



PUBLIC PROTECTOR
SOUTH AFRICA

ANNUAL REPORT

1 April 2006 - 31 March 2007

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Vision

To strive for quality service delivery by all organs of state

Mission

To strengthen constitutional democracy by conducting investigations into alleged improper conduct by organs of state, reporting and recommending remedial action, and enhancing awareness and accessibility to all.

Core Values

Impartiality

We ensure impartiality in our interactions with our stakeholders. We perform our duties without fear or favour, mindful of the independence of our office.

Courtesy

We display courtesy to all and treat people with dignity and respect.

Empathy

We are sensitive towards and understand our stakeholders' needs and feelings.

Integrity

We strive to maintain high standards of trustworthiness, mindful of our obligation of confidentiality.

Accountability

We always give an account of our actions and decisions.

Service Oriented

We strive to execute our responsibilities timeously, fairly and consistently, with due regard given to the facts of each matter before us.

Speaker of the House

The Hon Ms Baleka Mbete

Speaker of the House of Assembly of South Africa
Parliament Building
Parliament Street
CAPE TOWN

Dear Madam Speaker

I have the honour to present the fifth Annual Report in my term of office to Parliament. This report covers the period 1 April 2006 to 31 March 2007 and includes the Audit Committee Report.

The report is submitted in terms of section 181(5) of the Constitution, 1996, which states, "These institutions are accountable to the National Assembly, and must report on their activities and the performance of their functions to the Assembly at least once a year."

We have this year made significant strides in being more accessible to the diverse communities we serve, including appointing a CEO that started in the new financial year. We have also cooperated with Parliament's review of Chapter 9 institutions which we believe will contribute to our strengthening so that we better achieve our constitutional mandate. On behalf of all my staff, I would like to express our sincere appreciation to the many representatives of government departments and agencies who have so willingly assisted us in our endeavours to fulfil our Constitutional mandate.



.....
ADV ML MUSHWANA
PUBLIC PROTECTOR OF THE REPUBLIC OF SOUTH AFRICA
August 2007

Foreword

The year 2006/07 is a year in which we further consolidated the structures, systems and strategies we have put together over the years to improve responsiveness to our people's needs.

The institution is being increasingly strengthened through the recruitment and appointment of managers to key posts, including that of CEO that was approved in the financial year under review. The CEO assumed duty on 1 April 2007. The appointment of a CEO will relieve the administrative burden on the Public Protector and his deputy enabling us to focus more on the strategic matters of the institution and reaching out to the majority of our people.

We are proud that we are improving the manner in which we deliver services to the majority of our people. Complaints from people in communities as well as from elected representatives continue to stream into our office. We have now reduced the turnaround time of the finalisation of cases from two years to one year. This means that there are now very few cases that take longer than a year to finalise. We will continue streamlining our processes, including assessing the salary structures of our investigators in order to attract and retain talent within the organisation.

We have also focussed our energies on the outreach programme and we will see the full benefit of our efforts in the 2007/08 financial year. Our outreach activities will receive further impetus with the adoption of a strategy and the appointment of a dedicated executive to drive this programme. We will also launch mobile clinics in the next financial year to further improve our accessibility to people. The aim is to reach out to many of our people that are still not getting the level of services they deserve from the public service.

We continued to work very well with elected representatives who have supported us in carrying out our work. They see our office, correctly, as one that addresses their concerns about our public service. This is further confidence in our ability to live up to our constitutional injunction to investigate matters of maladministration and impropriety in the public service.

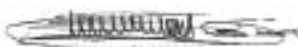
The parliamentary review of Chapter 9 institutions has contributed to the debate on the strengthening of our democracy as well as highlighting the work we do. We look forward to the committee report.

During the year under review the Office of the Public Protector went through a rigorous landscaping survey conducted by the European Union (EU). The study was followed by a number of valuable recommendations aimed at improving the functioning of the OPP in its task of fulfilling its constitutional mandate. We are in the process of implementing these recommendations with the help of funding from the EU.

We have continued to be proactive in our dealings with complaints, initiating a number of investigations that look at systemic problems that lead to a high number of complaints. We are in the process of finalising the investigation into delays of payouts by the Government Employees Pension Fund. We are also investigating the high number of complaints from prisoners regarding their appeals.

We will continue ensuring that our services are geared towards addressing the needs of our people.

I wish to thank Parliament, as well as the chairs of various committees of both houses of Parliament for their continued support and assistance in carrying out our work. Special thanks to my management team and staff in the office who have worked hard in the past year to ensure that we continue to fulfil our constitutional mandate. It is through their concerted efforts that for five consecutive years the office of the Public Protector received an unqualified audit report with no matters of emphasis.



ADV ML MUSHWANA

PUBLIC PROTECTOR OF THE REPUBLIC OF SOUTH AFRICA

August 2007

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1. ABBREVIATIONS

AORC	African Ombudsman Resource Centre
CSAP	Civil Society Advocacy Programme
DPW	Department of Public Works
EWP	Employee Wellness Programme
HRD	Human Resource Development
HRMIS	Human Resource Management Information System
ICT	Information Communication Technology
JYP	Justice Yellow Pages
OPP	Office of the Public Protector
PPDMS	Personnel Performance Development Management System
PSETA	Public Service Sector Education and Training Authority
SDI	Service Delivery Indicator
UKZN	University of KwaZulu Natal

2. BACKGROUND TO THE OFFICE OF THE PUBLIC PROTECTOR

2.1 Appointment mechanism and powers

The Public Protector is appointed by the President on the recommendation of the National Assembly in terms of Chapter Nine of The Constitution of the Republic of South Africa (Act 108 of 1996). The Public Protector is required to be a South African citizen who is suitably qualified and experienced and has exhibited a reputation for honesty and integrity. The Constitution also prescribes the powers and duties of the Public Protector. The Public Protector Act, 1994 (Act 23 of 1994) regulates further powers and duties as well as their execution.

Section 181 of the Constitution ensures that the Public Protector shall be subject only to the Constitution and the law. He/she must be impartial and must exercise his/her powers and perform his/her functions without 'fear, favour or prejudice'. No person or organ of state may interfere with the functioning of the Office of the Public Protector (OPP).

The Public Protector has the power to investigate any conduct in state affairs, or in the public administration in any sphere of government that is alleged or suspected to be improper or to result in any impropriety or prejudice. Following such an investigation the Public Protector has to report on the conduct concerned and he/she can take appropriate remedial action. Additional powers and functions are provided for by the Public Protector Act, 1994. The Public Protector may not investigate court decisions. He/she must be accessible to all persons and communities. Other organs of state must assist and protect the institution to ensure its independence, impartiality, dignity and effectiveness.

The Public Protector is neither an advocate for the complainant nor for the public authority concerned. He/she ascertains the facts of the case and reaches an impartial and independent conclusion on the merits of the complaint.

2.2 A brief history of the office

Most democracies have a national institution similar to that of the Public Protector - although called by different names, amongst others, Ombudsman, Mediator, Commissioner - which is empowered by legislation to assist in establishing and maintaining efficient and proper public administration.

The idea of the office of Ombudsman originated in Sweden, but did not spread to other countries until the 20th century, when it was adopted in other Scandinavian countries. In the early 1960's various Commonwealth and other, mainly European countries, established such an office. By mid 1983, there were approximately 21 countries with Ombudsman offices at provincial, state or regional levels. In particular, the transition of many countries to democracy and democratic structures of governance over the past two decades has led to the establishment of many more Ombudsman offices during this recent period. Accordingly, by 1998, the number of Ombudsman offices had more than quadrupled to encompass offices both in states with well established democratic systems and in countries which had younger democracies, such as countries in Latin America, Central and Eastern Europe, as well as in parts of Africa and the Asia Pacific countries.

With the founding of a proper and modern democracy in South Africa, it was decided that such an institution should also form part of the establishment of institutions that will protect fundamental human rights and that will prevent the state from treating the public in an unfair and high-handed manner.

During the multi-party negotiations that preceded the 1994 elections, it was agreed that South Africa should have a Public Protector. The Public Protector was established by means of provisions of the interim Constitution of 1993 and confirmed as an institution that strengthens constitutional democracy by the final Constitution, 1996. The office of the Public Protector came into being on 1 October 1995.

2.3 Jurisdiction

The Public Protector has jurisdiction over all organs of state, any institution in which the state is the majority or controlling shareholder and any public entity as defined in section 1 of the Public Finance Management Act, 1999.

2.4 Particular powers and duties

During an investigation, the Public Protector may, if he/she considers it appropriate or necessary:

- Direct any person to appear before him/her to give evidence or to produce any document in his/her possession or under his/her control which, in the opinion of the Public Protector, has a bearing on the matter being investigated, and may examine such person for that purpose;
- Request any person at any level of government, or performing a public function, or otherwise subject to his/her jurisdiction, to assist him/her in the performance of his/her duties with regard to a specific investigation; and
- Make recommendations and take appropriate remedial action.

2.5 Reporting

The Public Protector is accountable to the National Assembly and must report on his/her activities and the performance of his/her functions to the Assembly at least once a year. The Public Protector must, however, at any time submit a report to the National Assembly on the findings of a particular investigation if:

- He/she deems it necessary;
- He/she deems it in the public interest;
- It requires the urgent attention of, or an intervention by, the National Assembly; or
- He/she is requested to do so by the Chairperson of the National Council of Provinces.

3. PROFILE OF THE PUBLIC PROTECTOR, Adv Mbedle Lawrence Mushwana

Born in 1948 at Bordeaux in Limpopo Province, Mbedle Lawrence Mushwana studied through the University of South Africa and obtained a B Juris degree. He also attended the University of Zululand where he obtained two legal diplomas and later a LLB degree.

He started his legal career in 1972 as an interpreter of the Magistrate's Court in Mhala, Bushbuckridge and became a public prosecutor there three years later. By 1977 he had risen to the position of Magistrate and served in Malamulele, Ritavi, Giyani and Mhala districts. At the time of his resignation in 1986 due to political activities he was Principal Magistrate.

Twice detained under the old Apartheid State of Emergency Regulations, he was later admitted as an attorney of the High Court of South Africa and went on to establish his own firm in 1992. He was admitted as an advocate of the Supreme Court of South Africa.

Mr Mushwana has had a distinguished career in government and has led a number of delegations on international Parliamentary tours. He has also served on several Parliamentary committees. Amongst others, he co-chaired the Joint Parliamentary budget committee and the Code of Conduct and Ethics Committee. He has served as Chairperson of Committees and also on the Audit Commission and the Judicial Services Commission. He participated in the drawing up of the South African Constitution and is well known for his role as Deputy Chairperson of the National Council of Provinces. He resigned from his position to take up office as the second Public Protector of South Africa on 15 October 2002.

He is actively involved in community service and is renowned for his language proficiency. As a law student, he obtained a distinction in Practical Afrikaans. He is also fluent in English, Xitsonga, Zulu, Northern Sotho, Swazi and Xhosa. In addition, he is conversant in Southern Sotho, Venda and Setswana.



4. PERFORMANCE ON STRATEGIC OBJECTIVES FOR THE 2006/07 FINANCIAL YEAR

The programmes for the year's strategic plan were revised and structured in accordance with the operations of the OPP. The programmes are:

4.1 Programme 1: Investigation And Reporting

4.1.1 OBJECTIVE OF THE PROGRAMME

To conduct national, special and provincial investigations that are effective, efficient, informed, timeous and of high quality.

4.1.2 OUTCOME OF THE PROGRAMME

Improved service delivery to stakeholders.

4.1.3. STRATEGIC OBJECTIVES OF THE PROGRAMME

- a) To conduct investigations with adherence to Service Delivery Indicators (SDIs).
- b) To identify and conduct systemic investigations.
- c) To conduct own-initiative investigations.
- d) To develop investigative techniques, processes and training.
- e) To reduce the turnaround time to a maximum of two years to finalise all cases.
- f) To conduct file inspections.
- g) To ensure effective and relevant reporting in all finalised investigations.
- h) To monitor and report on remedial action recommended to organs of state.
- i) To improve on think-tank committee procedures and processes.
- j) To improve on strategic performance reporting.
- k) To improve the effective and efficient coordination of provincial offices.

4.1.4 PERFORMANCE ON STRATEGIC OBJECTIVES

Programme	Strategic Objective	Output	Achievements of Targets for the Year
1. Investigations and Reporting	1.1 To conduct investigations with adherence to SDIs	Approved project plans for appropriate investigations / investigation plans for all other cases	Achieved Project plans were defined and approved for 80% of all appropriate cases
		Adherence to approved SDIs aligned with individual performance in accordance with the defined workplans	Achieved On average there is an 80% adherence to SDI's
	1.2 To identify and conduct systemic investigations	Systemic investigation reports	Achieved A total of 8 systemic investigations were conducted during the financial year

Programme	Strategic Objective	Output	Achievements of Targets for the Year
1. Investigations and Reporting	1.3 To conduct own - initiative investigations	Own-initiative investigation reports	Achieved A total of 22 own initiative investigations were conducted and 9 were finalised during the financial year
	1.4 To develop investigative techniques, processes and training	Process manual reflecting investigation techniques, remedial action guidelines, checklists, and report writing and procedures	Partially achieved A draft process manual has been drafted and a task team has been appointed to review the manual in line with best international practice. Civil Society Advocacy Programme (CSAP) was requested to assist with the appointment of a service provider to refine the manual but this was not completed on time and was deferred to 2007/08
	1.5 To reduce the turnaround time to a maximum of 2 years for finalising all cases	Regular statistical report on relevant cases	Achieved 95% of cases finalised during the financial year were finalised within the required target period of two years.(Reflected in pie chart hereunder)
	1.6 To Conduct File Inspections	File inspection report	Achieved File Inspection conducted in all offices during December 2006
	1.7 To ensure effective and relevant reporting on all finalised investigations	Quality report for every finalised case.	Achieved Reports (formal or closing) were done for all finalised cases
	1.8 To monitor and report on remedial actions recommended to organs of state	Remedial action and monitoring Report	Achieved 80% of all cases where recommendations were made received positive feedback on implementation with most of the remaining cases to be followed up in due course. There are two cases that the OPP is following up on recommendations made
	1.9. To improve on Think Tank Committee Procedures and processes	Documented Think Tank Operational Process Manual	Achieved Think Tank Operational Process Manual drafted and circulated for input and comment by Managers

Programme	Strategic Objective	Output	Achievements of Targets for the Year
1. Investigations and Reporting	1.10. To improve on Strategic Performance Reporting	Strategy Performance and Statistical Reports	Achieved Meetings held quarterly to report on performance on the Strategic objectives
	1.11 To improve the effective and efficient coordination of Provincial Offices	Appoint Executive Manager: Provincial Coordination	Achieved Executive Manager: Provincial Coordination has been appointed
		Provincial Coordination Process Manual	Achieved Provincial Coordination Process Manual has been drafted

4.2 Programme 2: Communication Services

4.2.1 OBJECTIVE OF THE PROGRAMME

To improve internal and external communication, to inculcate a common vision and improved profile for the OPP.

4.2.2 OUTCOME OF THE PROGRAMME

- Improved Stakeholder perception, co-operation and accessibility of OPP services.
- Smooth, timeous flow of accurate information to all OPP staff.

