the SABC

There are many facets to the still unfolding SABC crisis. It was not only confined to the former Chief Operating Officer but involved other role-players, most notably Parliament’s Portfolio Committee on Communications, the various ministers in this portfolio and some SABC board members. We assessed the performance of the Portfolio Committee on Communications against this background and scored the committee on average fair to good. The Portfolio Committee on Communication met 30 times in 2018 and Parliament Watch monitored 15 of those meetings. Below is a breakdown of the scoring of the Portfolio Committee on Communication’s performance according to Parliament Watch’s four themes.

## Openness and Access

<b>1: Fail</b> <input type="checkbox"/>	<b>2: Poor</b> <input type="checkbox"/>	<b>3: Fair</b> <input type="checkbox"/>	<b>4: Good</b> <input checked="" type="checkbox"/>	<b>5: Excellent</b> <input type="checkbox"/>
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Overall access to this committee was considered positive and monitors did not experience significant problems accessing the meetings and information regarding the meetings. In one meeting, the committee chair indicated that because the committee makes use of the Parliamentary Monitoring Group (PMG) records of their meetings it was important to make sure that the PMG were present in the meeting. This is a valuable approach because in addition to the usefulness of PMG to MPs, it increases the public’s access to information on the discussions in committees.

Due to the public interest in issues around the SABC among others, the committee chair made sure it was accessible to everyone. Opposition MPs tended to be much more approachable than the ruling party MPs. Opposition MPs would proactively approach members of the public in the meeting to introduce themselves and explain what the meeting was about.

*“DA and EFF members always welcome you.”*

Parliament Watch monitors who regularly monitored this committee also noted that access to meetings of the committee were frequently challenged due to last minute changes to venues. One monitor observed:

*"[It is] always difficult to find this committee because they are changing venues every time and again."*

Opposition MPs were much more likely to complain that they did not receive the agenda or other supporting documents in time to prepare for meetings. One monitor wondered:

*"Ruling party MPs maybe received documents before opposition MPs or maybe they weren't concerned about getting it late"*

### Responsiveness

<b>1: Fail</b> <input type="checkbox"/>	<b>2: Poor</b> <input type="checkbox"/>	<b>3: Fair</b> <input checked="" type="checkbox"/>	<b>4: Good</b> <input type="checkbox"/>	<b>5: Excellent</b> <input type="checkbox"/>
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It should be noted that the score is based on the committee's performance during 2018, after the SABC controversy hit news headlines, after the ad-hoc committee into the SABC board that was in operation late 2016 and 2017, and after a shift in political leadership in the ruling party. These factors appear to have triggered a heightened responsiveness from the Communications committee to the SABC crisis. Prior to this in 2017, the Committee was considered by monitors to be extremely sluggish and insipid in its responsiveness to the seriousness of the issues that were already being raised in relation to various SABC governance issues.

Monitors reported that MPs in this committee were often responsive to issues of public interest but that this was not always the case and that to some extent, the issues on which they were most responsive were those already under media scrutiny.

*"They (MPs) know the media is capturing issues, so they want to be seen to respond to the issues properly."*

### Independence

<b>1: Fail</b> <input type="checkbox"/>	<b>2: Poor</b> <input type="checkbox"/>	<b>3: Fair</b> <input checked="" type="checkbox"/>	<b>4: Good</b> <input type="checkbox"/>	<b>5: Excellent</b> <input type="checkbox"/>
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As noted regarding the committee's responsiveness above, monitors considered the committee to have improved during 2018 from its previously low performance with respect to holding the executive to account. Despite this improvement, the committee's performance was inconsistent. ANC MPs in the Portfolio Committee on Communications often failed to demonstrate independence from their political party and by extension the executive.

*"The content and the way [ANC MPs] they discuss issues like the SABC board and people resigning from the board, they are not showing independence from the ruling party."*

*"It is a political issue in the party, so they keep moving away from the real issues that the opposition parties are raising. Ruling party MPs cover up for the executive. It is clouded by party politics."*

Monitors indicated that ANC MPs appeared more willing to exercise authority over less senior members of the executive but generally did not ask tough questions when engaging with senior members of the executive.

On the other hand, opposition party MPs were strong and active in the committee, which greatly enhanced the committee’s performance in terms of holding the executive to account.

*“[Opposition party MPs] They caught out the executive for copy and paste issues.”*

*“Members also pushed hard for issues with the SABC and community radio stations”*

Although opposition MPs were often vociferous when engaging the executive, monitors recognised that this did not necessarily mean that they were not also driven by their political party lines.

