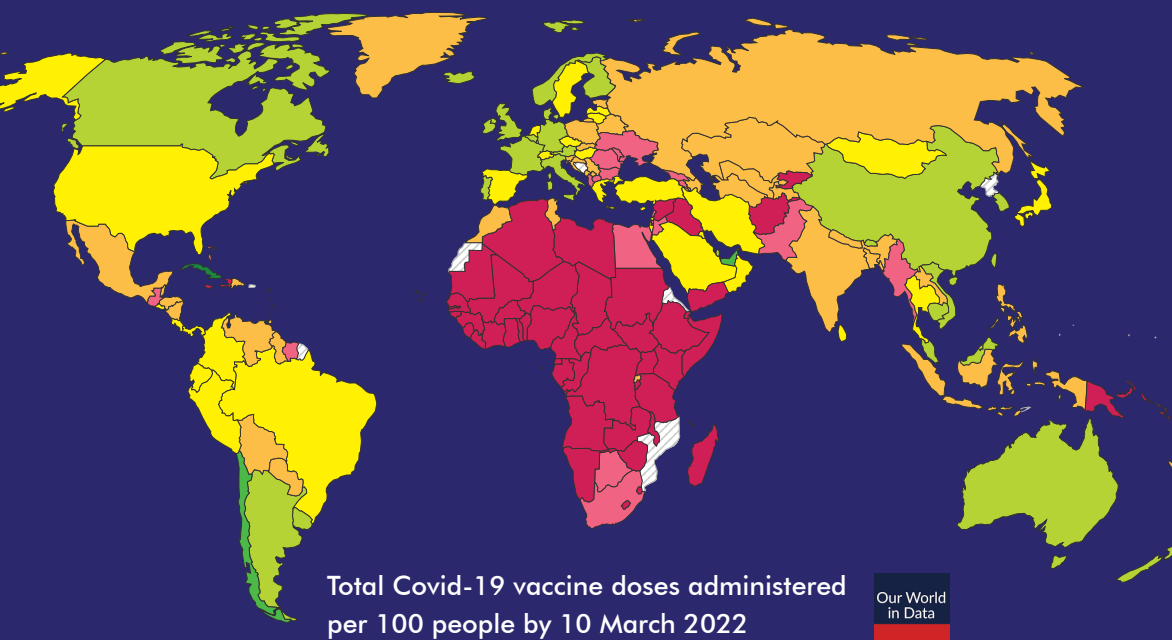


Pandemics and the illumination of “hidden things”

Lessons from South Africa on the global response to Covid-19

M. Richter

Why access to information and expert advice given to government is important in a pandemic. A case study of the Covid-19 Ministerial Advisory Committees in SA's pandemic response transparency matters



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Why access to information and expert advice given to government is important in a pandemic. A case study of the Covid-19 Ministerial Advisory Committees in SA's pandemic response – transparency matters

Marlise Richter

Introduction

The Covid-19 pandemic catalysed worldwide fear, anxiety and panic. In fact, the WHO found that there was an increase of more than 25% in depressive and anxiety disorders worldwide in 2021 alone (WHO, 2022). The lack of knowledge about the new pathogenic coronavirus, its rapid spread, the morbidity and mortality it leaves in its wake — and the repressive public health measures enacted in several countries to curtail the spread of the pandemic — instilled immense public distress.

Amidst this anxiety, many people looked to their governments to provide strong leadership with evidence-based and carefully coordinated programmes to ameliorate the pandemic's impact and to keep people safe. A prerequisite for the success of a government policy or programme is people's trust in government action and confidence that government decisions are based on evidence and fact and taken in good faith. This trust, in turn, is dependent on

transparent decision-making and government accountability, which underlie the social contract between government and citizens.

On this, Singh writes:

Transparency is an element of procedural fairness and is a key condition for accountable decision-making and the promotion of public trust. Evidence and assumptions used by authorities in making decisions, the manner in which those decisions are being made, and by whom, are crucial to building trust and maintaining confidence in policy makers. Accordingly, all relevant information about a pandemic and its decision-making processes ought to be communicated or made accessible to the public to uphold its trust. (2020: 439)

Characteristics of an open, transparent and evidence-based pandemic response would include the following:

1. Government decision-making is informed by the latest evidence on the pandemic;
2. Experts in a variety of fields, disciplines and experiences — including civil society — would provide knowledgeable inputs to government decision-makers, and base their guidance on the country's particular context and needs;
3. All expert advice considered and the names of experts consulted by government are placed in the public domain in a timely manner;
4. Experts consulted should state any conflict of interests they may have, and these disclosures should be published;
5. Where government policy-making diverges from the expert advice given, clear rationales need to be provided for why the advice was not followed;
6. Governments should communicate their decisions to the public — and the evidence that these were based on — in a timely, accessible and appropriate manner; and
7. Experts should be able to interact freely with the media and public forums to provide public education and information related to their expertise.