4.2.3 STRATEGIC OBJECTIVES OF THE PROGRAMME

Sub-Programme: Outreach Programme

- Increase accessibility to OPP services
- Increase Public Awareness
- Enhance collaboration with stakeholders

Sub-Programme: Marketing and Communications

- Improve communication and routing of information to stakeholders
- Effective Communication to internal staff
- Improve Media Relations
- Develop the branding of the OPP
- Inculcate Protocol knowledge within the OPP

4.2.4 PERFORMANCE ON STRATEGIC OBJECTIVES

Sub-programme: Outreach

Programme	Strategic Objective	Output	Achievements of Targets for the Year
1. Outreach Programme	1.1 Increase accessibility to OPP services	Outreach Strategy developed	Achieved Outreach strategy for OPP has been developed and adopted and is being implemented. Furthermore CSAP ¹ has appointed an Outreach Co-ordinator and 5 facilitators for a period of two years to assist OPP to implement the strategy

1. CSAP –Civil Society Advocacy Programme is a partnership programme between the Office of the Public Protector, Commission on Gender Equity, the South African Human Rights Commission and the European Union

Programme	Strategic Objective	Output	Achievements of Targets for the Year
		Clinics conducted	Achieved During the financial year, 73 clinics have been conducted and 1852 complaints received
		Additional regional office established	Not Achieved The areas where the offices will be opened have been identified and the opening has been deferred to 2007/08 financial year
	1.2 Increase public awareness	Information sessions with stakeholders	Achieved Target exceeded. 167 information sessions were conducted
	1.3 Enhance collaboration with stakeholders	Chapter 9 Collaboration Plan	Partially achieved Collaboration Plan not achieved but areas of collaboration have been identified and there is ongoing collaboration with Chapter 9's through joint implementation of CSAP

Programme	Strategic Objective	Output	Achievements of Targets for the Year
2. Communication and Marketing	2.1 Improve communication and routing of information to stakeholders	External communication strategy development and implementation	Achieved A Communication Strategy has been developed parts of which are being implemented.
	2.2 Effective communication to internal staff	Internal communication strategy development	Partially Achieved Periodic communication made to staff via email and Internal communication.
	2.3 Improve media relations	Media strategy development	Achieved Communication with media was strengthened including press conferences, media releases and media briefing.
	2.4 To enhance the image of the OPP	Identifiable branding of the OPP	Partially Achieved OPP corporate branding manual has been drafted and is being discussed
	2.5 Inculcate protocol knowledge within the OPP	Staff trained on protocol	Achieved Appropriate staff had been trained in protocol.

4.3. Programme 3: Corporate Support Services

4.3.1 OBJECTIVE OF THE PROGRAMME

To achieve and sustain an efficient and effective corporate support service that is compliant with legislation.

4.3.2. OUTCOME OF THE PROGRAMME

Improved service delivery.

4.3.3 STRATEGIC OBJECTIVES OF THE PROGRAMME

Sub-Programme: Human Resources Management and Development

- a) Attraction, maintenance and retention of high-quality staff.
- b) To improve and sustain HR performance management system.
- c) Training and development of staff according to needs.
- d) Facilitating the design and utilisation of an Employee Wellness Programme EWP and achieving transformation, equity and diversity.

Sub-Programme: Finance and Supply Chain Management

- a) To develop a costing model for investigations
- b) Improve OPP financial management and reporting
- c) Ensure compliance of OPP with financial prescripts
- d) Develop and implement cost-effective procurement processes

Sub-Programme: Administration Support

- a) To enable the optimum application and utilisation of resources
- b) To promote the effective and efficient functioning of the registry
- c) To establish and maintain suitable office accommodation

Sub-Programme: Security Management

- a) To establish and implement processes for the protection of OPP information and assets
- b) To provide secure premises and a safe working environment for staff.

4.3.4 PERFORMANCE ON STRATEGIC OBJECTIVES

Sub-programme Human Resources Management

Programme	Strategic Objective	Output	Achievements of Targets for the Year
1. Corporate Services (Human Resources Management)	1.1 Attraction, maintenance and retention of high-quality staff	Human Capital Sourcing Strategy and implementation	Partially achieved Draft retention strategy developed, further achievement of this objective has been carried over to 2007/08 financial year
		Remuneration strategy / policy and implementation	Achieved Implementation of remuneration strategy is ongoing and will be finalised during 2007/08

Programme	Strategic Objective	Output	Achievements of Targets for the Year
1. Corporate Services (Human Resources Management)	1.2 To improve and sustain the HR performance management system	Outcome-based Performance Management System	Partially Achieved Personnel Performance Management Development System (PPMDS) Moderating Committee has made recommendations on issues to be reviewed and OPP in process of appointing service provider to review Performance Management system
	1.3 Training and development of staff according to needs	Human Resources Development (HRD) Strategy developed and implemented	Achieved Workplace Skills Plan submitted to Public Service Sector Education and Training Authority (PSETA). Human Resource Development (HRD) Strategy will be developed during 2007/08
	1.4 Facilitate the design and utilisation of an EWP and achieve transformation, equity and diversity	Accessible, functional and utilised EWP	Achieved Full EWP programme developed. Service provider appointed.

Sub Programme: Finance and Supply Chain Management

Programme	Strategic Objective	Output	Achievements of Targets for the Year
2. Corporate Services (Finance and Supply Chain Management)	2.1 To develop a costing model for investigations	Costing model developed	Partially Achieved Investigations Unit has defined levels of complexity for cases and identified key variables to be included in costing model
	2.2 Improve financial management and reporting	Financial management policies developed and implemented	Achieved All relevant Financial management policies developed and implemented
		Divisional budgets	Achieved A divisional budgeting model has been developed and Budget Guidelines document prepared. OPP Accounting system is able to produce budget-monitoring reports per Business Unit.
	2.3 Ensure compliance with financial prescripts	Unqualified audit reports	Achieved All significant findings raised by Internal Audit and the Auditor-General are being attended to
2.4 Develop and implement cost-effective procurement processes	Cost-effective procurement processes implemented	Achieved 100% implementation of all procurement policies	

Sub Programme: Finance and Supply Chain Management

Programme	Strategic Objective	Output	Achievements of Targets for the Year
3. Corporate Services (Administration and Support)	3.1 To enable the optimum application and utilisation resources	Vehicle monitoring system	Achieved All vehicles are fitted with Fleet Management device
		Telephone management system	Achieved Telephone Management System that uses individual pin numbers has been implemented for all telephone lines
	3.2 To promote the effective and efficient functioning of the registry	Records management system	Achieved Records management manual was drafted and submitted to National Archivist for approval, and the response was received in February 2007 that the manual is approved. Implementation will commence in the new financial year
	3.3 To establish and maintain suitable office accommodation	Two additional regional offices established	Not Achieved The areas where the offices will be opened has been identified and the opening has been deferred to 2007/08 financial year
		Office relocated	Partially Achieved Western Cape relocated and Mafikeng could not be relocated as no suitable office accommodation could be found in Mafikeng. Current offices will be refurbished with the assistance of DPW during 2007/08
	Storerooms established	Not achieved Department of Public Works (DPW) has been requested to find suitable premises for relocation of N Cape offices as it would not be cost effective to build strong rooms when the office will be relocating. Eastern Cape- not achieved	
4. Corporate Services (Security Management)	4.1 To establish and implement processes for the protection of OPP information and assets	Strategy, policies and procedures	Partially Achieved Security Management unit established and needs-analysis conducted for 7 out of 9 offices. Draft Security strategy developed and is currently under discussion. Security procedures have been developed and are being implemented

4. Corporate Services (Security Management)	4.2 To provide secure premises and a safe working environment for staff	Strategy, policies and procedures	<p>Partially Achieved</p> <p>Security procedures have been developed and are being implemented</p>
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4.4. Programme 4: Knowledge Management And Information Technology

4.4.1 OBJECTIVE OF THE PROGRAMME

To introduce and maintain efficient and effective knowledge management and information and communications technology within the OPP.

4.4.2. OUTCOME OF THE PROGRAMME

Efficient and effective service delivery to stakeholders.

4.4.3. STRATEGIC OBJECTIVES OF THE PROGRAMME

Sub-Programme: Knowledge Management

- Create Knowledge Management Institution of the OPP
- Establish and Migrate African Ombudsman Resource Centre (AORC)²
- Implement an Exchange Programme

Sub-Programme: Information and Communication Technology

- To implement and enhance integrated information management systems.
- Building and enhancing ICT infrastructure that is reliable, secure and interoperable
- Improving and implementing ICT best practices

4.4.4 PERFORMANCE ON STRATEGIC OBJECTIVES

Sub-Programme: Knowledge Management

Programme	Strategic Objective	Output	Achievements of Targets for the Year
1. Knowledge Management and Information Technology (Knowledge Management)	1.1 Create a knowledge management institution for the OPP	Knowledge and Research Manager appointed	<p>Not Achieved</p> <p>The post of Knowledge and Research Manager was reviewed but appointment deferred to 2007/08</p>
		Knowledge audit conducted	<p>Not Achieved</p> <p>The achievement of this objective was dependent on the appointment of Knowledge and Research Manager</p>

2. CSAP –Civil Society Advocacy Programme is a partnership programme between the Office of the Public Protector, Commission on Gender Equity, the South African Human Rights Commission and the European Union

Programme	Strategic Objective	Output	Achievements of Targets for the Year
1. Knowledge Management and Information Technology (Knowledge Management)		Knowledge management strategy implemented	Not Achieved The achievement of this objective was dependent on the appointment of Knowledge and Research Manager
		Research conducted	Not Achieved The achievement of this objective was dependent on the appointment of Knowledge and Research Manager
	1.2 Establish and migrate AORC	AORC established	Achieved AORC established at UKZN
	1.3 Implement exchange programme	Information being shared with other ombudsman offices	Partially Achieved Exchange programmes took place on <i>ad hoc</i> basis through exchanges from Ghana, Rwanda and Angola Ombudsman offices

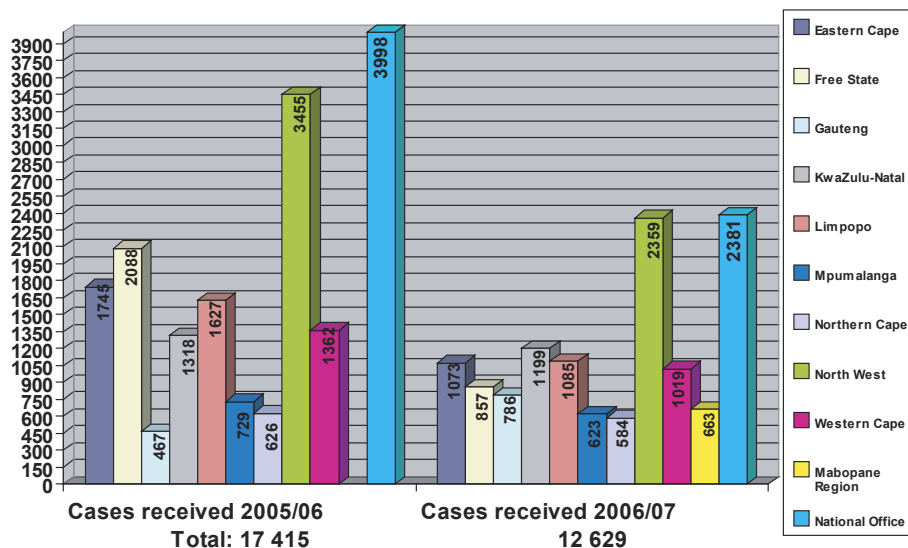
Sub-Programme: Information and Communication Technology

Programme	Strategic Objective	Output	Achievements of Targets for the Year
2. Knowledge Management and Information Technology	2.1 To implement and enhance Integrated Information management Systems.	Case Management System	Not achieved Due to capacity constraints the achievement of objectives for this programme has been deferred to the next financial year
		Dictaphone Interpretation System	Partially Achieved 20% Implementation achieved
		e-Procurement System	Not Achieved The amount quoted for the customisation and roll-out/implementation of JYP was R3.5 million, and the amount quoted for annual maintenance and support was R2 million per annum
		Precedent System	Not achieved Due to capacity constraints the achievement of objectives for this programme has been deferred to the next financial year

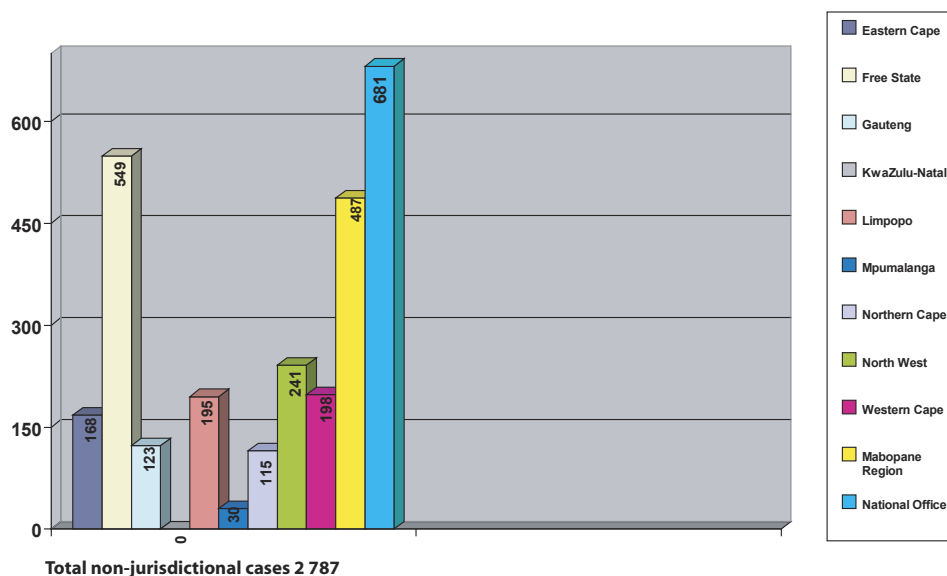
Programme	Strategic Objective	Output	Achievements of Targets for the Year
2. Knowledge Management and Information Technology		Enhanced Security System	Not achieved Due to capacity constraints the achievement of objectives for this programme has been deferred to the next financial year
		Library management system	Achieved Assessment and needs analysis conducted by CSAP and recommendations made
		Enhanced Human Resource Management Information System (HRMIS)	Not achieved Due to capacity constraints the achievement of objectives for this programme has been deferred to the next financial year
	2.2 Build and enhance ICT infrastructure that is reliable, secure and interoperable	Network Availability in regional offices	Not achieved Regional offices not established
		Upgrade of Servers and Software, including Jutastats	Not achieved Due to capacity constraints the achievement of objectives for this program has been deferred to the next financial year
		Remote Connection to the office Network	Partially Achieved Policy on Remote Connection to the office Network developed and is currently under discussion
		Intranet	Partially Achieved Inputs made on various intranet options
	2.3 Improve and Implement Information Communication Technology (ICT) best practices	Policies, standards and procedures	Achieved Policies, standards and procedures
		Business Continuity Plan	Partially achieved Disaster Recovery Plan drafted and adopted.