On a more positive note, monitors observed that the committee did make a point of ensuring continuity on issues with the change in Ministers, requiring the new minister to respond to issues that were raised previously. Despite the reported blurring between party politics and the duty to exercise oversight, monitors observed occasions where MPs across parties did ask and insisted on adequate answers from the executive on the troubles at the SABC.

*“They [committee members] are mindful on if their decisions are taken seriously by the executive.”*

At times, the committee demonstrated an ability to act regardless of political affiliation, for example, the committee took a strong stance against retrenchments at the public broadcaster despite the strong position of the executive on this issue. This was also evident in a committee meeting in October 2018 where MPs across the political spectrum grilled ICASA for not taking a more active role to prevent a monopoly of broadcasting rights of national sporting events.

*“The committee argued that retrenchments are more expensive because of packages. The ANC and opposition were on all speaking the same language against retrenchments.”*

### Effectiveness of the Committee

<b>1: Fail</b> <input type="checkbox"/>	<b>2: Poor</b> <input type="checkbox"/>	<b>3: Fair</b> <input type="checkbox"/>	<b>4: Good</b> <input checked="" type="checkbox"/>	<b>5: Excellent</b> <input type="checkbox"/>
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The theme of effectiveness is interconnected with the other themes monitored. Although the committee was fairly responsive to issues raised in the public domain, independence, and especially of ANC MPs impacted oversight and accountability. One Parliament Watch monitor tracking this committee was able to build relationships with committee members and support staff, which improved access. However, the committee demonstrated being generally open and accessible to the public. Monitors reported there were some very strong individual opposition party committee members who were well prepared and asked tough questions of the executive. This committee tended to only post meetings monitored by Parliament Watch, on the z-list with an average of two working days’ notice, which we consider short notice for that impacts negatively on the public’s ability to attend committee meetings.

### Case Study 3: Allocation of Police Resources

Crime affects every South African, yet the response to crime varies. In March 2016, civil society organisations launched an application in the Equality Court against the Minister of Police and acting National Commissioner and in December 2018 the court found that the police’s resources allocation system in the province unfairly discriminated against communities based on race and poverty. Civil society made the decision to approach the Equality Court because their attempts to engage government on the recommendations of The Report of the Commission of Inquiry into Allegations of Police Inefficiency and a Breakdown in Relations between SAPS and the Community in Khayelitsha which was released in 2014, were largely unsuccessful.

This committee met 62 times in 2018 and Parliament Watch monitored 23 of those meetings. Because the allocation of police resources did not appear as a set agenda item many times during 2018, our assessment includes monitoring of the committee’s general performance as well. The Portfolio Committee on Police scored an average of poor to fair. Below is a breakdown of the scoring of the committee’s performance according to Parliament Watch’s four themes.

#### Openness and Access

<b>1: Fail</b> <input type="checkbox"/>	<b>2: Poor</b> <input type="checkbox"/>	<b>3: Fair</b> <input checked="" type="checkbox"/>	<b>4: Good</b> <input type="checkbox"/>	<b>5: Excellent</b> <input type="checkbox"/>
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Committee meetings were often accessible, with meetings generally appearing on the z-list with advanced notice and held in the same venues. Access to documents was inconsistent. One of our monitors struggled to obtain documents throughout the year, while witnessing support staff allowing some members of the public access to the documents on occasion.

*“There is a tension when it comes to communication with support staff always emphasising documents are not available to the public and only for MPs. Because one does not have documents, it is tough to follow what is happening.”*

Some monitors also noted that meeting venues were sometimes not big enough to accommodate everyone. This was particularly noticeable with the meeting on the annual crime statistics. Many members of the public were not able to access the meeting, when the committee should have anticipated the public interest in the topic and secured a larger venue.

Monitors noted that support staff were extremely helpful and responsive to MPs, but not always approachable or helpful to members of the public.

*“Sometimes they [support staff] would greet you but the next day they just ignore you and look past you”*

Monitors noted that when support staff were familiar with monitors or the organisations they were from they were more likely to be friendly and helpful.



## Responsiveness

<b>1: Fail</b> <input type="checkbox"/>	<b>2: Poor</b> <input type="checkbox"/>	<b>3: Fair</b> X	<b>4: Good</b> <input type="checkbox"/>	<b>5: Excellent</b> <input type="checkbox"/>
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Monitors observed that MPs in the Portfolio Committee on Police were often responsive to issues of public interest. This committee was open to public submissions especially from the Social Justice Coalition. The organisation had the opportunity to make three presentations to the committee in the year under review on issues including the allocation of police resources. Some monitors also noted that, at times, responsiveness was linked to political opportunism and point scoring.

