

When secrecy and expert advice collide in a pandemic: Access to information and the National Department of Health’s tardy publication of Ministerial Advisory Committee advisories

Since the beginning of the COVID-19 pandemic, the South African (SA) government asserted that its response would be rooted in ‘science and evidence’.^[1,2] This is a notable departure from its initial handling of the AIDS crisis in the late 1990s to mid-2000s, which was characterised by state-supported AIDS denialism and quackery.^[3,4]

A commitment to transparency and accountability is the hallmark of an ‘open’ government.^[5] During a pandemic, information sharing and reliance on expert scientific advice are even more critical, as they contribute to mitigating opposition to public health measures that can keep people safe, healthy, and free from infection, illness and premature death.^[6]

To support the goal of evidence responses to the pandemic, the National Department of Health (NDoH) initially established three Ministerial Advisory Committees (MACs) (the MAC on COVID-19 (C-19 MAC), the Vaccine MAC (V-MAC) and the Social Behavioural Change MAC) with highly regarded expert scientists and researchers to advise it on the best available evidence on how to mitigate COVID-19. MAC members typically formulated advice and recommendations in memoranda known as ‘advisories’ and submitted these to the Minister of Health (MoH). It remains the prerogative of the NDoH to place them in the public domain, and all MAC members have had to sign confidentiality clauses.

The C-19 MAC was established on 30 March 2020 and has since provided a large number of advisories to the MoH. Yet none of these were initially open to the public for several months, despite calls to do so in the interests of openness and accountability.

In response in May 2020, the media house News24 submitted two Promotion of Access to Information Act (Act 2 of 2000) (PAIA) requests to the NDoH for access to the MAC advisories and to the ‘detailed Covid-19 data collected’.^[7] In July 2020, the MoH stated that the NDoH would not release the advisories as they ‘did not represent the government’s final position on the issues under discussion and that

it was necessary to appreciate government’s complex policy formation process’.^[8]

After pressure from public health professionals, the media and civil society organisations, however, the NDoH announced on 27 August 2020 that it would publish the MAC advisories (it noted that this decision was made ‘so that all members of the public can have access to it’ and that ‘45 advisories [were] currently available to the public’).^[9] The NDoH loaded several MAC advisories onto the SA coronavirus news and information portal^[10] the day before the announcement. Yet it was not clear whether these constituted all the advisories submitted to the MoH up to that point. Even subsequent advisories were not published for months after their first submission (see Supplementary Fig. 1, available online at <https://www.samedical.org/file/1801>).

Since July 2020, the Health Justice Initiative (HJI) has engaged in lengthy correspondence with the government and other regulatory bodies to ensure that basic information about the COVID-19 response and vaccine procurement, and prioritisation decisions, are shared. In most respects, this information has not been voluntarily shared, and hence, in mid-2021, the HJI submitted several PAIA requests to the NDoH.

Within a couple of days of the first PAIA request, 26 advisories were uploaded on the portal and the HJI received a letter from the Director-General of Health stating that all the V-MAC advisories were available from the portal. While this is commendable, a number of HJI requests for specific information related to all expert advice were not addressed.

Table 1 sets out the substance of the HJI requests for information and the NDoH’s response to date. In instances where government and other agencies are effectively refusing these requests, the HJI will be seeking relief from our courts.

We have since assessed the C-19 MAC and the V-MAC advisories published between 25 August 2020 and 18 August 2021.^[11] Our analysis shows that of the 120 advisories (98 C-19 MAC and

Table 1. Information requests to the NDoH, 20 July 2020, made through the PAIA, and current status

Information request to the NDoH	Response from the NDoH
A list of the names of all local and international expert advisors to the NDoH on COVID-19, irrespective of whether they also serve on a/any MAC for COVID-19	Not provided
Copies of all C-19 MAC and V-MAC advisories and other expert advice that are currently not in the public domain	Response from Director-General of Health on 29 July 2021: ‘Kindly note that all advisories of the MAC on vaccines can be found on the website: www.sacoronavirus.co.za ’ (it is unclear whether this is indeed the case, see below)
Copies of all memoranda and advisories that relate to options and recommendations for vaccinating all people with comorbidities	Not provided in full
Copies of all written advice related to the vaccine selection and priority group eligibility criteria for SA from December 2020 to date produced by C-19 MAC, V-MAC, NDoH, SAHPRA; and/or any other expert recommendations and experts as well as ethics bodies/other professional or expert bodies – including the SAMRC and SAMA; plus copies of any changes in the respective recommendations/ advice over this time period	Not provided in full

Continued ...

Table 1. (continued) Information requests to the NDoH, 20 July 2020, made through the PAIA, and current status

Information request to the NDoH	Response from the NDoH
A copy of the written and current approved (or in draft form) risk and priority group framework or similar, and the timeline, that the NDoH is using: <ul style="list-style-type: none"> to vaccinate people in SA; and to make vaccine allocation and prioritisation (eligibility) decisions 	Not provided
Copies of all submissions on the issue of vaccine selection for SA; and prioritisation of certain groups over others made by any other government department, trade union, political party, business body, organisations, medical schemes, statutory bodies, or any other body, whether locally or internationally	Not provided
Copies of all C-19 MAC and V-MAC advisories on the use or non-use in SA of the AstraZeneca/University of Oxford/Covishield vaccine (from the Serum Institute of India) for February - July 2021, in addition to the 7 February 2021 advisory (signed on 18 March 2021) and 19 February 2021 advisory	Not provided
Copies of all recommendations on the use or non-use of the AstraZeneca/University of Oxford/Covishield vaccine (from the Serum Institute of India) for February - July 2021, for COVID-19, produced by SAHPRA and any other expert group or individual	Not provided
Copies of NDoH memoranda, C-19 MAC and V-MAC recommendations or any other expert groupings memoranda setting out the decision to donate/sell the AstraZeneca/University of Oxford/Covishield vaccine (from the Serum Institute of India) in early 2021	Not provided
A copy of the contract and details of the final sale/donation of the AstraZeneca/University of Oxford/Covishield vaccine (from the Serum Institute of India), including all details of the cost recovery or lack thereof	Not provided
For purposes of an HJI Briefing Paper, ^[11] the most recent list of members of the C-19 MAC and the V-MAC (November 2021)*	The HJI was directed to 'submit the request to the office of the Minister of Health'. On 16 February 2022, the NDoH published an updated list of C-19 MAC members