5. STATISTICAL OVERVIEW

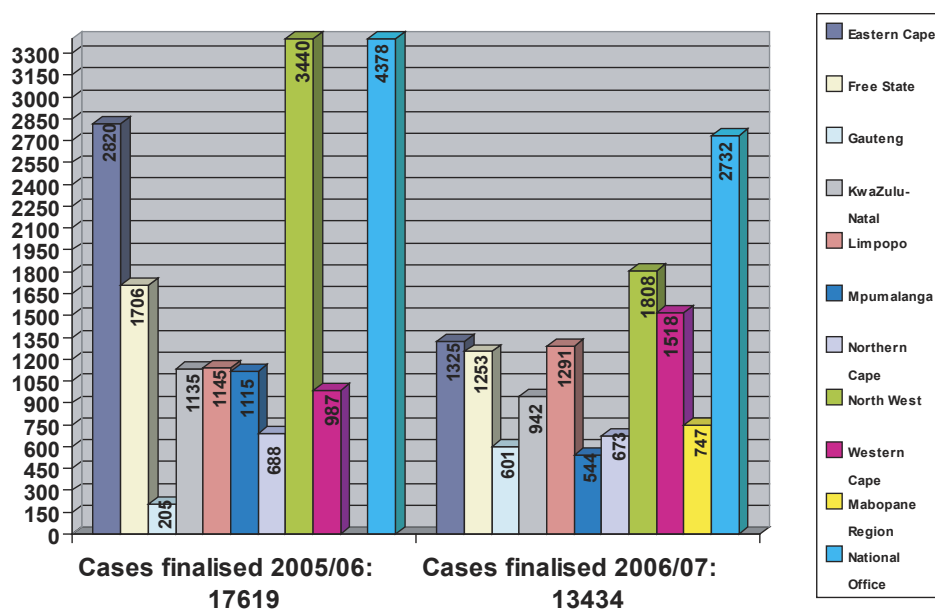
5.1 Cases Received



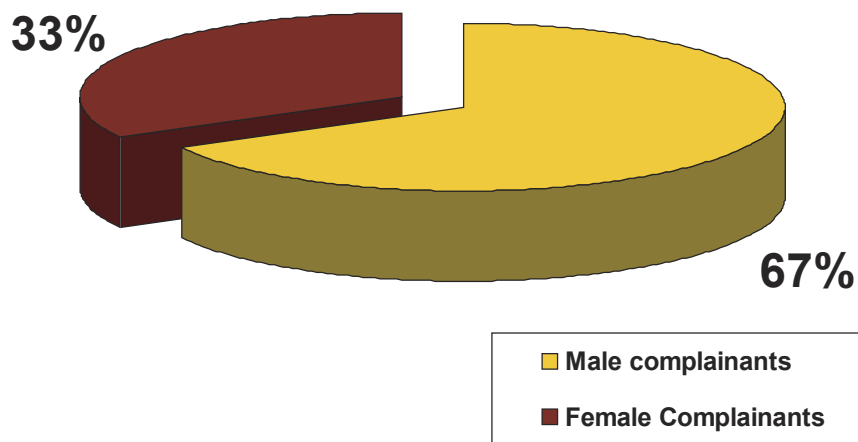
5.2 Non-jurisdictional Cases Dealt With During 2006/07



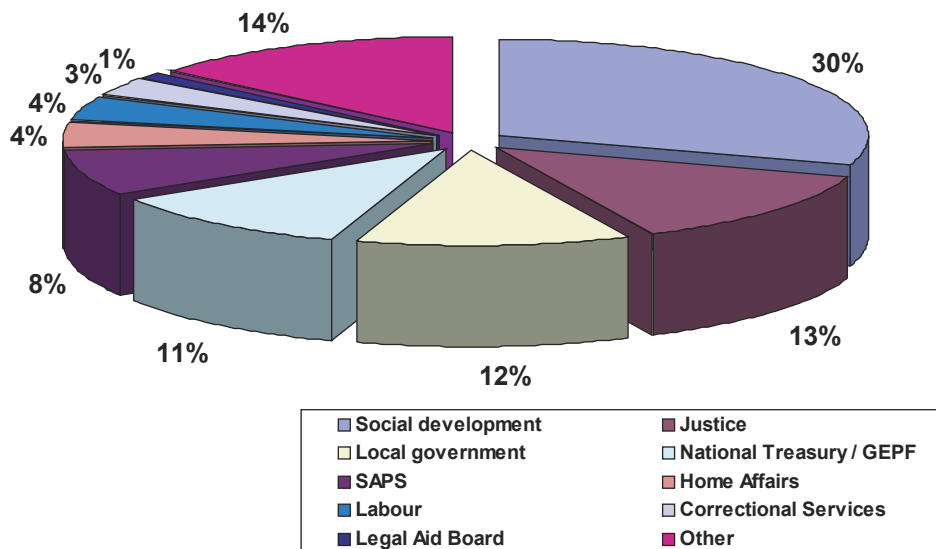
5.3 Cases Finalised



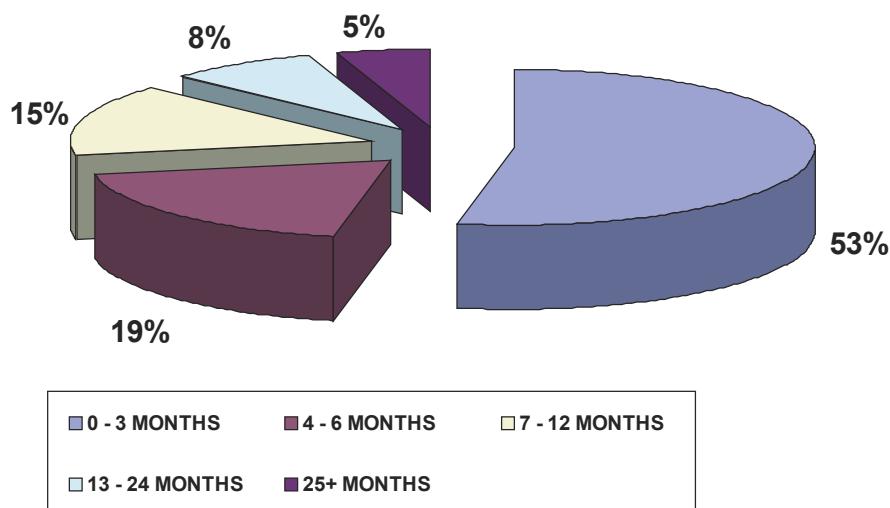
5.4 Sample³ Of Gender Breakdown Of Complaints Received For The Office As A Whole Is As Follows:



5.5 Percentages Of Complaints Received - Top 10 State Institutions⁴



5.6 Average Turnaround Times Within Which Investigations Were Finalised⁵



3. Sample is based on an analysis of 7110 of the complaints received during the financial year. 4783 complaints were received from males and 2327 from females

4. Sample is based on analysis of 7 456 complaints received during the financial year

5. Based on an analysis of 11 206 of the complaints received during the financial year

6. SPECIFIC INVESTIGATIONS: NATIONAL, PROVINCIAL AND SPECIAL INVESTIGATIONS

6.1 National Assembly

REPORT ON AN INVESTIGATION INTO ALLEGED FAILURE TO COMPLY WITH THE CONSTITUTION AND PARLIAMENTARY PROCEDURES: CONSTITUTION TWELFTH AMENDMENT BILL

Report No 18 of 2006/07

The Office of the Public Protector received a complaint concerning the alleged failure by the National Assembly to comply with both the Constitution, 1996, and its own prescribed procedures during the vote on the Constitution Twelfth Amendment Bill.

According to the complaint received, the vote took place in the National Assembly on 15 November 2005. It was alleged that, on this date, a number of irregularities occurred in that various provisions of the law, as well as certain required procedures, were not adhered to during the vote. The effect of these alleged failures was said to amount to a failure by the National Assembly to properly or lawfully pass the said Bill. One implication of this alleged failure was said to be that the President may have acted ultra vires in purporting to sign and assent to the legislation.

FINDINGS

The Public Protector found that there had been a technical difficulty in the casting of one member's vote, causing the appearance of an error in the recording of votes cast. Further, that there had not been an explicit announcement that the Deputy Speaker's deliberative vote had produced the required total of 267 votes in favour of the Bill. Moreover, despite appearances to the contrary, there had been no confusion in the Assembly in this regard. Furthermore, on the facts, there had been no substantial or material departure from the procedure for either casting or counting votes such as to warrant a finding that the Bill had not been properly and lawfully passed by the National Assembly.

The Public Protector found further that:

- there exists no reason to dispute the validity of the member's vote;
- there exists no reason to doubt that the Deputy Speaker validly cast her deliberative vote;
- the Constitutional requirement of a two-thirds majority vote was validly obtained in respect of the Constitution Twelfth Amendment Bill;
- however, there exists some room for doubt whether the relatively new 'accepted practice', which constitutes a departure from the provisions of the National Assembly Guide to Procedure (4 ed, January 2004) ('the Guide') and the Rules of the National Assembly, is either based on a considered, reasoned and authoritative decision, or advisable in all the circumstances.

RECOMMENDATIONS

The Public Protector accordingly recommended that Parliament -

- review the underlying rationale for the existing provision in the Guide;
- consider the respective merits and demerits of the existing provisions of the Guide, and the new 'accepted practice'; and
- consult beyond the confines of its own resources and expertise in doing so.

6.2 The Deputy President

REPORT ON AN INVESTIGATION INTO ALLEGATIONS OF UNETHICAL AND IMPROPER CONDUCT BY DEPUTY PRESIDENT P MLAMBO-NGCUKA RELATING TO HER UNOFFICIAL VISIT TO THE UNITED ARAB EMIRATES IN DECEMBER 2005

Report No 1 of 2006/07

The Office of the Public Protector investigated complaints lodged by two Members of Parliament against Deputy President P Mlambo-Ngcuka relating to her unofficial visit to the United Arab Emirates (UAE) in December 2005. It was mainly alleged that by using an aircraft of the South African Air Force (SAAF) to transport her, her husband, children and a friend to the UAE for a holiday at state expense, the Deputy President acted improperly and in breach of the Executive Ethics Code, published by virtue of the provisions of the Executive Members' Ethics Act, 1998. It was furthermore averred that the hospitality afforded to the Deputy President and her entourage by the government of the UAE during their stay, should be regarded as a gift, which has to be declared in terms of the Executive Ethics Code.

The information obtained from and the evidence submitted during the investigation indicated that:

- The State has a constitutional obligation to protect the Deputy President on a full time basis during her/his tenure and after she/he leaves office. Former Presidents and Deputy Presidents are protected by the State, at substantial cost, despite the fact that they are not performing any official duties;
- The protection of the Deputy President in office and the associated expenditure is in the national interest. It is based on provisions of the Constitution, national legislation and policies approved by the Cabinet;
- The security measures instituted by the State to protect the Deputy President apply irrespective of whether she/he performs official duties or is on vacation;
- The policies and practices regulating the protection of the Deputy President are in line with international standards and practice;
- The South African Police Service (SAPS) is responsible for the protection of the Deputy President;
- The Deputy President is obliged to accept and conform to the protection measures implemented by the SAPS. She/he has no control over the decisions taken by the SAPS in this regard as it is based on government policy and relates directly to the position that she/he occupies and not only to her/him as a person;
- The protection measures of the Deputy President currently include that she/he is obliged to travel, locally and abroad, by an aircraft of the SAAF at the expense of the Department of Defence, irrespective of the purpose of the trip. She/he has no choice in the matter;
- The requirement that the Deputy President has to be transported by an aircraft of the SAAF forms part of a total security package. The costs of such air travels are budgeted for by the Department of Defence;
- Only in circumstances where an aircraft of the SAAF is not available, would the Deputy President be allowed to travel by commercial airline. In such circumstances, strict security measures would apply (at cost to the State) to ensure that the Deputy President is properly protected;
- The Deputy President is entitled to take leave whenever it is possible for her/him to do so and to travel to any destination of her/his choice when she/he is on vacation;
- The obligation of the State to protect the Deputy President, even when she/he is on leave, cannot infringe on her/his right to go on vacation to the destination of her/his choice. It also cannot prevent her/him from being accompanied by her/his family and friends, should she/he wish to take them along. The fact that the mode of transport is prescribed to her/him by the SAPS, for security reasons and in terms of government policy, does not disqualify her/him from travelling wherever she/he wants to go on vacation;
- The Deputy President went on vacation to the UAE with the approval of the President. The Presidency was informed of her visit and her Private Secretary had to accompany her, in terms of the practice and policy of the Presidency. Approval in this regard was granted by the Director General of the Presidency:

- In terms of the policies providing for the full time protection of the Deputy President, she had to be transported to the UAE by means of an aircraft of the SAAF at the expense of the Department of Defence;
- The expenditure incurred by the Presidency for the trip to the UAE was approved by the Chief Accounting Officer in terms of the relevant provisions of the Public Finance Management Act, 1999;
- The Deputy President was entitled, in terms of a policy approved by the Cabinet, to be accompanied on her vacation trip to the UAE by her family, friends and other passengers of her choice;
- The Deputy President was obliged, by virtue of her position, to consider the offer of the UAE Government to accommodate her and her entourage during their stay in the UAE. Declining the offer could have insulted the Head of State of the UAE, which could have had an impact on diplomatic relations between the two countries;
- The hospitality that the Deputy President received from the UAE government did not constitute a 'gift' in terms of the Executive Ethics Code; and
- Under the circumstances it cannot be found that the Deputy President acted improperly or that she failed to act in good faith and in the best interests of good governance or in a manner that is inconsistent with her office, as alleged. She was entitled, as is anyone else, to take her family, a friend and the children of her Private Secretary with her to the UAE, and no-one therefore improperly benefited from the trip.

FINDINGS

From the investigation it was found that:

The Deputy President did not act improperly or in breach of the Executive Ethics Code when she went on vacation to the United Arab Emirates in December 2005.

RECOMMENDATION

The Public Protector recommended that:

The Secretary of the Cabinet take urgent steps to ensure that the draft Presidential Handbook deals with the matters and issues investigated in clear and certain terms and that it is submitted to the Cabinet for consideration.

6.3 Ministers and Deputy Ministers

6.3.1 INVESTIGATION IN CONNECTION WITH COMPLIANCE BY MINISTERS AND DEPUTY MINISTERS WITH THE PROVISIONS OF THE EXECUTIVE ETHICS CODE RELATING TO THE DISCLOSURE OF FINANCIAL INTERESTS

Report No 2 of 2006/07

The Office of the Public Protector investigated a complaint by a Member of Parliament in connection with possible breaches of the Executive Ethics Code (the Code), issued in terms of the Executive Members' Ethics Act, 1998.

The complaint related to a Report of the Auditor General, submitted to Parliament in February 2006, which stated that a number of Ministers and Deputy Ministers had failed to disclose their financial interests, as required by the Code and the Parliamentary Code of Conduct.

Following the said complaint, the Parliamentary Joint Committee on Ethics and Members' Interests investigated the findings of the Auditor General. It was found that the databases used during the investigation of the Auditor General did not always contain updated information and that there was a misunderstanding regarding the interests that Ministers and Deputy Ministers are obliged to disclose. The Committee's finding was that the Code of Conduct had not been breached by the Ministers and Deputy Ministers concerned.

The investigation of the Public Protector focused on the alleged possible breaches of the Executive Ethics Code. From the information obtained and the legislation and prescripts considered, it was concluded that the Code requires that Ministers and Deputy Ministers disclose financial interests. It does not provide for the disclosure of interests in non-profit corporate entities or interests of a non-financial nature.

It was also observed that:

- Ministers, Deputy Ministers and their spouses who are directors of companies and/or members of close corporations are by law obliged to inform the respective companies and close corporations when they cease to be a director/member.
- It is the legal responsibility of companies and close corporations to inform the Registrar of Companies and Close Corporations of changes to its directorship or membership.
- Ministers and Deputy Ministers are under no legal obligation to ensure that the database of the Companies and Intellectual Property Registration Office is up to date, simply because of their current or former interests in corporate entities.
- Only financial interests need to be disclosed in terms of the Code. Interests in section 21 companies or corporate entities that bear no financial advantage for its members or directors do not warrant disclosure.

FINDINGS

From the investigation it was found that the Ministers and Deputy Ministers referred to in the Report of the Auditor General did not breach the Executive Ethics Code.

RECOMMENDATIONS

The Public Protector recommended that the Secretary of the Cabinet liaise with the Chairperson of the Committee to ensure that:

- (a) the issues of compliance by members who are or were directors of companies and members of close corporations with the provisions of the relevant legislation;
- (b) the definition of what is regarded as a "financial interest" for the purposes of disclosure in terms of the Code; and
- (c) disclosures in terms of the Code of interests in corporate entities in the appropriate sections of the register, referred to in this report, are also canvassed during the proposed development of guidelines by and the planned conference of the Committee.

6.3.2 MINISTER OF SOCIAL DEVELOPMENT

INVESTIGATION INTO AN ALLEGATION OF A BREACH OF THE EXECUTIVE ETHICS CODE BY THE MINISTER OF SOCIAL DEVELOPMENT, DR Z SKWEYIYA

Report No 3 of 2006/07

The Office of the Public Protector investigated a complaint by a Member of Parliament, lodged in terms of the Executive Members' Ethics Act, 1998 against the Minister of Social Development, Dr Z Skweyiya (the Minister). It was alleged that the Minister acted in breach of the Executive Ethics Code by exposing himself to a situation involving the risk of a conflict between his official responsibilities and his private interests.