*“We always get support from the opposition (regarding police resources) but it is not very deep. The DA keep pulling it down to a Western Cape Province issue and that the ANC (through SAPS) is trying to ‘sabotage’ the Western Cape story.”*

## Independence

<b>1: Fail</b> <input type="checkbox"/>	<b>2: Poor</b> X	<b>3: Fair</b> <input type="checkbox"/>	<b>4: Good</b> <input type="checkbox"/>	<b>5: Excellent</b> <input type="checkbox"/>
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Our monitors noted that it was often the opposition MPs who asked probing questions of the executive.

*“The EFF ask questions that affect people on the ground and the DA ask expensive questions about crime, investment and tourism.”*

On the issue of allocation of police resources, the ANC MPs tended to avoid discussing the bigger issue of structural inequality of police resource allocation and tended to focus on issues that were less contentious.

*“They would talk about body cams, cameras in police cars and the use of drones. It’s not a bad thing that they are talking about these things, but they are not tackling the big issues.”*

When senior members of the executive were present like the minister and the commissioner the ANC MPs tended to ask easy and obvious questions and make gentle suggestions.

*“They ask a question by just repeating what was already said in the presentation. They are not asking real questions.”*

Despite the committee’s responsiveness, the monitors also noted concerns over a lack of follow through on some issues:

*“You get promises that they (MPs) will take your issues on, but they don’t follow through.”*

On the issue of allocation of police resources monitors felt that the committee did not demonstrate the leadership or follow through expected from them.

## Effectiveness of Committee

<b>1: Fail</b> <input type="checkbox"/>	<b>2: Poor</b> <input type="checkbox"/>	<b>3: Fair</b> X	<b>4: Good</b> <input type="checkbox"/>	<b>5: Excellent</b> <input type="checkbox"/>
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The committee was effective in so far as it was open and accessible, with a fair chairperson who gave all MPs a chance to speak. Our monitors noted that despite this, the substance in the follow up of issues were often lacking. Monitors also noted that this committee was effective in terms of starting meetings on time and remaining focused.

One monitor observed during a briefing by Statistics South Africa and the Private Security Industry Regulatory Authority (PSIRA):

*“The committee is well dedicated and hands on. Members participate fully, are robust and challenging by asking critical questions and making rich inputs.”*

The committee had a heavier meeting schedule than most other committees in 2018 yet had an excellent attendance rate of 97%.

MPs did not always demonstrate having sufficient knowledge on the topic of police resource allocation.

*“Surprisingly one MP still referred to Resource Allocation Guide (RAG) although it has been replaced by the Theoretical Human Resource Requirement (THRR) a number of years ago.”*

## Case Study 4: Eastern Cape Provincial Legislature

Provincial Legislatures play a critical role in exercising oversight and accountability over the executive on provincial level. Parliament Watch partner, the Public Service Accountability Monitor (PSAM), based in the Eastern Cape, monitored the Eastern Cape Provincial Legislature (ECPL). PSAM monitors governance and public resource management across various sectors of public administration. In 2018, monitoring focussed on three committees: Education, Health and Human Settlements in the Eastern Cape Legislature. Overall, it would appear that the committees that were monitored have shown some improvements in certain areas of since 2016 and 2017.

## Openness and Access

<b>1: Fail</b> <input type="checkbox"/>	<b>2: Poor</b> <input type="checkbox"/>	<b>3: Fair</b> X	<b>4: Good</b> <input type="checkbox"/>	<b>5: Excellent</b> <input type="checkbox"/>
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The geographic remoteness of the ECPL poses an obstacle to public access in general. In many respects, the dissemination of scheduling information by the ECPL Communications Unit constitutes the most reliable source of information. The Unit also provides significantly higher levels of openness and access than the majority of committees. However, this does not necessarily facilitate access to timely, detailed committee-specific information to facilitate public access. Monitors therefore had mixed experiences with regards to openness and access.

Meeting notices that are posted or cancelled with short time frames have an adverse impact on openness and access as public attendance of committee meetings requires considerable planning and travel costs.

While Parliament Watch monitors in the Eastern Cape noted some positive contributions by provincial support staff, this was not uniform across provincial committees. In some instances, committee coordinators and chairs took on tangible roles as gatekeepers to requests to attend and present during committee sittings.