Undoubtedly, decision-making affecting millions of lives during a crisis is immensely complex. Schippers and Rus point out the following challenges with crisis decision-making on a country-level:

Essentially, policymakers have to react to a threat, of which the extent is unknown, and they are making decisions under time constraints in the midst of immense uncertainty. The stakes are high, the issues involved are complex and require the careful balancing of several interests, including (mental) health, the economy, and human rights. These circumstances render policymakers' decision-making processes vulnerable to errors and biases in the processing of information, thereby increasing the chances of faulty decision-making processes with poor outcomes. (Schippers & Rus, 2021).

Against this background, officials may be tempted to restrict public access to information on decision-making forums, the material and advice with which they are provided, and the rationales for their decisions to limit public criticism during a pandemic. Such an approach fosters secrecy, it avoids accountability and is likely to erode public trust, increase suspicion of government actions and could catalyse resistance to implementation of national policies. Conversely, some decision-makers may not be deliberately secretive about internal processes, but inadvertently deprioritise proper communication and transparency in the midst of the urgency of the crisis.

In open societies, government decision-making should always be transparent; and during pandemic times, the transparency imperative is even more pronounced. Dheepa and Koch (2020: 26) posit that:

Especially trade-offs [implicit in government policy-making in a pandemic] need to be made more explicit to justify far-reaching measures depriving populations of basic freedoms, with the aim of giving people good reason to adhere to them. In an environment which easily fosters fake news and protest marches against Covid-19 restrictions, a high level of transparency can form the basis of a communication strategy which addresses what those trade-offs means for people's daily lives.

In view of this, how did multiple governments heed this call during the height of the Covid-19 pandemic?

Existing research is not encouraging. A rapid analysis research project by Rajan and colleagues (2020) assessed expert Covid-19 advisory bodies or taskforces in 24 countries early on in the pandemic. It found that a number of countries did not publish the official membership of the experts appointed to these bodies, while there was also limited transparency on the sources of advice that decision-makers consulted. Regrettably, this study was not replicated later on in the pandemic to assess whether decision-makers had changed their practices in line with greater transparency and accountability, and indeed whether such, more transparent strategy had a positive impact on policy implementation and adherence.

Research into this area is still evolving.

The UK's response: Case study of SAGE

The UK's approach to the issues of expert advice, information-sharing and communication on pandemic management is relevant here.

The Scientific Advisory Group for Emergencies (SAGE) is a British government body of experts that have been advising the government on urgent public health threats since the late 2000s. The relationship between the UK government and SAGE advisors is governed by a comprehensive SAGE-specific policy. It

provides that SAGE experts are “responsible for co-ordinating and peer reviewing, as far as possible, scientific and technical advice to inform decision-making” (UK Cabinet Office, 2012:2).

Early on in the Covid-19 pandemic, several UK researchers emphasised the need for transparency and the sharing of information to strengthen international responses to the pandemic, and called for the publication of all data and assumptions informing all epidemiological models used in pandemic management (Barton et al., 2020). Scientists there appealed to the UK government in March 2020 already to “urgently and openly share the scientific evidence, data, and models it [was] using to inform current decision-making related to Covid-19 public health interventions within the next 72 [hours] and then at regular intervals thereafter” (Alwan et al., 2020: 1036). In April 2020, Landler and Castle (2020) wrote that SAGE:

...operates as a virtual black box. Its list of members is secret, its meetings are closed, its recommendations are private and the minutes of its deliberations are published much later, if at all. Yet officials invoke SAGE’s name endlessly without ever explaining how it comes up with its advice — or even who these scientists are.

There were also concerns expressed by members of SAGE about the presence of political strategists who are not scientists but who attended SAGE meetings (Lawrence et al., 2020). An online survey conducted with more than 9,000 participants in April 2020 in the UK, found that only half (52.1%) of respondents felt that the UK government was making good decisions and that “generalised mistrust, concerns about the transparent use and communication of evidence and insights into decision-making processes [of the UK government on pandemic matters] can affect perceptions of the government’s pandemic response” at that time (Enrina et al., 2021).