The complaint related to a loan that was granted to the Minister's wife by Mr S Majali of Imvume Management in December 2003. Media reports, on which the complaint was based, suggested that the loan was granted in order to influence the Minister to ensure that a tender by the I T Lynx Consortium, in which Mr Majali has an interest, for a new social grant administration system for Department of Social Development, was awarded to it.

Evidence obtained during the investigation indicated that:

- The final adjudication of the tender in question took place 1 year and 7 months before the loan was granted to Mrs Skweyiya. It could therefore not have constituted the risk of a conflict of interests as contemplated by the Executive Ethics Code in respect of the Minister's official responsibilities, if any, in respect of the awarding of the tender;
- The contents of the complaint, media reports referred to, correspondence pertaining to the tender, tender documents, letters of demand from attorneys acting on behalf of I T Lynx and the pleadings filed in its civil claim against the State Information Technology Agency and the Minister that were considered during the investigation, contained no indication that Mr Majali or Imvume Management was involved in I T Lynx;
- The Minister was not involved in the loan transaction between his wife and Mr Majali. He was only informed about it after the arrangement had been agreed upon. The information obtained during the investigation provided no indication that the evidence in this regard should be viewed with any greater circumspection.

FINDINGS

From the investigation it was found that the Minister was probably not aware of Mr Majali's interest in I T Lynx at the time when the loan was granted to his wife or at the time when he approached the Minister of Finance recommending that the contract for the new social grant payment system be implemented. As Mr Majali's interest in I T Lynx is remote and was not disclosed during the tender process, it could also not reasonably have been expected of him to have been aware thereof.

No indication could be found from the investigation that the loan granted by Mr Majali to Mrs Skweyiya in December 2003 had any influence or bearing on the manner in which the Minister performed any of his official responsibilities in respect of the efforts of the Department to replace its social grant administration system and the legal action that has been instituted by I T Lynx in regard thereto.

The Minister conceded during the investigation that he had failed to disclose the benefit of the interest free loan granted to his wife, as required by the Executive Ethics Code.

It is disconcerting that the process of the replacement of the SOCPEN system has been put on hold because of litigation in connection with the said tender, despite the fact that investigations have indicated huge financial losses to the Department as a result of the shortcomings and failures of the current system. The said litigation can take years before it is finalised, while the losses to the State would continue to increase. The fact that the Department and the National Treasury failed to find a solution to the impasse between them relating to the replacement of the SOCPEN system has clearly and might in the future still delay the process further, resulting in unacceptable amount of public money being wasted.

The following key findings were made:

- The allegation that the loan granted by Mr Majali to Mrs Skweyiya in December 2003 resulted in the Minister of Social Development exposing himself to a situation involving the risk of a conflict of interest which constituted a breach of the Executive Ethics Code, is unfounded; and
- The failure of the Minister of Social Development to disclose the benefit of the interest free loan granted to his wife by Mr Majali in December 2003 constituted a breach of the Executive Ethics Code.

RECOMMENDATIONS

The Public Protector recommended that:

- The President take urgent steps to ensure that the issues delaying the replacement of the SOCPEN system are resolved in the least costly but most effective manner; and
- The Secretary of the Cabinet take steps to ensure that the Minister of Social Development makes a proper disclosure in terms of the provisions of paragraph 6 of the Executive Ethics Code of the interest free loan granted to his wife by Mr Majali in December 2003.

6.4 National Departments

6.4.1 DEPARTMENT OF ARTS AND CULTURE

MEDIATION

Report No 73 of 2006/07

The Public Protector received a complaint from the President of the South African Roadies Association (SARA). He alleged that he had approached the Department of Arts and Culture (DAC) in October 2004 with a request to fund return air tickets for 16 South African youths who were to take part in training provided by Universoul Circus in Atlanta, United States of America.

It was alleged that after SARA had lodged an application for funding, an official of the DAC assured the complainant telephonically that his application would be successful, but he subsequently received a letter from the DAC informing him that the application for funding was unsuccessful. The complainant alleged further that SARA confirmed the travelling arrangements on the basis of the verbal promises and guarantees by the official, and requested compensation for the expenses incurred. However, the DAC denied giving any assurances to fund the trip.

The complainant was advised that any claim for damages he might wish to bring against the DAC for allegedly renegeing on its commitment, would best be resolved by a court of law, as the Public Protector did not have the authority to make any orders for compensation.

The complainant further alleged that he had written to the DAC on several occasions requesting meetings and he received no responses to these requests. The complainant furnished copies of the letters written to the DAC and it was noted from this correspondence that SARA had long outstanding and unresolved issues with the DAC, and that the present situation aggravated the already strained relationship between the parties.

The Public Protector decided that the issues could best be resolved through the process of mediation between the parties in terms of section 6(4) (b) of the Public Protector Act, 1994.

The Office of the Public Protector mediated between the parties and the parties agreed as follows:

- The request for compensation by SARA would best be resolved by a court of law.
- Communication between the parties should be in writing to avoid situations like the present one where SARA alleged they were promised funding and the DAC denied it.
- The DAC would facilitate a meeting between itself and SARA to discuss and reach agreement on how they would deal with the following issues:
 - Assistance to SARA by the DAC to strengthen Sara's international relations;
 - The funding by the DAC of international trips for youths;
 - Sara's request for funding of its operational / administrative costs.



6.4.2 DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

COURTEOUS CONDUCT BY OFFICIALS

Report No 15 of 2006/07

Complainant approached the Office of the Public Protector with a complaint that an official of the Department of Environmental Affairs and Tourism treated him in a discourteous manner. The official denied that she had been discourteous towards complainant, and alleged that it was complainant who had been aggressive towards her.

This office held the view that complainant would have been entitled to redress in the form of an apology for any discourteous conduct where found to be present, suffered at the hands of a public official. Based on the available information however, this office was unable to find that the official acted in a discourteous manner towards complainant. In any event, it was noted that in a meeting held between complainant and the official, both parties appeared to have admitted shortcomings in their treatment of each other. In this regard, the official apologised to complainant.

Over and above an apology, complainant requested the Department to appoint him as a Batho Pele Co-ordinator, apparently as a form of redress.

FINDINGS

In the circumstances, it was found that complainant was not entitled to insist that the Department appoint him merely on the grounds of an allegation of discourteous conduct on the part of an official.



6.4.3 DEPARTMENT OF HOME AFFAIRS

ALLEGED FAILURE TO ESTABLISH A DISTRICT OFFICE / SERVICE POINT AT BREDASDORP

Report No 12 of 2006/07

The Office of the Public Protector investigated allegations that the Department of Home Affairs had failed to cater for the service needs of the inhabitants of Bredasdorp and surrounding areas by failing to establish a district office or a service point in the town, contrary to the Batho Pele principles. It was alleged that as a result of the aforesaid failure, the community of Bredasdorp and surrounding areas were denied the services to which they were entitled and / or if the members of the community were desirous of accessing the aforesaid services they were compelled to travel to Caledon costing R200.00 for the return trip by public transport. The complainant, who approached the Office of the Public Protector on behalf of the community during an outreach visit, believed that it would not be possible to persuade the Department to accede to his request for a local service point on his own.

The Office of the Public Protector accordingly engaged the Department and, after a brief exchange of correspondence, the Department acceded to the request to establish a permanent service delivery point in Bredasdorp. The Department pointed out that it was not possible to establish a district office in the town as the population figures for the establishment of same were insufficient. It was stated that the norm is about 80 000 inhabitants before consideration can be given for the establishment of a district office.

Nevertheless, the Department has given approval for the planning for the establishment of an office smaller than a district office, but including provision of infrastructure, equipment and staff.

The Provincial Manager of the Department was tasked to provide interim relief measures through utilising a mobile unit that will make visits at specified regular intervals.

FINDINGS

The key findings of the Public Protector were as follows:

- It was established that the Department had no offices and/or presence within Bredasdorp and its surrounds, thus severely limiting its accessibility to the aforesaid community as the nearest office was located more than 100km away in Caledon.
- The Department has acceded to the request from the Office of the Public Protector to establish a permanent service delivery point to Bredasdorp.
- The Provincial Manager has been mandated to introduce interim relief measures like a mobile unit until the permanent service delivery point office has been established.
- A schedule of visits to the area from the Departmental staff has been furnished to the Office and the interim relief measures mentioned above have commenced.



The Department acceded to the request made by the Public Protector and cooperated fully with this investigation. A formal recommendation in this regard was thus not necessary, but the Department was commended for its prompt and positive response. However, the Public Protector recommended that the Department systemically apply the criteria utilised in the present instance in all appropriate similar circumstances elsewhere in the country.

6.4.4 DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

WRONGFUL IMPRISONMENT

Report No 13 of 2006/07

A prisoner approached the office of the Public Protector in February 2006 with a complaint that he never received any response from the Magistrates' Court, Germiston regarding the progress or outcome of an appeal that he lodged in 2003. At the time complainant was still incarcerated at the Kutama Sinthumule Correctional Centre.

When the matter was investigated it was established that the complainant's appeal succeeded on 14 September 2004 in the Transvaal Provincial Division of the High Court of SA. The convictions were set aside and he should have been released.

The Kutama Sinthumule Correctional Centre advised that according to their records the warrant of liberation was never received from the Clerk of the Court, Germiston, and they were not telephonically notified of the fact that the complainant had to be released.

After the intervention of the Office of the Public Protector the complainant was released on 17 March 2006. The Clerk of the Court, Germiston, could not provide any document to confirm that the warrant of liberation had been duly issued or processed to comply with the court order, and to effect the immediate release of complainant in September 2004.

FINDINGS

The Public Protector found that the inference was unavoidable that the Clerk of the Court, Germiston, failed to take the necessary steps in terms of the relevant Departmental Instructions to issue a warrant of liberation for the release of complainant in September 2004, and to notify the Head of Kutama Sinthumule Correctional Centre that complainant conviction had been set aside on appeal and that he had to be released immediately.

RECOMMENDATIONS

Complainant was severely prejudiced by the above maladministration to the extent that his right to freedom has been violated by the actions of the State. In the circumstances it was recommended that the Department consider

ex gratia compensation out of compassion for the miscarriage of justice and the gross injustice suffered by the complainant in this matter.

6.4.5 DEPARTMENT OF JUSTICE: TZANEEN MAGISTRATES' COURT

ALLEGED FAILURE TO PROCESS AN APPLICATION FOR LEAVE TO APPEAL

Report No 64 of 2006/07

The Office of the Public Protector investigated a complaint by a complainant, a prisoner at Kutama Sinthumule Maximum Prison, in connection with the failure by Tzaneen regional court, the court that convicted and sentenced the complainant, to process his application for leave to appeal.

Inquiries were made with the Regional Court as to the circumstances surrounding the application and reasons for the delay.

The response was that the prisoner's court records could not be located after a diligent search. It was also stated that besides the complainant's records, there were several court files belonging to other prisoners that were also missing.

Upon receipt of this disturbing response, the Office of the Public Protector decided to conduct an inspection in loco at the Tzaneen Magistrates' Court offices in order to assess the filing environment and the general conditions of the premises.



During the inspection in loco the following observations were made:

- Court records and government gazettes were piled on the floor in the interpreter's office without boxes.
- Files were strewn in the old holding cell which is used as a filing room. There are no functional lights in this room.
- There were electrical cables lying on the floor and submerged in water in one of the filing rooms. The room was also infested with insects.
- Some files are kept in the conference room which also serves as a consulting room for juvenile cases, therefore not always accessible to the clerk of the court.
- There was a shortage of filing boxes, and some court records and cassettes are placed in one plastic bag without labels, making it difficult to locate them.
- The current holding cells and one of the filing rooms are divided by a security gate, making it possible for male prisoners to harass female court officials.
- There is a mobile Regional Court, which is so small that both the presiding officer and the prosecutor sit very close to the accused, which poses a serious safety risk.
- Officials indicated the shortage of storage boxes as a major concern.
- The Acting Court Manager indicated that even if he bought the storage boxes there would be no space to keep them.
- It became clear during the inspection that the officials were not marking some of the records properly.
- One person is working as a clerk of the court for three district courts, as well as three periodical regional courts.

FINDINGS

Following the above, the following findings were made:

- That the complainant's right to due legal process has been violated as he has been deprived of the right to appeal against a court decision;
- That there is no sufficient administrative staff to manage court documents;
- That the filing system is in disarray and approaching a state of total collapse;

- That the Department has neglected the court premises;
- That the Department is failing to assist the Clerk of the Court in dealing with the appeal applications, particularly where records are missing;
- That there is no adequate filing space;
- That there is no sufficient courtroom space.

RECOMMENDATIONS

The Public Protector recommended -

- That the Department initiates an investigation into the circumstances surrounding the missing court records and devise means and strategies to prevent recurrence of similar events.
- That the Department devises a strategy to finalise all appeal cases that are delayed due to missing court records.
- That all files and other records in the holding cells, conference room and offices be removed and stored in a safe and suitable place with immediate effect.
- That the Department appoints a clerk of the court who deals specifically with regional court matters.
- That the Department of Labour conducts an inspection at Tzaneen Magistrates' Court.
- That additional office space, including that for the regional court, be provided.

6.4.6 DEPARTMENT OF LAND AFFAIRS

UNDUE DELAY

Report No 76 of 2006/07

Members of the Sheepfold Association acquired a farm in the Fochville area in the North West Province through the Land Redistribution Programme of the Department of Land Affairs. The group intended to engage in a number of agricultural enterprises.

When the enterprise started there were allegations that the Chairperson of the Sheepfold Association was not accountable to the rest of the Sheepfold Association members. Officials from both the Gauteng Provincial Land Reform Office and North West Provincial Department of Agriculture held meetings with the Sheepfold Association members in an attempt to mediate in the already violent situation. All mediation efforts were constantly rebutted by the Sheepfold Association Executive Committee.

In desperation, aggrieved members of the Sheepfold Association sought advice on how best to call for a general meeting at which a new Executive Committee could be elected. They succeeded and a Chairperson of the Interim Executive Committee was elected. The new Executive Committee later found itself in a hopeless situation as the Chairperson of the outvoted Executive Committee refused to surrender all equipment and resources needed to resume farming operations. This resulted in the existence of two Sheepfold Association Executive Committees.

Aggrieved members of the Sheepfold Association approached a member of the Gauteng Legislature. This resulted in a meeting with members of the Portfolio Committee of Land and Housing and North West Provincial Department of Agriculture and the outvoted Executive Committee in an attempt to investigate the root of the problem. Another general meeting was held later.

During deliberations on the dispute affecting the Sheepfold Association, disgruntled members of the Sheepfold Association continued to level allegations of financial mismanagement against the outvoted Chairperson. The mediators then decided to make recommendations to the Director General of Land Affairs to intervene in the dispute. The Director General then decided to appoint a mediator who reported back and made certain recommendations but the aggrieved Sheepfold Association members could not get the outvoted Chairperson to cooperate.

The aggrieved group approached the Legal Resources Centre, who advised them that the Director General could intervene in the ongoing conflict in terms of section 11(6) of the CPA Act. This section empowers the Director General to enforce an election of a new Executive Committee. The Legal Resources Centre wrote to the Director General, requesting him to exercise his discretion in this regard.

The aggrieved members of the Sheepfold Association then lodged a complaint with the Office of the Public Protector. They requested the office to investigate the delay of the Director General and/or Gauteng Provincial Land Reform Office to appoint the service provider to facilitate the election of a new Executive Committee.