In terms of the Constitution, committee meetings must be open to the public unless there are justifiable reasons to prevent public access. In practice, committee chairs effectively limited access by either deferring requests to make presentations or - in one particular context - by requiring members of the public to lodge permission letters to attend open committee sittings. While this is merely one example, it indicates a lack of awareness of some chairs of the obligations placed on them to facilitate open public participation processes. Often, committee chairpersons and support staff do not proactively share information on changes in the programmes and monitors contacted support staff regularly to check and follow up. Members of the public do not have the time or resources and cannot be expected to do the same – thus limiting access by limiting or withholding information.

*“The portfolio committee coordinator only shares information when contacted there is no motivation to proactively share information of changes on the legislature programme.”*

Monitors made several unsuccessful requests to support staff for access to committee-specific information and documents and were therefore unable to receive reports, minutes and other relevant documents, prior to or after meetings.

### Responsiveness

1: Fail <input type="checkbox"/>	2: Poor X	3: Fair <input type="checkbox"/>	4: Good <input type="checkbox"/>	5: Excellent <input type="checkbox"/>
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It is important to note here that for a more rigorous analysis of committees’ responsiveness - access to committee minutes and reports would be imperative. However, as the ECPL website avails extremely limited committee reports and committees themselves do not disseminate minutes to the public, the low score is influenced both by experiences of monitors as well as by the lack of access to committee reports. We consider the difficulty of obtaining comprehensive evidence of committees’ in-depth responsiveness to matters raised in the public domain as an indication of a fundamental failing.

Generally, while committees clearly engage with issues that are in the public domain - and sometime robustly, evidence of persistent, exhaustive interrogation of certain issues were limited. In some committees, the issues raised in one meeting were often not followed up in subsequent meetings. For example, the committee asked the Department of Human Settlements to explain the failure to build Qunu City that was in the Department plan in 2014. The committee did not push further to get explanations and way forward in subsequent meetings.

Another example of responsiveness in the health context is the reported medical negligence and abuse of patients at Tower Hospital, a psychiatric facility, which was added to the committee agenda as a matter of urgency on which senior officials from the Department of Health were requested to present to the committee

We also considered the ability of committees to facilitate direct engagement with researchers, members of the public and civic actors as an imperative element of responsiveness. In some instances, committees did not afford monitors an opportunity to make presentations on issues within the public domain to support committees' oversight work.

One monitor indicated that:

*“The committee should create opportunities for us to present because it enhances their oversight role.”*

## Independence

<b>1: Fail</b> <input type="checkbox"/>	<b>2: Poor</b> <input type="checkbox"/>	<b>3: Fair</b> <input checked="" type="checkbox"/>	<b>4: Good</b> <input type="checkbox"/>	<b>5: Excellent</b> <input type="checkbox"/>
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The ECPL Portfolio Committees demonstrated a fair degree of independence from the executive. The way some of the committee members questioned the executive reflected a deliberate effort to hold the executive accountable. In one meeting, the Department of Human Settlements had outstanding documents for discussion. An ANC MPL reprimanded the executive for coming to the meeting with inadequate documents. The committee demanded that the documents be shared with everyone by the following morning.

The Health Committee dealt extensively with the Emergency Medical Services in the Eastern Cape and requested information from the executive as to why the programme was utilising its entire budget and yet the response time is something that is affecting service delivery in the province. The committee made numerous recommendations to the executive regarding how service delivery could be improved.

*“A member of the health committee asked that the executive address the committee on steps it had taken to address recommendations made by the human rights commission on the state of Emergency Medical Services in the Eastern Cape”.*

During the National Public Health Bill, discussions surrounding the performance of each programme and recommendations on how the programmes could perform better the committee used every opportunity to hold the executive accountable and on various occasions allowed the executive to return with follow-ups to queries that had been put forward by the committee members.

*“The extent to which the committee members interrogated the health programmes budget and performance shows not only the engagement with service delivery but also their commitment to uphold accountability”.*

### Effectiveness of the committees

<b>1: Fail</b> <input type="checkbox"/>	<b>2: Poor</b> <input type="checkbox"/>	<b>3: Fair</b> X	<b>4: Good</b> <input type="checkbox"/>	<b>5: Excellent</b> <input type="checkbox"/>
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In terms of the effectiveness of the committees, on several occasions it was observed that some members of the Portfolio Committee on Human Settlements did not engage at all in the committees’ debates and discussions. The reason for this lack of participation are unclear. Contrastingly, the majority of MPLs within the Portfolio Committees on Education and Health generally tend to participate and engage in committee discussions.