In response to this criticism and public pressure, the UK

government published the names of SAGE members (UK government, 2020a) and the minutes of the meetings of SAGE (UK government, 2020b) in May 2020, while a list of SAGE members' interests was released in December 2020 (UK government, 2020c).

Challenging this initial lack of transparency in the SAGE group, an alternative group — called Independent SAGE or “Indie_SAGE” — was formed in early May 2020 by a group of independent scientists. On 4 May 2020, it held its first meeting which was, pointedly, live streamed. This was the same day that the UK government finally released its own list of SAGE members, which the head of Indie_SAGE, Sir David King, noted was no coincidence (Baker, 2020). Indie_SAGE hosted weekly online briefings with the latest pandemic developments and research, during which the public could ask questions, and it curated an engaging and educational social media presence.

Following this public pressure in the UK, it would seem that the UK government started to pay particular attention to pandemic transparency and more thoughtful communication. The official SAGE website is now richer with more information and is regularly updated (UK government, undated); and at the time of writing this chapter in April 2023, the last update entry on that website was 23 December 2022. The website now contains meeting minutes, the terms of reference of SAGE members, a list of members' interests (clearly stating on what dates updates were uploaded to the website), research reports, key statistics and information, modelling data sets, and educational material on understanding evidence. The website also includes a useful FAQ section, an explainer video about what the UK SAGE is and even directions on how to make an official Freedom of Information request, if needed.

Regrettably some lasting damage to public trust is evident: an assessment of SAGE by the UK House of Commons in 2021 found that the initial withholding of information by SAGE created a sense of suspicion of the UK government that lingered despite subsequent information sharing and communication. This suspicion served to undercut policy implementation (House of Commons, 2021).

While SAGE initially operated behind closed doors, it relatively quickly adapted its practices in line with public demands and

democratic values on transparency, accountability and accessibility. It serves as a useful example of how expert taskforces and governments could evolve to operate responsively and transparently, while serving an important public education function.

Let us now turn to the expert advice that informed, or should have informed, the SA government's pandemic response and how much access the public had to it.

The SA response: the Ministerial Advisory Committees

The Ministerial Advisory Committees (MACs)

The SA government committed early on in the pandemic that its response will be based on “science and evidence”. The president remarked repeatedly that policy was “guided by the advice from scientists” (Ramaphosa, 2020a) and “based on empirical evidence, scientific and economic data and international best practice” (Ramaphosa, 2020b). In his 2022 State of the National Address, President Ramaphosa described the response in the following way: “Our [the South African government's] approach has been informed throughout by the best available scientific evidence, and we have stood out both for the quality of our scientists and for their involvement in every step of our response” (Ramaphosa, 2022).

On 30 March 2022, the SA Minister of Health, drawing on the National Health Act, appointed a Covid-19 Ministerial Advisory Committee, or “the C-19 MAC.” The C-19 MAC originally had 51 members and included specialists in epidemiology, virology, vaccinology, microbiology, and infectious diseases — many of them internationally renowned. The C-19 MAC Terms of Reference have never been part of the material made available to the public on the SA Department of Health's (NDH) website or the department's special Covid-19 portal, www.Sacoronavirus.co.za. It (five pages) appears only on the health journalism website Bhekisisa (2022).

The MAC Terms of Reference notes that members need sign a confidentiality agreement.

In July 2020, the formation of a Social Behavioural Change MAC, the “SBC MAC” was announced, while a MAC on “vaccine development” (the “V-MAC”) was constituted by September

2020. When announcing the V-MAC, the NDH noted that it had “reconfigured” the C-19 MAC (Department of Health, 2020) and a significant number of MAC members were released from the committee. Many people expressed concerns about the fact that the more outspoken MAC members who had questioned government pandemic decision-making (about lock down rules) were removed in this reconfiguration and that this potentially served as an implicit warning to remaining MAC members— and indeed other researchers and scientists — to not publicly criticise government policy and decisions. (Rose, 2020) (Singh et al., 2020).

Advising the Minister of Health

The Terms of Reference for the C-19 MAC shared by *Bhekisisa* make it clear that the committee serves in an advisory capacity to government and “is not responsible for the delivery or co-ordination of services related to the Covid-19 response” (No terms of reference have been published for the other two MACs). The NDH serves as secretariat for the MACs and is the custodian of the MAC advisories, and also determines whether any such advice will be made public or not.