FINDINGS

From the investigation the following key findings were made:

- The Sheepfold Association experienced internal conflict and problems since its registration.
- The GPLRO and DLA have tried to assist the Sheepfold Association to resolve their problems by taking all reasonable steps in terms of the CPA Act.
- Mediation could not succeed because the outvoted Chairperson and his group did not co-operate with all other parties involved in the conflict resolution.
- Maladministration and fraud charges as contemplated in section 14 of the CPA Act, were brought against the outvoted Chairperson by some of the aggrieved Sheepfold Association members, but were not successful.
- The appointment of a service provider to chair new elections was the only legitimate remaining option. The Gauteng Provincial Land Reform Office already indicated that they were consulting their legal services to investigate intervention in this respect.

RECOMMENDATIONS

The Public Protector recommended that:

- The Director General proceed with the appointment of a facilitator to assist the Sheepfold Association to have a general meeting in order to elect a legitimate Executive Committee, within a period of six months after the date of this report.
- Should the Director General not be successful in implementing the recommendation in the paragraph above, he should consider disbanding the original Executive Committee, take over the administration of the affairs of the Sheepfold association, and institute an enquiry into their affairs in terms of section 11(2) of the CPA Act.
- Alternatively to the recommendation in the paragraph above the Director-General could consider deregistration of the Sheepfold Association.

6.4.7 DEPARTMENT OF TRADE AND INDUSTRY

COMMUNICATION WITH CONTRACTOR

Report No 6 of 2006/07

The Office of the Public Protector investigated a complaint against the Department of Trade and Industry relating to alleged abuse and misuse of power as well as alleged failure to pay a service provider in accordance with the agreement between the parties.

During 2005 the complainant was appointed as a service provider for the development and drafting of guidelines for the human resource development portion of the Broad-based Black Economic Empowerment Scorecard. The complainant submitted three invoices for work done, but was apparently paid less than the amounts claimed in the invoices. The complainant queried the apparent underpayments as well as the deduction of additional tax. The complainant was furthermore aggrieved by the fact that the Project Manager failed to approve payment of the amount claimed in a fourth invoice.

When the Department did not respond satisfactorily, the complainant lodged a complaint with the Office of the Public Protector.

After conducting a preliminary investigation into the allegations, it was established that the complainant was appointed as “a personal service company” by the Department. As a result additional tax in the form of “employees’ tax” had to be deducted from all payments made to the complainant.

The Department also explained that the complainant had been informed in writing that the information contained in the fourth invoice was insufficient to certify the payment, and a detailed invoice was requested, but never received.

FINDINGS

The Public Protector found that the Department is not withholding any payments or part-payments unreasonably from the complainant, and he was urged to submit the supporting information required to finalise payment in terms of the final invoice. The Public Protector however recorded his concern about the fact that the Department failed to communicate with the complainant about certain issues regarding the complainant's action as regulated by their contractual relationship, as well as the substitution of the complainant by another service provider.

RECOMMENDATIONS

It was recommended that the Department take urgent steps to formally communicate with the complainant to clarify the position as far as the contractual relationship was concerned.

6.4.8 DEPARTMENT OF WATER AFFAIRS AND FORESTRY

Interim report on an investigation into complaints by people and communities who were allegedly adversely affected by the construction of the Nandoni Dam in Vhembe District, Limpopo Province

This report deals with complaints lodged by individuals and communities from the following villages: Mutoti, Budeli, Mulenzhe, Tshilungoma, Dididi, Tshitomboni, Mphego and Tshaulu.

Their basic complaint is that they were negatively affected by the construction of Nandoni Dam, which stretches from Mutoti to Tshitomboni village.

The complaints are mainly on the following issues: inadequate or lack of compensation for loss of the right to access to arable land and loss of agricultural production, secure access to the river, compensation for domestic fruit trees, compensation for commercial fruit orchards or farms, poor quality or workmanship on newly built houses, lack of toilet facilities, lack of sports grounds, relocation of graves, traditional medicinal plants, poor communication, poorly constructed fences and access roads, water supply, dam safety, fraudulent claims, and other related matters.



The Office of the Public Protector conducted an investigation, which included a public hearing and an inspection in loco.

FINDINGS

- The investigation established that most of the complaints were genuine, and others were found to be baseless or very minor.
- Communication breakdown between the Department of Water Affairs and Forestry (DWAF) and the affected individuals or communities was found to be the underlying problem.
- It was also established that the main cause of the communication breakdown was the dissolution by DWAF of a community liaison structure called the Community Action Committee (the CAC).
- As communication breakdown was identified as the underlying problem, it has been recommended that dialogue between the complainants and DWAF be resumed in order to identify and address outstanding issues.

RECOMMENDATIONS

In terms of the provisions of section 182(1) (c) of the Constitution, 1996, and section 6 (4) (c) (ii) of the Public Protector Act, 1994 as amended, it was recommended that:

- A committee be formed comprising of 10 representatives from the affected villages (Budeli, Tswinga, Mphego, Tshaulu, Mutoti, Mulenzhe, Tshitomboni, Tshilungoma, Muledane and Dididi), the former Chairperson of CAC, at least 2, but not more than 5 DWAF representatives and 2 BKS members,
- The function of the above committee will be to identify and confirm all the complaints that could not be verified during the hearing and to recommend corrective measures or the implementation of the findings,
- The committee should prepare a project plan detailing how the findings in this report are to be implemented. The project plan should include time frames within which the identified gaps referred to in this report would be rectified,
- The project plan should be submitted to the Public Protector within 3 months from the date of the committee's first sitting, which is scheduled to take place during the month of November 2006,
- The OPP, through its Limpopo office, convenes and chair the committee meetings and facilitates its activities, including reporting back to the Public Protector and DWAF,
- The committee completes its work within 12 months from the date of approval of the project plan or such date/s that the Public Protector may in appropriate circumstances determine and
- DWAF effects corrective measures on those complaints that were proved to be genuine during the inspection in loco.

6.4.9 SOUTH AFRICAN NATIONAL DEFENCE FORCE

INTEGRATION INTO SANDF

Report No 71 of 2006/07

An investigation was conducted by the Office of the Public Protector, into allegations of improper conduct, due to the non-integration of the members of the Cape Corps into the South African National Defence Force. Ex-members of the Cape Corps initiated the investigation by lodging a complaint. The complainants alleged that in terms of the Interim Constitution of the Republic of South Africa, Act 2000 of 1993, all members of the Cape Corps as members of the SA Defence Force should have been integrated into the South African National Defence Force (SANDF)

FINDINGS

It was however found that the exclusion of the members of the Cape Corps from the certified personnel register of the SANDF was correct in terms of the objectives of the legislation applicable to the integration process.

6.4.10 SOUTH AFRICAN POLICE SERVICE

ALLEGED IMPROPER SERVICE DELIVERY IN THE INVESTIGATION OF AN ACCIDENT REPORTED IN 1999 AT THE HEUNINGSVLEI POLICE STATION

Report No 59 of 2006/07

The Office of the Public Protector investigated a complaint from Mr. X in connection with alleged improper service delivery by members of the South African Police Service in the investigation of an accident that occurred in 1999. The brother of the complainant was allegedly killed in the accident by a parolee, driving a tractor belonging to a member of the South African Police Services stationed at Severn in the Northern Cape.

It was alleged that:

- Members of the South African Police Service failed to diligently perform their duties in that they had allegedly not properly investigated the circumstances in which the deceased was killed.
- The SAPS never followed up on the matter after the accused was released from custody and taken to the Severn Police Station for further investigation, and no one had since the accident been prosecuted for any offence.

FINDINGS

From the investigation it was found that:

- Members at the Heuningsvlei Police Station did open a case docket for investigation after the accident and charged Mr Y for culpable homicide.
- Mr Y was, whilst awaiting trial at Heuningsvlei Police Station, transferred to the Severn Police Station to be charged for the use of a motor vehicle without the owners consent.
- The accused escaped from lawful custody from the Severn Police Station before he could be prosecuted for any of the alleged offences in a court of law.
- The contention that members of the SAPS did not perform their duties diligently and that they had allegedly not properly investigated the circumstances in which the deceased was killed, and that they had not followed up on the matter after the accused was released from custody at the Heuningsvlei Police Station, is unfounded.

RECOMMENDATIONS

The Public Protector recommended that:

- The Area Commissioner of the South African Police Service, Molopo, take urgent steps to ensure that:
- Mr Y is re-arrested and that all the charges against him are joined in terms of the provisions of the Criminal Procedure Act, 1977,
- Mr. X is informed of the status of the investigation in connection with the death of his brother and as to why the suspect had not been prosecuted;
- The investigation of the case of Culpable Homicide is properly concluded. Once Mr Y is arrested, the possibility of changing the charge to Murder should be discussed with the Senior Public Prosecutor involved, and;
- Mr. X is regularly informed of the developments regarding the matter.

6.4.11 SOUTH AFRICAN REVENUE SERVICE: CUSTOMS

CONDUCT BY CUSTOMS OFFICIALS

Report No 14 of 2006/07

The Public Protector received a complaint by a company against the South African Revenue Service. The company alleged that it had been the target of a witch-hunt and unfair conduct by the Customs Division of the South African Revenue Service (SARS). The complaint was that SARS classified certain goods imported by the company under incorrect tariff headings, and that the inspection conducted by SARS (Customs in Durban) on the said company, as well as the subsequent penalty imposed by SARS for the underpayment of tariff duty, were improper.

The company was involved in the business of importing steel and materials made of cast and wrought iron. An inspection of goods imported by the company was conducted by Customs officials in Durban and a finding was made to the effect that the company had classified some of its imported goods under incorrect tariff headings and thus avoided to pay customs duty on such goods. As a result, the company was fined a total amount of over R3 000 000 as underpayment of custom duty and penalties.

A preliminary investigation was conducted in order to determine whether or not to pursue an investigation into the complaint.

FINDINGS

It was found that:

- Customs officials had all the right to inspect and impose penalties where they had reason to believe that complainants had contravened the provisions of the Act.
- Allegations that the inspection conducted by Customs officials and the outcome was merely a witch-hunt had no basis. Even if complainants' classification was correct, they did not present any evidence that SARS was acting in a mala fide way. The fact that complainants differed from the view of SARS on the classification issue in itself did not support mala fides or improper conduct on the part of SARS. It was, after all, the duty of Customs to do inspections based on their interpretation of the tariff headings which interpretation might be challenged through the available legal procedures.
- In terms of section 91 of the Act, complainant had an option of lodging an appeal to the Commissioner against the findings of Customs officials but chose not to exercise this option until it prescribed.
- The merits of the issues raised by complainant were debatable. A court of law was the best forum that may pronounce on the correct classification of the goods in question.
- Complainant should approach a court of law for appropriate recourse.

6.4.12 NATIONAL TREASURY

ALLEGED IMPROPER REFUSAL TO IMPLEMENT CERTAIN PROVISIONS OF THE SPECIAL PENSIONS AMENDMENT ACT, 2005

Report No 19 of 2006/07

The Office of the Public Protector investigated allegations that the National Treasury has refused to effect increases of special pensions to beneficiaries as mandated by the Special Pensions Amendment Act 2005 (Act 27 of 2005).

In terms of the amendment to Schedule 3 of the Special Pensions Act, 1996 (Act 69 of 1996), beneficiaries who were at least 50 years of age [but younger than 65] on the date of promulgation were entitled until death to the following pension benefits: R12 000 plus R1 200 for each year of service exceeding 5 years with the maximum amount of R42 000. Where years of service exceed 25 years, a fixed amount of R84 000 became payable. The amendment to the benefits in Schedule 3 was promulgated in the Government Gazette on the 16 January 2006.

In terms of the above-described criterion, the complainant became entitled to an increased benefit of R84 000 per annum by reason of his age and years of service.

Having engaged the National Treasury in regard to the complaint, the Office was informed that an error had crept into the legislation during the administrative processing of the Act. Consequently, National Treasury asserted, the words complained of do not reflect the intention of the legislature. It was further stated that the error had been brought to the attention of Parliament and that National Treasury was in the process of preparing draft legislation to correct the error and that same would soon be presented to Cabinet for approval before it is introduced to Parliament within the next few months. It was not explained how long this process might take.

FINDINGS

The investigation found the following:



- On the face of it, the complainant appeared to be justified in feeling aggrieved when the National Treasury refused to effect the increase as apparently mandated by the current (i.e. amended) legislation.
- The complaint appears to affect a substantial number of special pensions beneficiaries.
- The National Treasury appears to have been aware of the error for quite some time but that, short of drafting a proposed amendment, nothing further appears to have been done, for example, applying to the High Court to suspend the relevant portion/s of the offending legislation.
- The National Treasury appeared not to have initiated a process of informing all the affected parties of the error individually apart from holding provincial road shows.
- It could not be established how the so-called error crept into the legislation during the administrative processing as same was not explained.
- Inasmuch as there was no substantiating evidence to support the contention that the error appears to have come into the legislation during administrative processing there was, similarly, no evidence to contrary.

The following key finding was made:

- As the legislation currently stands, the grievance by the complainant appears well founded.

RECOMMENDATIONS

The Public Protector recommended that:

- The offending legislation be urgently amended to accurately reflect the alleged intention of the legislature.
- National Treasury urgently consider the advisability of applying to the High Court for an order declaring the alleged error to be immediately suspended pending the publication of the correct amendment.
- National Treasury inform the recipients of special pensions affected by the said relevant provisions of the error made and the steps that are being taken to rectify the offending legislation.

6.5 Provincial Departments

6.5.1 LIMPOPO: DEPARTMENT OF EDUCATION

UNDUE DELAY

Report No 72 of 2006/07

Complainant was employed by the Department of Education: Limpopo Province (the Department) as a teacher.

The complainant alleged that she had been experiencing serious financial difficulties due to the fact that the Department had not paid or unduly delayed to pay her monthly salary. She alleged that from July 1999 until September 2000 she had not received any salary due to her. However, in October 2000 complainant received six cheques, each to the value of her monthly salary. Complainant further alleged that after payment of the six cheques the Department ceased to pay her salary again until July 2002 when she received two cheques, each to the value of her monthly salary. Complainant then engaged the services of an attorney and in September 2002 three salary cheques were handed over to her attorney. Thereafter, however, she did not receive any payment until November 2003 when she received six cheques. From the end of November 2003 complainant's salary was paid into her bank account on a regular basis.

The Department denied the allegations that they had failed or unduly delayed in paying complainant's salary on a monthly basis. They said that complainant's cheques were issued on a monthly basis but in most cases the cheques could not be handed over to her because she often refused to sign acknowledgement of receipt.

FINDINGS

The investigation revealed that complainant indeed did not receive her salary on certain occasions and that she received her salary payments late for several months during the period between July 1999 and October 2003. This was however not due to any improper conduct on the part of the Department, but to complainant's unreasonable attitude and refusal to sign for her salary cheques. The investigation further revealed that complainant provided the Department with her banking details in November 2003 and from then on her salary was regularly paid into her banking account. It was therefore found that the allegation that the Department failed or delayed to pay complainant's monthly salary was unsubstantiated.

6.5.2 FREE STATE PROVINCIAL GOVERNMENT

DEPARTMENT OF PREMIER

Report no 68 of 2006/07

Report on an investigation of an allegation of impropriety relating to the termination of the services of a former employee of the Free State Provincial Government

The Office of the Public Protector investigated a complaint lodged by the Public Servants Association in connection with the alleged failure of the Free State Provincial Department of the Premier to terminate the services of an employee who had allegedly been absent from his duties without leave for a substantial period.

During the investigation it transpired that the services of the employee concerned had been terminated by mutual agreement and that he had been paid an amount of R1.3 million as a severance package.

The information obtained during the investigation revealed that the employee had lodged a grievance with the Public Service Commission (PSC) against his supervisor. The PSC recommended that he be transferred to another department. The employee could however not be permanently accommodated in the Department to which he was transferred. Attempts to transfer him to another department failed. After numerous attempts over a period of more than 2 years to resolve the difficulties with regard to the employee's position and as he was threatening legal action against the Free State Provincial Government, the former Premier decided to terminate his services by mutual agreement and that he should be paid a severance package.

