

CHAPTER 1

INTRODUCTION TO THE RESEARCH

1.1 INTRODUCTION

Research into any transformation programme can be complex. This is largely because these programmes tend to be highly visible and as such need to contend with high expectations over relatively short periods of time. Whilst it is important to have quantitative indicators to objectively assess how these programmes are doing over time qualitative elements should also be considered, as these influence the quality and sustainability of such programmes. This applies particularly to the assessment of disability equity in the South African Public Service, which is part of the broader transformation programme of the South African government. This chapter seeks to provide insights on the disability equity programme, the legal framework within which it operates and a brief commentary on broad and civil society perspectives on the issue.

1.2 THE LEGISLATIVE CONTEXT

Transformation programmes within the South African government was designed to be dynamic, focused and achieve results in a relatively short period of time. It was expected that these programmes would fundamentally reshape the public service. In relation to disability equity, it was considered essential that existing aspects of the Public Service Act 1994 and the Public Service Staff Code (the health requirements), which potentially discriminated against people with disabilities, be reviewed.

This has taken place within a framework of a more overarching and proactive legislative environment, articulated through the following:

- The *Reconstruction and Development Programme (RDP) White Paper* (1994)
- The *White Paper on the Transformation of the Public Service* (1994), which clearly sets out the Government's intention that "within 10 years (2005), people with disabilities should comprise 2 percent of public service personnel".
- The *Constitution of the Republic of South Africa* (1996), which guarantees the rights of people with disabilities to be treated equally and enjoy the same rights as all citizens.
- The *White Paper on an Integrated National Disability Strategy* (1997), which is to facilitate the realization of the rights of people with disabilities to equality and dignity through full participation in a barrier-free society.
- The *White Paper on Affirmative Action* (1998)
- The *Employment Equity Act* (1998), which seeks to outlaw discrimination and promote affirmative action in the workplace. Disability is mentioned as a ground in which people may not be discriminated against.

Chapter 4 of the *Presidential Review Commission Report* (1998) further reiterated governments commitment to 'a more proactive, integrated and development strategy' with respect to people with disabilities in South Africa

All of the above provides the legislative context within which disability equity operates within the South African context.

1.3 BROAD PERSPECTIVES

The social integration of disabled people, from both a policy and provision perspective gained rapid prominence as a key issue in the 1990's. With the new millennium there has also been an increased awareness and use of monitoring and evaluation, especially around the impact of government policy. It is clear that both the information age and the increased popularity of monitoring and evaluation (by both government, civil society etc), means that programmes need to justify themselves. Monitoring and evaluations are seen as critical for assessing whether operational design is delivering against policy imperatives. It is now possible to assess the efficiency of programmes, such as disability equity, at all levels, and through this identify best practice and impediments.

There is a widespread acknowledgement of the role of legislation in promoting equality in society (World Health Organisation, 1990). There is also widespread and universal declarations of commitment to the ideals of participation, equality and social integration of disabled people. With democracy in South Africa in 1994, and the country's integration into the global sphere, local policies have been shaped by international experiences. This has resulted in an increased volume of policy reviews, resulting in the emergence of new measures. The current picture is captured within this report, noting that given the rapidly changing situation in this arena of transformation, the statistics are likely to change significantly in the medium to long term.

A country's approach towards employment policy tends to shape its programmes and outcomes on disability equity. International studies have distinguished between two broad types of approaches to disability and employment policy. Firstly, there are those countries with *over-arching anti-discrimination legislation* within which their disability employment policy is located. Employment practices are only one aspect – albeit the most prominent – of a comprehensive policy that recognizes the rights of people with disabilities and seeks to eradicate discrimination against them. Countries such as the USA, Canada and Australia fall within this category and as such all have anti-discrimination and human rights legislation which operate at both the federal and state level. Most of the countries that have human rights and anti-discrimination legislation or Charters of Freedom also have employment equity laws. South Africa is also a case in point and this investigation highlights the impact of these issues.

The second broad type of approach is where *disability policies are compartmentalized*, and associated with the policy interests of specific departments of government. These policy interests tend to be influenced by history, guiding philosophies and institutional frameworks as well as by current policy priorities. Examples of this influence may be seen in the disability policies of the majority of European countries where some policies are sustained by labour market concerns, whilst others are influenced by

social security or social welfare concerns. This approach does not suggest that these countries have not recognized the rights of people with disabilities, but rather that there still needs to be an integration of the constitutional references and the guiding principles. Progress has been made in a number of these countries to reconcile disparities in policies for people with disabilities that have historically fallen within the remit of several different departments. The practice in the majority of European countries has been to adopt an incremental approach to the matter, rather than radical change. This approach also involves legal requirements that have historically been guided by the principles of compulsion, and exemplified by quota systems and reserved employment.

In the countries with direct human rights provision these measures are not used, since they have 'enforced' the obligation to employ people with disabilities through conditions attached to the pursuit of economic activity, such as contract compliance. Many countries promote the employment of people with disabilities through financial measures, such as the compensation to employers for reduced productivity, reimbursement of costs incurred in adapting to the needs of disabled employees, or bonus payments.

It is quite clear from international practice, that the two approaches need not necessarily be viewed as dichotomous. It is possible to have both an overarching approach to disability equity, as in South Africa, whilst at the same time allowing for innovative policy interpretation to take place and assist the overall programme. More debate needs to take place on this specific issue.