Similar to other countries, there was pressure on the SA government to publish the expert advice it received as well as the epidemiological models that guided its far-reaching decisions on the country’s initial Covid-19 lockdown rules. A media house, *News24*, launched two Promotion of Access to Information applications to obtain this information in May 2020 (Cowen et al., 2020). The then-Minister of Health stated in July 2020 that the MAC advisories would not be publicly released (Cowen et al., 2020).

Pressure and advocacy for greater access to information continued to build and at the end of August 2020, the Minister then announced a surprising turn-around: the NDH would from thereon publish the MAC advisories (SA government, 2020). Several MAC advisories were then uploaded on the governments SA Coronavirus online portal - <https://sacoronavirus.co.za/>.

Regrettably, uploading delays persisted. Lockdown and other far-reaching policy decisions were announced by the SA government

without disclosure of the expert advice underpinning it (if at all). In some cases, the advice or recommendations provided would be published weeks or months later.

An HJI analysis in 2021 of the time delays between advisories submission to the Minister of Health and subsequent publishing is telling. HJI found then that on average, it took 68 days for C-19 MAC advisories to be published and 111 days for V-MAC advisories to be shared during the period August 2020 to August 2021 (Nokhpeheyi et al., 2021). During this period, 120 MAC and V-MAC advisories were published in total. Not a single SBC MAC advisory was publicly released (assuming they did make recommendations) (and there was a joint MAC on “strategies to address Covid-19 vaccine hesitancy” published in April 2021 that included all three MACs). Minutes of MAC meetings and all MAC members’ material or financial interests were not shared publicly.

In March 2021, the HJI wrote to the MAC secretariat at the NDH expressing concerns about the lack of advisories being made public. This was at a time of rapid developments regarding Covid-19 vaccines, and people in SA eagerly awaiting news of being able to access vaccines to protect themselves. For example, in early 2021, the SA government announced that it had secured one million doses of the AstraZeneca/ University of Oxford vaccine called COVISHIELD for healthcare workers, but by February 2021 it halted the programme because of concerns that it would “not be effective” for Covid-19 variants circulating in SA at that time. This was despite the same vaccine being rolled out elsewhere and highly regarded experts in SA calling for its continued use. The expert advice provided to pause the roll-out, any competing interests involved, and the processes for such a weighty decision should have been in the public domain — particularly as this programme required substantial amounts of public funds and halting it, also risked the lives of many healthcare workers (earmarked to receive those vaccines first).

Similarly, early indications from public briefings and statements from the President and the Minister of Health, and the V-MAC recommendations were that SA would prioritise particularly vulnerable groups including people living with comorbidities, in the vaccine roll-out. In yet another u-turn, the SA government and the

NDH did not prioritise this group in the first vaccine roll out and opted for a strict age cohort framework instead of one informed by vulnerability without an adequate explanation. This meant that a 30-year-old who is immunocompromised and at increased risk of getting sick from Covid-19 would have to wait for that age group to “open up”.

The HJI followed up on these matters frequently by corresponding with the NDH and asking for more information. When requests from the HJI were ignored, the organisation submitted a formal request for information under the Promotion of Access to Information Act (PAIA) of 2000 on 20 July 2021 (and on 23 July 2021 and 19 July 2021 on other matters related to making pandemic information public). Within a few days of filing the requests, 26 advisories were uploaded (Nokhepheyi et al., 2021).

The HJI's request for information to the NDH on the MAC advisories included the following aspects:

- A. A list of the names of all local and international expert advisors to the national NDH on Covid-19, irrespective of whether they also serve on a/any MAC for Covid-19;
- B. Copies of all C-19 MAC and V-MAC Advisories and other expert advice, that are currently not in the public domain;
- C. Copies of all memoranda and advisories that relate to options and recommendations for vaccinating all people with comorbidities;
- D. Copies of all written advice and recommendations related to the vaccine selection and priority group eligibility criteria for SA from December 2020 onwards;
- E. A copy of the risk and priority group framework and timeline or similar, and the timeline, that the NDH was using for vaccinations and to make vaccine allocation and eligibility decisions, including submissions to the department by any other department or entity on these issues;
- F. Copies of all C-19 MAC and V-MAC advisories on the use or non-use in SA of the AstraZeneca/ COVISHIELD vaccine including any recommendation by the national medicine

regulator, the South African Health Product Regulatory Authority or other experts setting out the basis for pausing this vaccine; and

G. Copy of the contract and details of the sale of the AstraZeneca vaccine.

The NDH did not respond to the formal PAIA requests nor the subsequent internal appeals lodged by HJI under PAIA. The HJI eventually had no choice but to serve legal papers on the Minister of Health, the information officer of the NDH and the Minister of Co-operative Governance and Traditional Affairs in April 2022 to compel disclosure. The HJI asked the court to direct the government to provide the information and to ensure that all subsequent MAC advisories would be placed in the public domain within 72 hours of receipt by the Minister (*HJI v Minister of Health et al.*, 2022).