FINDINGS

The key finding made from the investigation was that the unfortunate manner in which the services of the employee were terminated and the expenditure involved could have been avoided had his grievance against his supervisor been attended to properly and timeously.

RECOMMENDATIONS

The Public Protector recommended that:

The Director General, in consultation with the Premier, takes steps to ensure that managers in the Department of the Premier:

- Are properly acquainted with the prescribed grievance procedures; and
- Are properly trained in conflict resolution mechanisms to enable them to attend to interpersonal conflict in a professional manner.

6.5.3 PREMIER OF THE FREE STATE

REPORT ON AN INVESTIGATION INTO ALLEGATIONS OF NON-COMPLIANCE BY THE PREMIER OF THE FREE STATE PROVINCIAL GOVERNMENT WITH THE PROVISIONS OF THE FREE STATE YOUTH COMMISSION ACT, 1996

Report no 66 of 2006/07

The Office of the Public Protector investigated complaints by Members of the Free State Provincial Legislature in connection with the appointment by the Premier of a “caretaker” Commissioner for and new members of the Free State Youth Commission (Youth Commission). It was alleged that these appointments failed to comply with the provisions of the Free State Youth Commission Act, 1996 (the Youth Commission Act) and that it was therefore unlawful and improper.

From the investigation it transpired that the term of office of the former members of the Youth Commission expired on 31 May 2004. The former Premier left it in the hands of her successor, who took office in April 2004, to appoint the new members of the Youth Commission.

On 13 May 2004, the Premier informed the former Chairperson of the Youth Commission that his term of office was extended as she had decided to appoint him as a “caretaker” for the Commission until the new members had been appointed.

The Department of the Premier subsequently called for nomination of candidates to be appointed as Commissioners. On receipt of the nominations, the Premier forwarded it to the Speaker with the request that a committee of the Legislature should advise her on the appointments to be made, in terms of section 3 of the Youth Commission Act. The Speaker forwarded the nominations to the Chairperson of the Legislature’s Committee on Finance, Office of the Premier and the Legislature (the Committee) on 29 July 2004, requesting the Committee to consider it in order to advise the Premier.

After having considered the request of the Speaker, the Committee resolved that the Premier followed an incorrect procedure as nominations had to be called for by the Committee. Advertisements calling for nominations to be submitted to the Committee were accordingly published early in September 2004. The Premier objected to the advertisements placed by the Committee, but a legal opinion obtained by the Speaker indicated that the decision of the Committee in this regard was correct.

Despite several requests by the Premier for the advice of the Committee in order to enable her to appoint the new Commissioners, the Committee failed to finalise its deliberations regarding the matter. Early in August 2005, the Department of the Premier published a notice stating that the Premier intended appointing certain individuals as members of the Youth Commission. The Chairperson of the Committee lodged an objection with the Speaker to which the Premier responded by indicating that as the Committee had failed to advise her, as requested in July 2004, it clearly had no advice to offer. The Premier appointed the new members of the Youth Commission with effect from 15 August 2005.

FINDINGS

From the investigation it was mainly found that:

- The appointment by the Premier of a “caretaker Commissioner” was not provided for by Youth Commission Act.
- The advertisements by the Department of the Premier calling for nominations did not comply with the provisions of the Youth Commission Act, as it is the function of the Committee to invite nominations. The request of the Speaker addressed to the Committee to advise the Premier on the said nominations was therefore inappropriate.
- The failure of the Committee to communicate its concerns relating to the conduct of the Premier resulted in an inter-governmental dispute and impasse, which both parties were constitutionally obliged to resolve.
- As no minutes were kept of the deliberations of the Committee, the details of its discussions and the reasons for its decisions and actions could not be verified. No indication could be found that the nominations were ever considered for the purpose of advising the Premier.

- The failing of the Committee to record the proceedings of its meetings militates against the principles of good governance, i.e. openness, transparency and accountability. Records are not only kept for mere posterity, but remain a source of future reference and public scrutiny.
- It is most disturbing that the Committee has failed to report to the Speaker on the request of the Premier to be advised that was referred to it more than 20 months ago.
- It is furthermore disconcerting that the Speaker apparently did very little to intervene and to expedite a decision and report of the Committee in connection with the matter. Once the matter was referred to the Committee, the Speaker apparently made no effort to follow up on the progress made in respect of the request of the Premier.
- Section 3 of the Youth Commission Act is peremptory in respect of the requirement that the Premier could only have made the appointment of new members of the Commission after having been advised accordingly by the Committee. There is no indication in the Act or the Constitution that the Premier could exercise a discretion in this regard and make appointments on the basis of an assumption of what the advice of the Committee may or may not have been.
- The only reason why the appointment of new members for the Youth Commission was delayed from July 2004 to August 2005 was the lack of cooperation between the Speaker, the Committee and the Premier.
- The failure by the Committee to report to the Speaker on their concerns relating to the procedure adopted by the Premier in relation to the appointments, as it was compelled to do, prevented the matter from being raised, debated and rectified by the Legislature, to which the Premier is accountable.
- The failure on the part of the Speaker to effectively intervene in the matter after having been informed by the Premier of the failure by the Committee to respond to her request for advice, further complicated the matter.
- Despite having been afforded the powers to investigate and report on the irregular procedure followed by the Premier, the Committee failed to do so. The Chairperson apparently chose to raise the issues bothering the Committee only at a party political level, which was improper.

The key findings made from the investigation are that:

- The failure of the Speaker and the Chairperson of the Committee to cooperate with the Premier in mutual trust and good faith in respect of her request for advice in relation to the appointment of new members of the Youth Commission was inconsistent with the Constitution. The delay caused by lack of cooperation also violated the requirement of diligence in respect of the performance of constitutional obligations;
- The decisions of the Premier to appoint a “caretaker Commissioner” for and the new members of the Youth Commission were invalid and therefore improper; and
- The failure of the Committee to keep minutes of its deliberations in respect of the advice requested by the Premier relating to the appointment of new members of the Youth Commission was improper and amounted to maladministration.

RECOMMENDATIONS

The Public Protector recommended that:

- The Premier urgently obtains legal advice regarding the appropriate legal remedy to rectify the invalidity of her decision to appoint the new members of the Youth Commission in the absence of the advice of the Committee;
- The Committee on Ethics and Members’ Interests of the Free State Provincial Legislature conduct an investigation in terms of the Standing Rules and Orders of the Legislature to determine whether the conduct of the Premier,

Speaker and Chairperson of the Committee referred to in this report, constituted a breach of the Code of Conduct and Ethics for Members of the Free State Provincial Legislature;

- The Head of the Free State Provincial Treasury directs, in terms of Regulation 4.1.3 of the Treasury Regulations issued in terms of the Public Finance Management Act, 1999, that an official other than an employee of the Department of the Premier, conduct an investigation into the appropriateness of the expenditure incurred by the said Department in respect of the appointment of the “caretaker Commissioner” for and the new members of the Youth Commission; and
- The Speaker of the Free State Provincial Legislature take urgent steps to ensure that the proceedings at all meetings of the Committee are properly recorded.

6.5.4 GAUTENG: DEPARTMENT OF HEALTH

PSYCHOLOGY INTERN CERTIFICATION

Report No 18 of 2006/7

The office of the Public Protector investigated a complaint by a contract psychology intern at Tara Hospital. The hospital is under the jurisdiction of the Department of Health.

The complainant’s allegations were as follows:

- She was contracted with Tara Hospital for her psychology internship from January 2005 – December 2005;
- She complied with all requirements to warrant her to be issued with an intern certificate;
- An official at Tara Hospital delayed the issuing of her intern certificate because of incompetence, dereliction of duty, racism and more.

The Public Protector’s observation was that Tara Hospital and the Professional Board for Psychology properly followed the guidelines and policies governing the training and placement of intern psychologists.



FINDINGS

It was found that the allegation that there had been an undue delay to issue the complainant with an intern psychology certificate was without a basis. The perceived delay was as a result of the complainant not having completed the educational component of her internship. The complaint was therefore not well founded.

6.5.5 KWAZULU/NATAL: DEPARTMENT OF LOCAL GOVERNMENT AND TRADITIONAL AFFAIRS

UNDUE DELAY TO SUBMIT PENSION WITHDRAWAL DOCUMENTS

Report No 75 of 2006/07

The Office of the Public Protector conducted an investigation into allegations of undue delay by the Department of Local Government and Tradition Affairs, Kwazulu Natal Province to submit pension withdrawal documents to the Government Employee Pension Fund within reasonable time. Attorneys, representing the complainant, informed the Public Protector that following the death of her husband, an employee of the Department unduly delayed in processing and submitting his pension withdrawal documents to Government Employee Pension Fund and was therefore liable for payment of interest.

FINDINGS

The Public Protector found that:

- The Department delayed in submitting the pension withdrawal documents to GEPF; and

- The Department's failure to submit the deceased's documents to GEPF timeously caused the delay to process payment of the pension benefits.

RECOMMENDATION

The Public Protector recommended to the Department to consider an ex-gratia payment to the complainant.

6.5.6 LIMPOPO: DEPARTMENT OF LOCAL GOVERNMENT AND HOUSING

APPLICATION FOR AN RDP HOUSING SUBSIDY

Report No 16 of 2006/07

The Public Protector investigated a complaint by attorneys, acting on behalf of the complainant, in connection with her application for a Reconstruction and Development Programme (RDP) housing subsidy.

The complainant applied for a housing subsidy in 1997. The application was approved by the Department of Local Government and Housing on the 18th July 2000 at an amount of R15 000. This amount was transferred into the account of another firm of attorneys who were to deal with arrangements regarding the building of the house. During September 2000, complainant was informed by the latter attorneys that the Department had approved her application for a housing subsidy and an amount of R15 000 had been transferred into their account, for the building of her house. They advised her to contact them in order to discuss the arrangements regarding the building of the house.

Complainant informed these attorneys that she had already built a house, after her employer borrowed her some money. She further indicated that she was given a verbal go-ahead by officials in the Department to utilise her own funds in building the house and that she would be refunded upon approval of her application.

The Department failed or refused to refund complainant or her employer as allegedly agreed.

FINDINGS

The Office of the Public Protector investigated the matter and made the following findings:

- That complainant's house was built before her application for a housing subsidy was approved.
- That the relevant conveyancers returned the amount of R15 000 to the Department, after they were informed that complainant's house was already built.
- That no agreement, verbal or written, between the complainant and the Department that her employer could lend her money that would later be reimbursed by the Department could be established.
- That it was not the policy of the Department to allow recipients of grants to utilise their own money and later refund them.
- That the Department declined to refund complainant or her employer, and instead offered to reinstate her grant at the amount of R32 000 and built her a house. The offer was rejected by her employer's attorneys.
- That in the absence of a valid agreement, the offer by the Department is the most reasonable solution to the problem.

6.5.7 LIMPOPO PROVINCE: PREMIER'S OFFICE

ALLEGATIONS OF IRREGULAR APPOINTMENTS

Report No 11 of 2006/07

The Public Protector investigated an anonymous complaint relating to the appointments of Deputy Managers, Managers, Senior Managers and General Managers in the Premier's Office, Limpopo Province during January 2004. It was alleged that eleven posts were advertised at the Premier's Office, but it was only a formality because some individuals were already earmarked for the said positions. A list of posts as well as the names of the allegedly earmarked individuals was provided to the Office of the Public Protector.

Seven of the eleven posts were filled, and the allegedly earmarked individuals were appointed as predicted by the complainant.

FINDINGS

The Office of the Public Protector investigated the matter and made the following findings:

- The Premier's Office did not abide by the advertised requirements when making some of the appointments for the above-mentioned advertised posts.
- Failure to adhere to the advertised requirements for the posts prejudiced other candidates who met all requirements in terms of the advertisement; and those who did not apply for the post under the impression that they did not qualify as per the advertisement, as they were not informed of alternative competencies that would be taken into consideration, which did not appear in the advertisement.
- The Premier's Office failed to implement recommendations by its own Risk Management section when appointing incumbents for the advertised posts.
- The failure by the Premier's Office to follow the right process and procedure relating to appointments and ignoring the advice of its own Risk Management Unit created the impression that there was nepotism and favouritism in the Department, and that public funds were wasted by advertising for posts already earmarked for certain individuals.

RECOMMENDATIONS

Consequent to the above findings, the Office of the Public Protector made the following recommendations:

- That the Office of the Premier adheres to the requirements set out in the advertisements when short-listing and appointing candidates.
- That in order to properly regulate the recruitment process, and to operate in a manner that is considered fair and transparent, the Office of the Premier implements the recommendations made by its Risk Management component as appears in this report.

6.5.8 NORTHERN CAPE DEPARTMENT OF SOCIAL SERVICES

ALLEGED UNFAIR AND IMPROPER DEDUCTIONS FROM A SOCIAL GRANT

Report No 9 of 2006/07

The Office of the Public Protector investigated a complaint regarding alleged unfair and improper deductions from a social grant by the Calvinia Regional Office of the Department of Social Services and Population Development: Northern Cape. The complainant alleged that, after her disability grant lapsed in June 2004, she subsequently re-applied. Following this she received a letter that her application was approved and that an amount of R2960-00 was due to her. After she received the said amount at a Cash Paymaster System (CPS) pay-point, an official of the Department informed her that she had been overpaid in the amount of R250-00. She was requested to sign a form to indicate her consent to the payment of the debt. When she subsequently approached the Department to enquire about the alleged debt, she was informed that the money recovered from her might be refunded, which did not materialise.

FINDINGS

The investigation found the following:

- In relation to the issue of authority to recover the overpayments, section 17(2) of the Social Assistance Act, 2004 provides that the South African Social Security Agency (SASSA) must recover the amounts to which a person was not entitled. However, in terms of this provision, such recovery must be in accordance with the Public Finance Management Act, 1999 (PFMA), which affords the Accounting Officer of a Department the power to collect any money due. This power may be delegated in writing to an official in such Department. This issue was raised with the Programme Manager of the Department in Calvinia, who merely responded that he acted in terms of section 17(1) of the Social Assistance Act. It is however noteworthy that these provisions were not applicable at the time of the recovery as the Social Assistance Act, 2004 commenced in April 2006. The recovery seems rather to have been conducted in terms of 9(3) of the Social Assistance Act, 1992, which provides that the Director-General may in his/her discretion recover such amount from such person by way of legal proceedings or in such other manner as may be determined by the Director-General.

may deem expedient. In this regard section 33 of the Constitution read in conjunction with section 3(1), (2) (a) and (2) (b) of the Promotion of Administrative Justice Act, 2000 requires an administrator to promote administrative action that is procedurally fair. This entails that an administrator must adequately inform affected beneficiaries about the nature and purpose of the intended administrative action and afford them an opportunity to make representations. The investigation revealed that such steps had not been taken and that these requirements were not met.

- The decision to recover overpayments only applied to beneficiaries who receive their grant payments from the contracted CPS and not to beneficiaries of other payment methods such as the Post Office or Banking institutions. The Department failed to implement the recovery procedure effectively as the recovery was only effected in February 2005 and there were no subsequent recoveries. This indicated that the recovery procedure was not properly formulated to effectively recover the total amounts owed to the Department. In this regard it appears that these actions contravene the provisions of section 9(3) of the Constitution, which promotes equal treatment as well as section 195(1) of the Constitution, in terms of which public administration must be governed by the principle that services must be provided impartially, fairly, equitably and without bias. The recovery procedure was found to be improper and resulted in prejudice to the beneficiaries concerned.
- The payments made by the complainant and others were deposited into the bank account of the Department.
- It is deducible from the manner in which the process of the recovery was conducted that there was no organised internal control system in that there was no accompanying report on the manner in which the money from the social security section to the finance section was obtained and further that the office of the HOD was not aware about the effected recovery carried out by the Calvinia office. This finding is substantiated by the observation that the Calvinia office failed to utilise the functions (4030 and 4031) as incorporated in the Socpen system for capturing and verifying deductions from a social grant.
- Consequent to the observation of the Batho Pele Principles, it was found that, despite having received the complaint from the beneficiary, the Department failed to afford a full explanation and an effective remedy to the complainant.