1.4 CIVIL SOCIETY PERSPECTIVES

A research of this nature would not be complete without the participation of Civil Society organizations. Historically this significance stems from the abdication by the apartheid state of the disabled, in particular those from disadvantaged groups. During this period, several organizations were created in order to provide support in this regard. Their role must be acknowledged in not only providing critical support where needed, but also over time helping to develop an infrastructure that is of great value. It is imperative that this "critical voice" is reflected in this report. The following organizations, randomly chosen, were visited for the purposes of this study:

- South African National Epilepsy League (SANEL)
- National Council for the Blind
- National Council for people with disabilities
- Deaf Federation of South Africa (DEAFSA)
- Quadriplegic Association of South Africa (QUASA)
- Disabled People South Africa (DPSA)

The following were the main issues raised during the various interactions:

a) *Limited skills based*

The main message that emerged from most of the organizations visited was that the vast majority of people with disabilities are often unskilled, with low levels of education. This fact is primarily historical because many people with disabilities from formerly disadvantaged groups had even fewer educational opportunities than their able-

bodied counterparts. As a result, those born with disabilities and those who were disabled at a very young age were often worse off than those disabled at a later stage in their lives after they had managed to receive some kind of education. However, in accordance with the demographics of the country, there are also a number of people with disabilities who are highly skilled and qualified. This often results in very different needs that cannot be met through homogenous means. Invariably these contribute to the tension between a call to mainstream versus preferential and targeted approaches.

b) The absence of a country-specific definition of disability

It becomes apparent that though there are varying degrees of disabilities, there is no specific country definition adhered to by all. Varying degrees of disability mean that a certain percentage of people with severe disabilities is unemployable. However, because the definition is so open, organisations visited felt that there is often a tendency by employers to employ a number of people with 'minimal disability', e.g. a missing finger, in order for them to reach the Employment Equity Act targets. This was further exacerbated by the fact that many of them were often employed at a low post level, with very little scope for career planning and advancement.

c) Current legislation impedes people with disabilities from entering the labour force.

All organisations visited had not engaged in any recent research focusing on employment in the Public Service, as much of their research primarily focused on opportunities for self-employment, employment in the private sector or on raising awareness of the negative attitudes that people with disabilities are often subjected to. It was frequently stated that current labour laws often prevented people with disabilities from entering the labour force. Once in employment, they would have to forfeit their disability pension, and should they be unable to sustain their employment in the Public Service, it would be a rigorous and difficult process to reinstate their disability pension. Furthermore, skilled people who do not earn above a particular salary find it economically more viable to be classified as needing state assistance as it becomes more affordable in terms of benefits from the state for daily support, especially for medical costs.

d) The sector is divided and fragmented

Many of the organisations visited also acknowledged that the sector as a whole tends to be fragmented and divided amongst organisations for people with disabilities and organisations of people with disabilities. As a result of this and other more practical challenges, there is currently no comprehensive database of people with disabilities, and their skills and competencies.

e) Employment within the public service is often limited and unsupported

Organisations visited stated that the particular areas of work most frequently performed by people with disabilities varied depending on the level of education, from, the legal fields, computerised work,

telephonists, switchboard operators, finance, research, etc. One organisation mentioned that people who were hard of hearing were often more productive because they are not distracted by sound while another mentioned that people who were hard of hearing often communicated with their hands, thus making it unwise to employ them within a production line. It is however, a fact that much of the work performed by people with disabilities can often be enhanced through employers investing in 'assistive' devices. Technological advancement now enables those who are partially sighted to have computer print magnified by up to 45 times the normal print. Technological advancement has created a 'universal design' for products that enables all people to use equipment and machinery irrespective of disability. However, employers must be willing to invest in this kind of equipment as this makes a difference between effective and efficient conduct of work and being marginalised on the basis of ones disability. It was pointed out that this does not necessarily mean having big constructions, but minor changes and innovations also make a difference. Currently the work place is still very inaccessible to people with disabilities. For example, fax machines or photo-copiers are often too high to be reached by someone on a wheel chair.

f) *Poor integration into the work place*

In terms of experiences of people with disabilities once in the place of employment, most organisations mentioned the general lack of understanding of the challenges of people with disabilities, resulting in work environments that are unsupportive and isolating. The requirements of people with disabilities are still not integrated into the general considerations of the work place. A big problem mentioned on a number of occasions was the lack of transport that is disability-friendly. It was stated that government could investigate the viability of providing some people with disabilities opportunities to conduct work independently, from a home work-base. This could improve the employability of some categories of people with disabilities.

g) *Current recruitment practices lack creativity and innovation*

In terms of recruitment policies within the Public Service, many organisations felt that more creative and innovative recruitment procedures need to be adopted. Mention was made of possibly distributing advertisements of all vacancies to organisations that lobby and advocate for people with disabilities. The learnership programmes of the Department of Labour were seen as a significant mechanism for not only employing people with disabilities, but also ensuring that their work skills are enhanced.

It is clear from the information obtained from this sector of civil society that there exists a rich knowledge about the complexities facing people with disabilities. Civil Society thus needs to play a more prominent role in policy review, given its intimate knowledge of the main challenges experienced. South Africa is fortunate to have such a vibrant and committed Civil Society sector.