The Deputy Director-General (DG) of health's answering affidavit was filed in July 2022 (*HJI v Minister of Health et al.*, 2022). He claimed that much of the information was already in the public domain, that some information did not fall under the ambit of the NDH and resided with National Treasury, and that some information was "protected by mandatory non-disclosure in terms of PAIA" that some decisions on pandemic responses were "made by Cabinet, thus the minutes of Cabinet are protected from disclosure, in terms of PAIA. The NDH is not at liberty to divulge this information to the applicant" (para 30).

This attitude and legal defence by the NDH is relevant not just for this pandemic, but also for potential advisory and benefit selection structures being proposed under the National Health Insurance scheme. The HJI has in its analysis of provisions of the National Health Insurance Bill found that a range of concerns related to transparency and in particular whether and how the deliberations of the various Advisory and Technical Committees would be made available (HJI, 2022).

Table 3: Summary of the HJI PAIA request, the SA NDH responses and the HJI's remarks on the NDH's response

The HJI Request to the NDH	Response from the NDH (selected paragraphs)	HJI outstanding issues
<p>A.) A list of the names of all local and international expert advisors on Covid-19, irrespective of whether they also serve on a/any MAC for Covid-19.</p>	<p>“The applicant [HJI] is aware of the names of all the ministerial advisory committee Covid-19. The attention of the Court is drawn to p.62 of the founding affidavit. This is a list of the names of the Ministerial Advisory Committee for Covid-19 (“MAC”). Para 22</p>	<p>The answering affidavit does not address the composition of the V-MAC.</p> <p>Because of the unreliable uploading of information on the website portal, it is not clear whether the list of the members of the three MAC released in 2020 was up-to-date.</p> <p>To ascertain this, the HJI wrote to the Department in November 2021 to request the updated composition of the C-19 MAC and V-MAC for a Briefing Paper.</p> <p>The HJI was informed that “the request [need] be submitted through the Office of the Minister of Health.”</p>
<p>B.) Copies of all C-19 MAC and V-MAC Advisories and other expert advice that are currently not in the public domain.</p>	<p>“The copies of the MAC and V-MAC advisories are matters of public knowledge. These advisories are in the public domain. They are accessible in the NDH’s website” para 23</p> <p>“The applicant should perhaps indicate a specific advisory that it would like to access which cannot be found on the website. The NDH will make the advisory available” para 24</p>	<p>It is unclear how the public would know whether a specific MAC advisory exists in order to request it from the department, if MAC meeting minutes are not published and that MAC members have to sign confidentiality clauses.</p> <p>Advisories were sporadically uploaded to the website — oftentimes months after submission to the minister — with no indication whether all the advisories submitted to the Minister were in fact in the public domain.</p> <p>Legal action had to be taken to ascertain this.</p>
<p>C.) Copies of all memoranda and advisories that relate to options and recommendations for vaccinating all people with comorbidities.</p>	<p>“The advisories include the advisory relating to the recommendations for vaccinating people with comorbidities” para 24</p>	<p>See below</p>

The HJI Request to the NDH	Response from the NDH (selected paragraphs)	HJI outstanding issues
<p>D.) Copies of all written advice and recommendations related to the vaccine selection and priority group eligibility criteria for SA from December 2020 onwards.</p>	<p>“The NDH’s view is that the record [on vaccine selection and priority group eligibility] contains advice, opinion, report, or recommendation obtained or prepared, or on account of a consultation, discussion for the purposes of assisting to formulate a policy or take a decision in the exercise of power or performance of duty conferred or imposed by law. The NDH has considered the request and decided that in line with section 44(1) of PAIA the information requested could not be made available to the applicant.” Para 25</p>	<p>S.44 provides for the possibility for information officers to refuse a request for information if it hampers the operation of a public body. Information that could be refused in this instance includes records pertaining to the formulation of policies or recommendations.</p> <p>However, an override exists to above if the record is in the interest of the public.</p> <p>The HJI believes that information pertaining to the selection of life-saving vaccines and the considerations informing eligibility would unequivocally be in the public interest.</p>