RECOMMENDATIONS

It was recommended that:

- Since the recovery process was improper and resulted in prejudice, the Department should take steps to ensure equal treatment of all affected beneficiaries.
- Where overpayments have occurred, the Department / SASSA should ensure compliance with applicable legislation and implement a procedure manual in this regard to enable uniform procedures as soon as possible. These agencies should, in addition to a procedure manual, consider formulating a policy that will adequately deal with, amongst others, the overpayment recovery process.
- The Department / SASSA cease to effect any overpayment recoveries on social grants at the pay-points, but rather, after having complied with internal procedures, utilise the electronic mechanisms such as the SOCPEN system created to carry out such functions. This will in turn ensure that all future deductions from social grants are not only limited to those who receive their grants through the CPS pay-points and are accordingly reflected on the SOCPEN system.
- The system administrators be provided with adequate training on the available functions and the usage of the SOCPEN system pertaining to the overpayment recovery processes.
- The Department / SASSA ensure that measures of informing the overpaid beneficiaries about the overpayment and the intended recovery are adequately and timeously applied. The Department should consider encouraging negotiations with such beneficiaries on repayment terms.
- The HOD clearly communicate the working arrangement reached between the OPP and the Department to the Calvinia regional office in view of the current lack of cooperation in relation to simple matters.

The above-mentioned recommendations were implemented.

6.6 Local Government

6.6.1 MUNICIPALITY: EMAKHAZENI

COMPLIANCE WITH TOWN PLANNING SCHEME

Report No 63 of 2006/07

The Office of the Public Protector investigated a complaint against the Emakhazeni Local Municipality who allegedly failed to take steps against a Non Governmental Organisation, Epilepsy South Africa (ESA) for not complying with the provisions of the Dullstroom Town Planning Scheme, 1992.

According to the complainant, ESA allowed a business to operate a woodwork workshop from its premises, which was causing a disturbance. From the Municipality's response to the complainant, it appeared that the Municipality was informed that the operations of the workshop formed part of the rehabilitation of ESA residents and that it was therefore not conducted in breach of the Town Planning Scheme.

The complainant contested the information submitted to the Municipality. A site inspection by the Department of Labour and the Office of the Public Protector revealed that the workshop formed part of a private enterprise that employed a limited number of ESA's patients on a full time basis. No indication of rehabilitation or that the activities of the workshop supplement the operations of ESA could be found. The Department of Labour identified a number of violations of labour legislation at the workshop.

FINDINGS

The Public Protector found that the response of the Municipality to the complaint of non-compliance by ESA with the Town Planning Scheme was not supported by the factual position at the workshop concerned.

RECOMMENDATION

It was recommended that:

- The Municipality urgently conduct a proper investigation, in terms of the Ordinance and the Town Planning Scheme, into the allegations that ESA was using the land occupied by it or causing it to be used for a purpose that was in conflict with the Town Planning Scheme and take the appropriate steps to address any violations found;
- The Department of Labour take urgent steps to ensure that the activities at the workshop comply with the applicable labour legislation and prescripts.

6.6.2 MUNICIPALITY: TSANTSABANE AND MIER

REPORT ON AN INVESTIGATION INTO ALLEGATIONS OF THE MISAPPROPRIATION OF PUBLIC FUNDS BY THE TSANTSABANE AND MIER MUNICIPALITIES IN THE NORTHERN CAPE PROVINCE

Report no 65 of 2006/07

The Office of the Public Protector investigated allegations of the misappropriation of public funds by the Tsantsabane and Mier Municipalities that related to donations made to the African National Congress (ANC).

From the investigation it appeared that the Municipalities made payments of R20 000 and R10 000 respectively into the bank account of the ANC on 13 January 2006. The payments were made in response to an invitation issued by the ANC to its members to attend a fundraising banquet on 13 January 2006. The ANC did not accept the donations as it was made by municipalities, and the said amounts were returned to the Municipalities on 19 January 2006.

FINDINGS

The Public Protector found that:

- The payments of R20 000 and R10 000 made to the ANC by the Tsantsabane and Mier Municipalities respectively, amounted to fruitless and wasteful expenditure;

- By authorising the said payments, the Chief Financial Officers of the Municipalities committed acts of financial misconduct and breached the Code of Conduct for Municipal Staff Members;
- The Mayors of the Municipalities breached the Code of Conduct for Councillors and acted in a manner inconsistent with the Municipal Finance Management Act when they requested authorisation of the payments to the ANC;
- The payment of funds of the Municipalities concerned to a political party was inconsistent with the provisions of the Constitution relating to the objects of local government, the principles and values governing public administration and the diligent performance of constitutional obligations. It was therefore unlawful and invalid.

RECOMMENDATION

It was recommended that:

- The Municipal Councils of the Tsantsabane and Mier Municipalities respectively appoint a special committee in terms of item 14 of the Code of Conduct for Councillors to:
 - Investigate and make findings on the breach of the Code by the Mayors of the Municipalities referred to in this report; and
 - Make appropriate recommendations to the respective Councils.
- Attend to the financial misconduct of the Chief Financial Officers referred to in this report, in terms of the section 171(4) of the Municipal Finance Management Act, and consider whether disciplinary proceedings should be instituted against them;
- Deal with the breach of the Code of Conduct for Municipal Staff Members by the Chief Financial Officers, referred to in this report, in terms of section 67(1)(h) of the Municipal Systems Act; and
- The Municipal Managers of the Tsantsabane and Mier Municipalities take urgent steps to ensure that the Accounting Officer, the Chief Financial Officer, all senior managers and every official exercising financial management responsibilities, of the respective Municipalities, are properly trained, advised and provided with guidance in respect of the interpretation and implementation of the provisions of the Municipal Finance Management Act.

6.6.3 MUNICIPALITY: LEKWA-TEEMANE

INVESTIGATION INTO AN ALLEGATION OF THE POLLUTION OF THE VAAL RIVER BY THE LEKWA-TEEMANE LOCAL MUNICIPALITY IN THE NORTH WEST PROVINCE

Report No 4 of 2007/2008

The Office of the Public Protector investigated an allegation made in a newspaper article in September 2006, suggesting that the drinking water of the residents of Christiana in the North West Province was polluted by the pumping of sewerage overflow into the Vaal River by the Lekwa-Teemane Local Municipality.

The investigation was conducted at the own initiative of the Public Protector and in terms of the provisions of the Public Protector Act, 1994.

FINDINGS

It was found that:

- Water for consumption by the residents of Christiana is extracted from the Vaal River approximately 5 kilometres upstream from where the sewerage works are situated;
- The suggestion that the drinking water of the residents of Christiana is polluted by a sewerage overflow pumped into the river by the Municipality, is unfounded;

- The inadequacy of the current sewerage works to cope with the demand and the associated risk of pollution of the Vaal River are being properly addressed by the construction of the new sewerage works which will be completed in early 2008; and
- The implementation of temporary oxidation ponds as part of the construction of the new works would alleviate the current pressures on the sewerage system and significantly reduce the risk of pollution.

6.7 Other Organs Of State

6.7.1 SOUTH AFRICAN HUMAN RIGHTS COMMISSION

INVESTIGATION PROCEDURES

Report No 34 of 2006/07

The Office of the Public Protector conducted an investigation into allegations that the S A Human Rights Commission (HRC) failed to properly investigate a complaint received from two complainants.

FINDINGS

Having considered the information obtained during the investigation the following key findings were made:

- If regard be had to the provision of article 6(b) of the Regulations to the Human Rights Commission Act, 1994, whereby the Head of the Legal Department or staff member shall determine the procedure to be adopted by the Commission in dealing with the complaint, the opinion was held that the HRC acted within their powers by deciding not to issue a subpoena to obtain additional information from a Journal.
- The Head of the Legal Department acted in accordance with the Regulations when he submitted a Memorandum containing the findings of the investigation to the Chairperson and the complainants.
- The above-mentioned powers of the HRC to determine the procedure to be followed in dealing with the complaint, as well as the investigation process should have been explained to the complainants at the time, to prevent any confusion as regards what constituted a determination on the matter, and the subsequent opportunity to appeal against that decision.
- The complainants were prejudiced as a result of the delay in bringing forth the determination (Memorandum) by the Head of the Legal Department and since they clearly outlined their problems with the Legal Department in their letter dated 17 April 2002, no need existed for them to lodge another "appeal" against the Head of the Legal Department's determination.
- The Chairperson was in a position to make a determination on the matter based on the contents of the complainants' letter dated 17 April 2002 and the outcome of the appeal would determine whether the provisions of the Access to Information Act, 2000 needed to be utilised by the complainants to obtain any additional information that they require.

RECOMMENDATION

The Public Protector recommended that the HRC should:

- Ensure that their powers to conduct an investigation as well as the investigation process to be followed were explained timeously to complainants to prevent a recurrence of the circumstances referred to in this report; and
- Regard the correspondence received from the complainants as their appeal in terms of article 12(a) of the Regulations to the Human Rights Commission Act, 1994.

7. SYSTEMIC AND OWN INITIATIVE INVESTIGATIONS

7.1 Social grants investigations, Eastern Cape

In order to address the identified delays in accessing and processing the applications for social welfare grants in the Eastern Cape, an investigation was undertaken and completed during 2006/07. The report on the investigation will be issued during the 2007/08 financial year.

7.2 RDP housing investigation, Kouga Municipality

A project plan was approved during the 2006/07 financial year to conduct a systemic investigation regarding the delays in provisioning of low cost RDP housing by the Kouga Municipality in the Eastern Cape. The investigation has been finalised and a draft report was submitted for comment to the Special Investigation Unit of the National Department of Housing. After these comments have been received, a final report will be issued during the 2007/08 financial year.

7.3 Investigation into service delivery – provision of identity document and access to a social grant

The Office of the Public Protector initiated an investigation, following a newspaper article published on 5 February 2007. The plight of a person in the Northern Cape who suffered from tuberculosis, was highlighted. This person could not access a social grant because he did not have an identity document. Pursuant to the Office's intervention, the said individual received his identity document on 6 March 2007. His disability grant application was also processed and the first payment was effected from April 2007 (prior to this social relief in the form of food parcels was provided to him).

7.4 South African Police Service - Firearms Licensing

Report No 10 of 2006/7

This report deals with an investigation conducted by the Office of the Public Protector into the implementation of the Firearms Control Act, 2000 (Act 60 of 2000). The Firearms Control Act, and the Firearms Control Regulations and amendments, had caused much discontent amongst legal gun owners. It was decided to conduct an investigation on own initiative, on the implementation of the Act, in terms of the provisions of section 7(1) (a) of the Public Protector Act, 1994.

The office of the Public Protector received numerous complaints from applicants dissatisfied with the process to obtain firearm licences and the alleged undue delay in the issuing of the licences. The bulk of complaints were about the undue delay in the finalisation of the appeals submitted to the Appeal Board. Some of the complaints related to applicants who were dissatisfied with advice received from the SA Police Service on the procedure to obtain a firearm licence.

The investigation comprised:

- ◆ An evaluation of information obtained from complaints received.
- ◆ Consideration of a number of media articles on the subject.
- ◆ An evaluation of information obtained from the Central Firearm Register.
- ◆ An evaluation of the legislation pertaining to firearms licences.
- ◆ Consideration of the legislative framework pertaining to service delivery in the public service.

FINDINGS


The following conclusions were drawn from the investigation:

- ◆ The purposes of the Firearms Control Act, 2000 were to make ownership of firearms more responsible and to make the process of owning a firearm clear to the user and the police. Responsibility of firearm owners was spelt out clearly. The Act aimed to make the use and storage of firearms safe.
- ◆ The success of the Act did rely on how it was implemented and applied. It was important that the process was continually monitored and, where hitches were identified, corrected either through the amendment of the Act or training of the officers who implemented the Act.
- ◆ Sometimes the public service was slow to adapt to unanticipated issues, did not communicate effectively with the public or failed to recognise the administrative burden that government requirements could impose on people.
- ◆ Public service should try to reduce or eliminate administrative burdens when planning and delivering services.
- ◆ All state institutions and servants, including the SA Police Service were constitutionally obliged to perform in an effective and efficient manner. All state institutions and servants were obliged to properly implement and adhere to the principles contained in the Batho Pele White Paper.
- ◆ Legislation and policies that prescribe and regulate service delivery in the public administration were adequate. Proper implementation and constant control over adherence to the legislation and policies should address problems of undue delays.
- ◆ In order to give practical effect to the relevant legislation and policies relating to service delivery, all public servants were required to comply with the Batho Pele Principles and the Code of Conduct for Public Servants.
- ◆ Service standards defined minimum levels of delivery that should be achieved.
- ◆ The Central Firearms Register had taken measures and continually addressed problem areas to prevent undue delays.

RECOMMENDATIONS

The Public Protector recommended that:

- ◆ An effective complaint handling mechanism should be introduced at the Central Firearms Register to identify problem areas immediately. This would enable the public to seek assistance at an early stage of the application process. An internal complaints process was an informal and flexible process and would also provide an early opportunity for the Central Firearm Register to learn of problems that were arising in the administration process.
- ◆ The Central Firearms Register should publish service standards in respect of timeframes to issue competency certificates and firearm licenses. This would foster good public administration that was acceptable, lawful, fair, transparent and responsive.
- ◆ The Central Firearms Register should ensure that measures and monitoring processes were introduced to address the causes of problems and to prevent a recurrence where problems existed. Good practices would then be identified.
- ◆ The Central Firearms Register should ensure proper compliance by employees with the provisions of the Batho Pele Principles and the Code of Conduct for Public Servants.
- ◆ Training of the personnel at the Central Firearms Registry should be continuous. Specific training on the purpose and aim of the Promotion of Administrative Justice Act (PAJA) and its application should be implemented.

- 
- ◆ The Central Firearm Register should ensure that services were delivered justly in terms of the PAJA. Reasons for decisions should be properly communicated. Services should be provided impartially, fairly, equitably and without bias. The PAJA ensured procedurally fair administrative actions, gave the right to request reasons for actions and the right to have actions reviewed by a court. Procedures followed should be clearly stated and affected people given notice of their rights to review or appeal decisions. The public had the right to be informed of reasons for decisions.
 - ◆ A comprehensive communication campaign by the Central Firearms Register on the requirements to obtain a firearm license should be launched to inform the public. It should be remembered that a person's entitlement to a firearm license depended on whether he/she could satisfy the eligibility criteria set out in the legislation.

8. LETTERS OF APPRECIATION

P. O. Box 7927
Sunnyridge
NEWCASTLE
2940

01 June 2006

The Public Protector
C/O Adv. Montswedi-Shabalala
Private Bag X67
PRETORIA
0001

Dear Madam

RE: COMPLAINT ABOUT AN ERROR MADE BY HOME AFFAIRS ON A DRIVER'S LICENCE

The above matter refers.

I write to thank all the parties that were involved in solving an error that was made by Home Affairs.

The error had been made when I had lost my ID and I applied for a new ID. The official at Home Affairs entered that I had a Code 10 driver's license, instead of a Code 11. Secondly, the date when I obtained my driver's license was erroneously entered, instead of 1985, it was entered 1925.

My matter was first dealt with by Adv. L. Mushwana, who passed the matter on to Adv. N. P. Thejane and finally, it was given to Adv. G. Montwedi-Shabalala. These advocates are dedicated to their work and I am very proud of the way they handled my case.

To you, Adv. Montwedi-I do not know where to begin for all the hard work you put into this matter. May the Almighty bless you and your family. If all the government employees could act in a manner that you people did, we would conquer.