PAIA = Promotion of Access to Information Act 2 of 2000; NDoH = National Department of Health; MAC = Ministerial Advisory Committee; C-19 MAC = MAC on COVID-19; V-MAC = Vaccine MAC; SA = South Africa; SAHPRA = South African Health Products Regulatory Authority; SAMRC = South African Medical Research Council; SAMA = South African Medical Association; HJI = Health Justice Initiative.
*Not part of the original PAIA request.

21 V-MAC) published during this time, the average number of days between submission to the MoH and subsequent upload to the portal were 68 days for C-19 MAC and 111 days for V-MAC advisories (Supplementary Fig. 1, <https://www.samedical.org/file/1801>).

Significant delays therefore existed and persist in the publication of expert recommendations on key issues for managing the pandemic, including on vaccine prioritisation and selection. This has continued at a time when fake news and misinformation pose a threat to vaccine uptake^[12] and trust in government is low.^[13] These factors are severely hampering the national response.

SA needs a health system in which decisions are made in an evidence-based manner, free of any conflict or vested interests and where the expert advice and basis for its decisions are publicly and speedily available. Especially so during times of crisis. These constitute critical elements of an open and democratic society that should set the baseline for SA's approach to all future pandemics. They form a necessary framework for the strengthening of the health system as well as – crucially – preparation for the implementation of universal health coverage.

Secrecy has no place in a pandemic.

Marlise Richter

Health Justice Initiative, Cape Town, South Africa; and African Centre for Migration and Society, School of Social Sciences, University of the Witwatersrand, Johannesburg, South Africa
marlise@healthjusticeinitiative.org.za

Yanga Nokhepheyi, Fatima Hassan

Health Justice Initiative, Cape Town, South Africa

- South African Government. President Cyril Ramaphosa: South Africa's response to Coronavirus COVID-19 pandemic. 23 April 2020. <https://www.gov.za/speeches/president-cyril-ramaphosa-south-africas-response-coronavirus-covid-19-pandemic-23-apr-2020> (accessed 14 December 2021).
- The Presidency, Republic of South Africa. From the Desk of the President, 4 May 2020. <http://www.thepresidency.gov.za/from-the-desk-of-the-president/desk-president%2C-monday%2C-4-may-2020> (accessed 14 December 2021).
- Nattrass N. Mortal Combat – AIDS Denialism and the Struggle for Antiretrovirals in South Africa. Durban: University of KwaZulu-Natal Press, 2007.
- Calland R, Bentley K. The impact and effectiveness of transparency and accountability initiatives: Freedom of information. *Dev Policy Rev* 2013;31(s1):s69-s87. <https://doi.org/10.1111/dpr.12020>
- Transparency International. For whose benefit? Transparency in the development and procurement of COVID-19 vaccines. May 2021. <http://ti-health.org/wp-content/uploads/2021/05/For-Whose-Benefit-Transparency-International.pdf> (accessed 1 February 2022).
- The Presidency, Republic of South Africa. Ministerial Advisory Committee on COVID-19 can be optimised. *S Afr Med J* 2020;110(6):439-442. <https://doi.org/10.7196/SAMJ.2020.v110i6.14911>
- Cowan K, Karrim A, Hunter Q. Mkhize doubles down on keeping advice secret as scientists push for transparency. *News24*, 19 July 2020. <https://www.news24.com/news24/SouthAfrica/Investigations/mkhize-doubles-down-on-keeping-advice-secret-as-scientists-push-for-transparency-20200719> (accessed 2 December 2021).
- Kahn T. Scientific advisories on coronavirus will not be released, says Mkhize. *Business Day*, 13 July 2020. <https://www.businesslive.co.za/bd/national/health/2020-07-13-scientific-advisories-on-coronavirus-will-not-be-released-says-mkhize/> (accessed 24 November 2021).
- South African Government. Health on availability of Coronavirus Covid-19 MAC advisories being accessible to public. 27 August 2020. <https://www.gov.za/speeches/health-availability-coronavirus-covid-19-mac-advisories-being-accessible-public-27-aug-2020> (accessed 26 November 2021).
- Department of Health, Republic of South Africa. COVID-19 Online Resource and News Portal. <https://sacoronavirus.co.za/> (accessed 2 February 2022).
- Nokhepheyi Y, Richter M, Hassan F. 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. Briefing Paper No 1. Cape Town: Health Justice Initiative, 2021. <https://healthjusticeinitiative.org.za/2021/12/15/mac-advisories/> (accessed 2 February 2022).
- Islam MS, Kamal A-HM, Kabir A, et al. COVID-19 vaccine rumors and conspiracy theories: The need for cognitive inoculation against misinformation to improve vaccine adherence. *PLoS ONE* 2021;16(5): e0251605. <https://doi.org/10.1371/journal.pone.0251605>
- Farham B. Vaccine hesitancy? No, government failure. *S Afr Med J* 2021;111(9):811. <https://doi.org/10.7196/SAMJ.2021.v111i9.16039>

S Afr Med J. Published online 17 February 2022. <https://doi.org/10.7196/SAMJ.2022.v112i3.16430>