The HJI Request to the NDH	Response from the NDH (selected paragraphs)	HJI outstanding issues
<p>E.) A copy of the risk and priority group framework and timeline or similar, and the timeline, that the NDH was using for vaccinations and to make vaccine allocation and eligibility decisions.</p>	<p>“Our understanding of the virus and the best manner of dealing with it changed constantly during 2020, and continues to do so, as the result of additional scientific studies and investigations become available. In this context no government can have fixed or required strategies for distributors of vaccines.</p> <p>Instead, what is required is a constantly evolving vaccine strategy that takes account of the latest scientific developments.” Para 26</p> <p>Due to the diversity of the strategy, the NDH also adopted a flexible approach to deal with vaccinations. A framework for rational Covid-19 vaccine allocation in SA and prioritisation of fair allocation of Covid -19 vaccines, identification of risk groups and the supporting documents are available on the website.” Para 27</p>	<p>Certainly, a fast-changing environment in a new and devastating pandemic requires a flexible government approach.</p> <p>Yet, detailed rationales for not prioritising particularly vulnerable groups at first, such as people who are immunocompromised or those with comorbidities for vaccination should be published particularly if they diverge from international guidelines issued by the WHO and run counter to the expert advice provided to the government.</p> <p>The V-MAC for example recommended the “prioritisation of people with existing vulnerabilities” in several advisories, while initial public statements by President Ramaphosa and the Minister of Health supported their prioritisation</p> <p>Yet, the initial vaccine roll-out did not provide for preferential vaccination for these groups - it opted for a strict age cohort model - but where sports stars and we believe certain government officials received vaccines ahead of their age cohort.</p>

The HJI Request to the NDH	Response from the NDH (selected paragraphs)	HJI outstanding issues
<p>E.) Copies of all C-19 MAC and V-MAC advisories on the use or non-use in SA of the AstraZeneca/COVISHIELD vaccine including any recommendation by the South African Health Product Regulatory Authority or other experts setting out the basis for pausing the use of this vaccine.</p>	<p>“The information relating to the use and the non-use of the AstraZeneca/COVISHIELD vaccine is available on the website. This is part of the advisories made as a recommendation to the government. This information includes the advice indicating that AstraZeneca/Covishield vaccine had an efficacy of 22% as against the 501Y.V2 variant.” Para 29</p> <p>“The decision to pause the use of the AstraZeneca in SA was based on the recommendation of the V-MAC and the MAC and other experts. However, the decision was made by Cabinet, thus the minutes of Cabinet are protected from disclosure, in terms of PAIA. The NDH is not at liberty to divulge this information to the applicant.” Para 30</p>	<p>A 7 February 2021 V-MAC advisory (of only two pages long) noted that there was “insufficient data to assess the efficacy of any of the vaccines with regard to protection against serious infection and hospitalisation with the 501Y.v2 variant”. It also noted that a high-level meeting would take place on 8 February 2021 to “develop a considered advisory on the way forward”.</p> <p>No minutes of this meeting have been published (if indeed it took place).</p> <p>It is probable that a far-reaching decision to pause the first vaccines that SA could access in a global crisis would include more discussion and advice than the two-page document of 7 February 2021 currently in the public domain. It is also odd that Cabinet would make this decision, as barring the Minister of Health, none of them are experts on vaccines and vaccinology.</p>
<p>G.) Copy of the contract and details of the sale of the AstraZeneca vaccine</p>	<p>“The Astra-Zeneca vaccines were sold to the African Union. The NDH is not in possession of the sale agreement between the African Union and the government. This information falls within the province is the national treasury. Thus, the NDH is unable to provide this information requested.” Para 31</p>	<p>The HJI believes that all contracts related to procurement and selling of vaccines should be in the public domain.</p> <p>It is pursuing legal action asking the courts to instruct government to publish all its vaccine agreements — including those related to the AstraZeneca vaccine.</p>

Table 3: Summary of the HJI PAIA request, the SA NDH responses and the HJI's remarks on the NDH's response

Conclusion

From March 2020 to January 2023, during the Covid-19 pandemic, the MAC advisory bodies submitted a total of 162 advisories to the Minister of Health (Richter et al., forthcoming).

Scientific experts provided an important service to guide and advise the government on the implementation of a vigorous and evidence-based pandemic strategy. During the height of the crisis, government decision-making had to happen under immense pressure while ameliorating public anxiety at the same time. It is laudable that the SA government publicly committed to be led by the “best evidence”, and that some aspects of the pandemic were approached with urgency, thoughtfulness and efficiency. But, that was not the case throughout the crisis.