However, our emphasis remains on the need to ensure that the minutes, documents and reports that are central to the discussions are made available not only as a record of proceedings but to scrutinise the rigour with which discussions occur. The dearth of information across all committees monitored by the PW in the ECPL has an adverse impact on the effectiveness of committees.

### Findings

Despite some examples of good practice monitored, the findings still show concerning shortcomings of the legislatures in fulfilling their constitutional mandate of ensuring openness and access; independence and oversight; responsiveness to the public; and effectiveness.

We observed a marginal improvement with regard to committees exercising their accountability mandate in a number of committees during 2018 when compared to the dismal performance of those same committees during the previous two years of monitoring. Unsurprisingly, we did not observe a significant change in the dynamic of committees showing a lack of independence and protecting the executive when it relates to issues that were considered politically ‘hot’. On these issues, the ruling party position continues to direct the committees - often resulting in behaviours that are protective of and deferential to the executive. Positively, the stronger position within the ANC towards dealing with corruption and state capture, appears to have influenced the functioning of parliament to some extent with regard to their oversight on these issues. However, this assessment of improvement does not apply to many other issues that committees deal with that are also of importance to the public.

We think it is notable that opposition politics have taken increased space in committees and that for the most part this has a positive impact on transparency of the executive and on holding the executive to account. Although the majority weight lies with the ruling party, dogged exposure of issues through the media and civil society, linked to vociferous engagement by a range of parties on key issues make it increasingly difficult to hide and to justify unaccountable decisions. Even when these are made, they seldom go unchallenged.

In terms of openness and access it is particularly concerning that the locus of decision-making in some committees were increasingly shifted away from the public eye outside of formal committee meeting spaces. This created the impression that committee meetings are mere showcases for deliberation and the public's ability to influence decision-making was thus undermined. It is our contention that the phenomenon of so-called "lunchtime meetings" is the very antithesis of legislatures' Constitutional duty of transparency. Similarly, it is concerning that meetings were sometimes closed or partially closed to the public and media. Another issue of significant concern is that frequently critical documents, on which discussions in the committee were based, were not made available to the public. This is not always benign and is an effective tactic to undermine transparency to the public.

Also, of concern is other subtle ways in which access was undermined. Appreciating factors like human error, it is our contention that after 25 years of democracy, Parliament and provincial legislatures should be performing better on access and transparency. It is often as simple as just getting the basics right. This include giving notice of meetings, time and meeting venues reasonably in advance. Last minute cancellations, postponements and other changes often have a huge impact on people, especially those from poorer urban and rural communities travelling long distances at high cost to attend these meetings.

Parliament is a highly contested space and MPs have vast privileges and powers they can use to summon or demand action and answers from the executive. It should thus not be left to civil society to pick up and drive issues affecting communities. MPs should display a greater degree of independence so that issues are addressed proactively.

Parliament Watch will continue its work of advancing democracy through monitoring National Parliament and the Eastern Cape and Western Cape Provincial Legislatures in 2019. We remain convinced that the legislatures have a critical role to play in ensuring constitutional and participatory democracy in South Africa.

### **Who is Parliament Watch?**

Parliament Watch is a collective of independent organisations working towards the advancement of social justice, the realisation of human rights, and strong constitutional democracy in South Africa. Collaborators in 2018 included Equal Education Law Centre; Public Service Accountability Monitor; Right to Know Campaign; Social Change Assistance Trust; Social Justice Coalition; Witzenberg Rural Development Centre; Women and Democracy Initiative: Dullah Omar Institute; Women on Farms Project. A diverse range of individuals from the participating organisations have participated in the project, some had extensive experience actively engaging with committees in the legislatures on both law reform and oversight while others had very little exposure to Parliament, if any.

### **Why did we undertake this project?**

Parliament Watch considers the legislatures as central to our democracy and having a crucial role to oversee effective service delivery, and advance social justice and transformation in South Africa. Committees are the engine rooms of the legislatures, and are tasked with the development of laws and the detailed work of performing oversight to interrogate the performance of the executive. The organisations, which make up Parliament Watch share the goal of building the quality of South Africa's constitutional democracy by collaborating on actions aimed at holding the legislatures to account for their constitutional mandate.

### **What did we do?**

During 2018 Parliament Watch monitored 13 selected committees in National Parliament; three committees in the Eastern Cape Legislature; and three in the Western Cape Provincial Parliament to assess their performance on the constitutional mandates for openness and accessibility, independence and holding the executive to account, and responsiveness to the public.

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