Regrettably, the first few months of SA's Covid-19 pandemic response were shrouded in non-sharing of information and even secrecy. Following, public, civil society and journalists questioning and advocacy, the NDH eventually committed to placing some of the expert advice in the public domain, but not all, despite legal challenges to do so. Disappointingly, making information available was not always executed in a timely or systematic manner — nor do we believe — that all essential information that should have been in the public domain has been provided. Without MAC members confirming on record which of the advisories were not published, we can only ask questions.

It is unfortunate that a civil society organisation had to take legal action to compel the NDH to respond to requests for access to information — a right that is guaranteed by SA's Constitution. A period of 16 months had passed between the HJI first engagement with the Department on the MAC advisories and the MAC composition, and the department's written engagement with our requests.

In all of this, the information sought by HJI was neither controversial nor unreasonable and went to the core of transparent pandemic decision-making. This information should automatically and almost immediately have been placed in the public domain — as demonstrated by the UK SAGE and Indie_SAGE models and experiences (see above). Alternatively, the NDH should have

responded to the PAIA requests in a timely manner and provided the information and its response immediately. Having to take legal action against a health department (and others) during a public health crisis, to foster public trust, is an unenviable task even if it is in the public interest. Arguing the case further and in particular what the scope of public interest exceptions should be in a pandemic and even after, would have taken many more years and would be costly. Of concern for NHI implementation, from this experience, is the approach of the Minister's legal team – that he decides what should be in the public domain in respect of expert advice given to the department.

Pandemic readiness requires robust, proactive lines of communication and information-sharing between government and the public. The Covid-19 experience shows the NDH where systemic weaknesses lie and thus poses a key opportunity to remedy these — working collaboratively with civil society — and to put the necessary processes in place for the next pandemic. It is also incumbent on experts and scientists who may be called upon to serve on such structures to not agree to strict confidentiality requirements and to insist that all of their advice be promptly and publicly published. There is ultimately no place for secrecy in a pandemic — it undermines trust in decision making and in science.

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References:

- Alwan NA, et al. (2020). Evidence informing the UK's Covid-19 public health response must be transparent. *The Lancet* 395(10229): 1036-1037.
- Baker H (2020). Independent SAGE and their continued quest for transparency. Centre for Research in the Arts, Social Sciences and Humanities Blog. Available at <https://www.crassh.cam.ac.uk/blog/independent-sage-and-their-continued-quest-for-transparency/> (accessed 18 Jan 2023).
- Barton CM, Alberti M, Ames D, et al. (2020). Call for transparency of Covid-19 models. *Science* 368(6490):482-483.
- Bhekisisa (2020). Who's new on SA's Covid-19 Ministerial Advisory Committee? Available at <https://bhekisisa.org/resources/general-resource/2020-05-22-what-south-africas-covid-19-ministerial-advisory-committee-did-and-didnt-advise-on/> (accessed 19 Jan 2023).
- Cowan K, Karrim A, and Hunter Q (2020). "Mkhize doubles down on keeping advice secret as scientists push for transparency." [online] *News24*, 19 July 2020. Available at <https://www.news24.com/news24/SouthAfrica/Investigations/mkhize-doubles-down-on-keeping-advice-secret-as-scientists-push-for-transparency-20200719> (accessed 2 December 2021).
- Department of Health (2020). Media statement: Update on Covid-19 (14th September 2020). SA Corona Virus Online Portal. Available at <https://sacoronavirus.co.za/2020/09/14/update-on-covid-19-14th-september-2020/> (accessed 26 November 2021).
- Enria L, Waterlow N, Rogers NT, et al. (2021). Trust and transparency in times of crisis: Results from an online survey during the first wave (April 2020) of the Covid-19 epidemic in the UK. *PLoS ONE* 16(2)
- Health Justice Initiative (2022). South Africa's National Health Insurance Bill and the future of medicine selection, pricing and procurement – Some critical questions for affordable patient access. National Health Insurance Series: Issue Paper 1, October.
- HJJ v Minister of Health and others*. Case no 19343/2022. Available at <https://healthjusticeinitiative.org.za/pandemic-transparency/>
- House of Commons (2021). Coronavirus: lessons learned to date. Sixth report of the health and social care committee and third report of the science and technology committee of session 2021–22, 21 September 2021. Available at <https://committees.parliament.uk/publications/7496/documents/78687/default/> (accessed 14 December 2021).
- Landler M and Castle S (2020). The secretive group guiding the U.K. on Coronavirus. *New York Times*. Available at <https://www.nytimes.com/2020/04/23/world/europe/uk-coronavirus-sage-secret.html> (accessed 18 Jan 2023).

- Lawrence F, Carrell S and Pegg D (2020). Attendees of Sage meetings worried by presence of Cummings. *The Guardian*. Available at <https://www.theguardian.com/world/2020/apr/26/attendees-of-sage-coronavirus-meetings-worried-by-presence-of-dominic-cummings> (accessed 18 Jan 2023)
- Richter M, Nokhepheyi Y and Hassan F (forthcoming). Tracking the South African “MAC” advisories. When expert advice and secrecy collide in a pandemic: Assessing government transparency in public health decision making and vaccine prioritisation and selection. Update of HJI Briefing Paper update. Cape Town: Health Justice Initiative (HJI)
- Richter M, Nokhepheyi Y and Hassan F (2021). Tracking the South African ‘MAC’ Advisories when expert advice and secrecy collide in a pandemic: Assessing government transparency in public health decision making and vaccine prioritisation and selection. August 2020 – August 2021. *HJI Briefing Paper no 1*. Cape Town: Health Justice Initiative (HJI)
- Rajan D and Koch K (2020). The health democracy deficit and Covid-19. *Eurohealth* 26 (3): 26-28.
- Rajan D, Koch K, Rohrer K, et al. (2020). Governance of the Covid-19 response: A call for more inclusive and transparent decision-making *BMJ Global Health* 5.
- Ramaphosa C (2022). State of the Nation Address 2022. Available at <https://www.stateofthenation.gov.za/assets/downloads/SONA-2022-SPEECH.pdf> (accessed 8 Feb 2023).
- Ramaphosa C (2020a). SA’s response to Coronavirus Covid-19 pandemic [online]. Available at <https://www.gov.za/speeches/president-cyril-ramaphosa-south-africas-response-coronavirus-covid-19-pandemic-23-apr-2020> (accessed 14 December 2021).
- Ramaphosa C (2020b). From the Desk of the President [online]. Available at 4 May 2020. Available at <https://www.thepresidency.gov.za/from-the-desk-of-the-president/desk-president%2C-monday%2C-4-may-2020> (accessed 14 December 2021).
- Rose R (2020). “Hear no evil: Mkhize axes the critics from his experts panel.” *Business LIVE*. Available at <https://www.businesslive.co.za/fm/opinion/editors-note/2020-09-30-rob-rose-hear-no-evil-mkhize-axes-the-critics-from-his-experts-panel/> (accessed 26 November 2021).
- South African government (2020). Health on availability of Coronavirus Covid-19 MAC advisories being accessible to public. South African Government. Available at <https://www.gov.za/speeches/health-availability-coronavirus-covid-19-mac-advisories-being-accessible-public-27-aug-2020> (accessed 26 November 2021).
- Schippers MC and Rus D.C (2021). Optimizing decision-making processes in times of Covid-19: Using reflexivity to counteract information-processing failures. *Frontiers in Psychology*.12.

- Singh J A (2020). How SA's Ministerial Advisory Committee on Covid-19 can be optimised. *South African Medical Journal* 110(6)
- UK Cabinet Office (2012). Enhanced SAGE Guidance - A strategic framework for the Scientific Advisory Group for Emergencies (SAGE). Available at <https://www.gov.uk/government/publications/scientific-advisory-group-for-emergencies-sage> (accessed 17 Jan 2023)
- United Kingdom government (2020a). Transparency data: List of participants of SAGE and related sub-groups. Government Office for Life Sciences. Available at <https://www.gov.uk/government/publications/scientific-advisory-group-for-emergencies-sage-coronavirus-covid-19-response-membership/list-of-participants-of-sage-and-related-sub-groups> (accessed: 18 Jan 2023).
- United Kingdom government (2020b). Government publishes SAGE minutes. Available at <https://www.gov.uk/government/news/government-publishes-sage-minutes> (accessed 18 Jan 2023).
- United Kingdom government (2020c). Covid-19: "SAGE register of participants' interests." Available at <https://www.gov.uk/government/publications/covid-19-sage-register-of-participants-interests> (accessed 18 Jan 2023).
- United Kingdom government (undated). Scientific Advisory Group for Emergencies. Available at <https://www.gov.uk/government/organisations/scientific-advisory-group-for-emergencies> (accessed 18 Jan 2023).
- World Health Organization (2022). Mental Health and Covid-19: Early evidence of the pandemic's impact. WHO Scientific brief, 2 March 2022



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