Thank you to all the people that were directly or indirectly involved and to those who put an effort and took time in dealing with this matter.

Yours faithfully


.....
NKOSINATHI EPHRAIM MYEZA

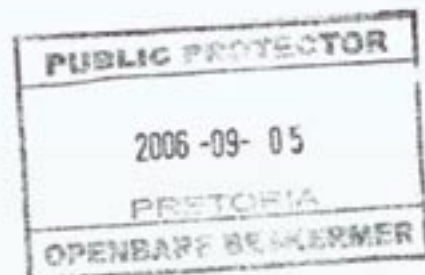
13 Baynes Street
East London
5241
5 September 2006

ATTENTION : MR S H SAMUEL

Dear Mr Samuel

Thank you for your letter of 29 August 2006. Since contacting you, I have received confirmation from the Department of Finance that I will be receiving my pension as from 1 September 2006. I have also received back pay and my gratuity. Whether this is a direct result of your intervention or not, I'm not certain, but I would like to thank you most sincerely for your help. It is greatly appreciated.

Sincerely
(Ms) E O Winkelmann(7/2 – 10234/06)



Riverwood Conference Lodge



Addshelm Equestrian Centre

(CK1993/32188/2)

P.O.Box 14794

0129 Sinoville

South Africa

☎: 808 1163

☎: 808 1727

Code: +27 (0)12

Peter Müller: 082 800 6201

Elizabeth Müller: 083 777 9666

Email: pemul@iafrica.com

www.riverwood.co.za

FACSIMILE TRANSMISSION

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(3 Page(s) - including this page -)

To:	Advocate Viviers	Fax No:	012 - 362 7109
Company:	The Public Protector	Date:	01.11.2006
Reference:	7/2 - 8350/06	From:	Peter

Dear Advocate Viviers

The complaint against the Gauteng Liquor Board under above reference number refers.

It seems that the matter has been resolved without any further complications. As you can see from the attached documents I received last Friday, my license is legal and now paid for 2007. I did not receive any other communication or correspondence from the Liquor Board and therefore must assume that everything is in order.

Would you be needing anything else from me to be able to close your file?

I want to take this opportunity to thank you and your office for achieving this result for us.

Yours sincerely


Peter Müller

Your Honor Away From Honor!

P.O. Box 9215
Elsburg
2006-11-23

The Chief Investigator
Public Prosecutor
Private Bag X677
Pretoria

Dear Sir/Madam

I want to sincerely thank you for assisting me in getting my pension benefits from the Department of Education. Ms M. B. Ramusi in her calm and efficient way kept me up to date with the process until the money was paid into Old Mutual. She even tried to help me when Old Mutual did not want to admit that the money was paid in, although she has no jurisdiction over Old Mutual. She is really worth her weight in gold.

Thank you very much!

With kind regards

Mrs I. K. Maree

P.O. Box 9215
Elsburg
2006-11-23

Ms Ramusi,
Public Protector
Private Bag X 677
Pretoria

Dear Ms Ramusi

Ref 7/2-9875/06

I am very grateful for your assistance in getting my pension money paid out from the Department of Education. You always made time to listen to my problems and you were always prepared to help. I think you are an excellent investigator, because you are calm, efficient and dedicated to your job. Thank you very much!

Kind regards

Irma Maree

Fax No:
Faks No. (015) 519-4546

Telephone No.
Telefoon No. (015) 519-4500 Ext: 4648

Enq: Mr. N.A. Mabasa
Address: P/ Bag x 2006
LOUIS TRICHARDT
Postal Code: 0920

Telegraphic address) "Prison"
Telegramdes

In reply please quote
By beantwoording heel aan
Ref.No. JMD (020-06)

N. S. S. G.
7/5/07

KUTAMA-SINTHUMULE CORRECTIONAL CENTRE
SACM

SOUTH AFRICA CUSTODIAL MANAGEMENT
REPUBLIC OF SOUTH AFRICA

Mr. Wonder Dumisani Manana
Kutama-Sinthumule Correctional Centre
Private Bag x 2006
LOUIS TRICHARDT
0920
Date: April 23, 2007

Psalm 41, VERSE 1

Public Protector
Private bag 677
Pretoria
0001

REF: LETTER OF APPRECIATION IN REFERENCE NUMBER, Ref: 7/2-3164/02

Personal attention of M.S S. E. Mthombeni

I wish to express my profound thanks to you, for the generous legal assistance. In so doing I enjoyed the incomparable hospitality of a great trust institution and you being a dedicated person in running it. Your experience in this lovely continent with the constitutional provisions does inspire a great deal of confidence.

In effect the lay man language the public protector must investigate injustices which can be defined as a "hardship" or financial lose or the forfeiture of some, benefits, or simply as distress anxiety or inconvenience really you are an indispensable asset. For these animated data, I dully recommend S.E Mthombeni in any meaningful undertaking.

W.D. Manana

W.D. Manana (SIGNATURE)

52 Socrates Street
Box 3
Ennerdale
1830
September 04, 2006

ATT: FAREED CASSIM

The Public Protector
Gauteng

Reference: 7/2 – 7034/06

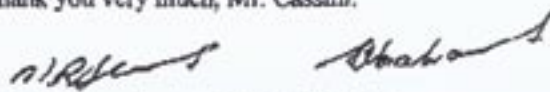
To Whom It May Concern:

I would like to thank Mr. Fareed Cassim for his prompt and efficient service.

We have been struggling for approximately 9 months to obtain a clearance certificate from Johannesburg City, Clearance Department to no avail. We went to see Mr. M F Cassim late in June or July to lodge our complaint and all the time he was busy with the City he kept us informed of what is going on.

I must emphasize that we are very impressed with the service received from him. Not only is he very efficient but very friendly and polite. He does not make you feel as if he is doing you a favour by doing his work, we can only hope and pray that the other employees can learn something from him.

Thank you very much, Mr. Cassim.


Mr. M.R. Abrahams and Mrs. T.P. Abrahams

670 Ncekelela Street
Klipfonteinview
MIDRAND
1682

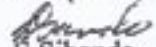
Mr MF Cassim
The Senior Investigator
P.O. Box 32738
BRAAMFONTEIN
2017

Dear Mr Cassim

Reference: 7/2 – 2604/06

I wish to express my sincere gratitude for a good job well done. Your assistance in the matter in which I found myself has really brought a lot of relief to me. The matter as you indicated in your last correspondence has been resolved to my complete satisfaction and I thank you very much for that.

Thank you,

Yours truly,

E Sibanda



Att: Mr R.H. Narain,
Public Protector's Office,
P.O. Box 4267,
Durban,
4000.



P.O. Box 39341,
Uvongo,
4270,

20 March 2006.

Your Ref: 6151/05

Dear Mr Narain,

re: DISABILITY GRANT (N. MORLEY)

I make reference to your letters dated 15 September 2005, 24 November 2005, 02 February 2006 and 02 March 2006, which were written to keep me updated on events in pursuance of the disability grant for N. Morley. For this I, and on behalf of N. Morley thank you most sincerely for your patience, commitment and success in tackling the Department of Social Welfare to finalize an application that was made on 24 June 2004 for this quadriplegic child with severe scoliosis of the spine.

She now has a bit of independence and looks forward to each day, thank's to you Mr Narain, the Public Protector I am sure is very proud to have a person of your calibre working in his department, you are an asset to the organization.

Once again thank you Mr Narain.

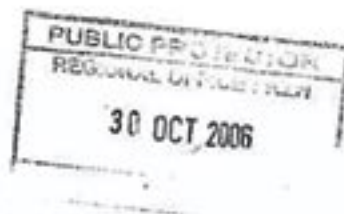
Yours faithfully,

J.W. Ivins.

c.c. Advocate M.M. Nkosi

MR. R. NARAIN
PUBLIC PROTECTOR

FAX NO.: 031 – 307 2424



THANKS AND APPRECIATION

I, ON BEHALF OF MY MUM AND MY FAMILY WISH TO PLACE ON RECORD OUR SINCERE THANKS AND APPRECIATION TO YOU, MR. NARAIN, FOR YOUR MAGNANIMOUS WAY IN WHICH YOU'LL ASSISTED MY MUM IN OBTAINING HER SOCIAL PENSION.

MAY THE GOOD LORD SHOWER HIS CHOICEST BLESSING UPON YOU AND YOUR FAMILY.

REMEMBER, "*SERVICE TO HUMANITY IS SERVICE TO GOD*".

REGARDS
SANGEETHA and MUM

K24: 11193/06



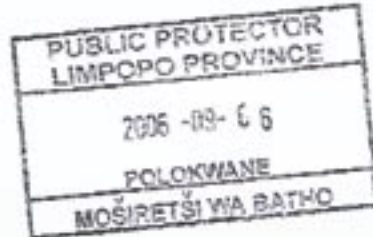
GOLOLO . M . MATHWES

P.O Box 1115
Groothoek Hospital
0628
Limpopo Province

Phone: 015 642 4990
Fax: 015 642 4990
Cell: 072 576 6042
Ref No.: 7/2/1—0069/Q3



PUBLIC PROTECTOR
P.O BOX 4533
POLOKWANE
0700



2006 AUGUST 28

LETTER OF APPRECIATION TO PUBLIC PROTECTOR: PROMOTION

Firstly, let me thank God for an Organization/Company like yours and I also want to thank Him for making it possible for me to approach you to one of your clients.

I must really say, when I first approach you, I told myself that here my interests and rights as an employee of Lebowaqomo Hospital will be protected. Thank you very much for proving me right.

I would also like to extend my heartily gratitude to the staff members for their kindness and willingness to assist against all odds. Mrs M.M Malatji, you are absolute star. You have made my service at Lebowaqomo Hospital very very comfortable.

It is my wish and my prayer that God should keep you for His work. What you are doing is more than work; as from now on see it as ministry

Thank you a million times. Keep up the good work and God bless you.

Kind regards

Gololo M.M



Sennett & Wessels

BK/CC (1992/28366/23)
Raadgewende Ingenieurs - Siviël & Struktureel
Consulting Engineers - Civil & Structural

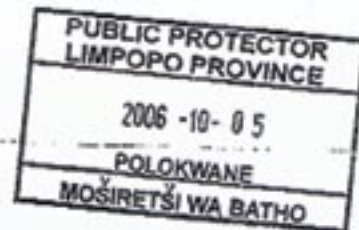


0744 Polokwane 0700 - 21A Hans Van Rensburg Street (015) 265 4145/67 (015) 265 3070
E-Mail: sennettwessels@plkie.co.za

Ons Vers./Our Ref. : 0311/DieRB/ke/ letter public protector
U Vers./Your Ref. :
Naam/Enquiries : Danie Basson

05 October 2006

Public Protector
P O Bx 4533
Polokwane
0700



ATTENTION : MRS. M.M. MALATJI

UNPAID CLAIM : DEPARTMENT OF LOCAL GOVERNMENT AND HOUSING

We take the opportunity to thank you for your immediate response and positive settlement of this matter. Our trust in your office has been confirmed.

Yours faithfully

D L E R BASSON, (Pr. Eng.) (Pr. CPM)

File ref no: 7/2-14516/06 – NC

Date: 06 February 2007

The Public Protector
Private Bag X 677
PRETORIA
0001

To Adv M. L. Mushwana

I would like to thank your Kimberley office in the Northern Cape Province, for assisting me whole-heartedly with regard to my complaint I lodged on 14 November 2006, claiming the benefits of my late daughter, who was employed by the Department of Home Affairs at Kimberley, which I have struggled a lot to receive.

I thank Adv Lerata Mashee for the good work he has done with love and patience while handling my complaint. I would like to say keep up the good work in assisting the poorest of the poor.

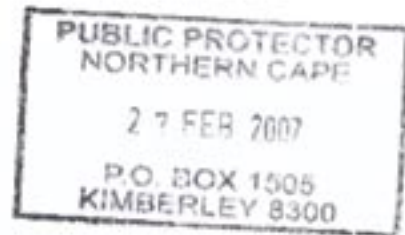
Yours sincerely



Mr Jeremiah Gumede



Die Openbare Beskermer
Aandag : Mr. Maroka



I/s. Bedanking

Hierdie brief is om my innige dank en diepe waardeerling teenoor u en u kantoor uit te spreek. Die betaling van OAG en die maak van my ID Boekie na die lang gesikel was Gods Wil met jou. Ek weet dankie is net 'n woord maar dis al wat ek kan sê, my hart is te gebroke van vreude.

Die bedrag in my Rekening betaal is R21630-00.

Ek wens jou alle voorspoed toe met jou werk. Nogmaals Baie , Baie Dankie.

Dank die wyse


M...

LETTER OF APPRECIATION

Mrs S.H. Rakometsi

P.21 (81/143196

REF: 7/2-2187/06

I would like to thank the Office of the Public Protector for a wonderful work it has done for me because I was struggling to receive my disability grant, but with your assistance I managed to receive what is due to me.

Thank you very much and I appreciate your efforts.

Yours faithfully.

H.S. Rakometsi

ENQ. E.H.MOGASE
TEL. 018 338 2057
REF. 7/2-7339/06(MAF)

P.O.BOX 147
ISUSENG..2744
31 OCTOBER 2006

The Office of the
PUBLIC PROTECTOR RSA...NW.
P.O.BOX 512,
MAFIKENG.
2745

COMPLAINT: FOSTER CARE GRANT/ AND A THANK YOU.

SIR,

WITH REFERENCE TO THE ABOVEMENTIONED MATTER, ~~ON~~ AS FAR AS THE POSITION IT HAS TAKEN SO FAR...IT IS MY SICERE WISH TO THANK YOU FOR ALL THE UNTIRELESS EFFORTS YOU HAVE TAKEN TO SEE TO IT THAT IT IS SOLVED.

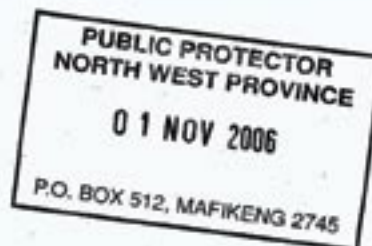
SINCE JUNE 5th. YOU HAVE ALREADY WRITTEN ~~ME~~ TO ME FIVE LETTERS IN WHICH YOU WERE CONSOLING ME THAT REALY THE MATTER IS RECEIVING ATTENTION.

ON WEDNESDAY 25th OCTOBER I WENT TO ENQUIRE FROM THE SOCIAL WORKER ABOUT THE PROGRESS SHE WAS MAKING ON THE ISSUE... ONLY TO FIND THAT AS SHE SAID, THAT SHE HAD RECEIVED A CALL FROM THE MAGISTRATE THAT MY WIFE AND I TOGETHER WITH THE TWO CHILDREN AND HERSELF SHOULD REPORT AT THE MAGITRATE'S OFFICE TO SETTLE THE MATTER. *on Friday 27th October 2006.*
THAT I CALL A LIGHT AT THE END OF THE TUNNEL.

THANK YOU ONCE MORE FOR YOUR EFFERTS.

YOURS FAITHFULLY


E.H.MOGASE..FOSTER PARENT



House No. 12040

Amanyanog
Ratshidi

2739

Sir or Madam!

I am very well wishing the best.

Thank you for your good support when I was fighting to get the electricity. I would like to tell you that, on the 31 of December I started to light in my house. I need more words to thank you but I didn't have it.

That is why I write this letter

Yours faithfully

Maghoboga



**SAMAITA WAIITA DEVELOPMENT SERVICES (SMDS)
ASSOCIATION**

REGISTRATION NUMBER: 2005/014068/08

P. O. BOX 88, MOGIPLAAS 8288 (EAST LONDON) SOUTH AFRICA

TELEPHONE/FAUX: +27(0)438811881

CELLPHONE: 0832842232

Email: akdube@lefrica.com

29 September 2006

Your Ref: 7/2-7565/06(Maf)

Ms N. Nkwane
Investigator
Public Protector-North West
P. O. Box 512
Mafikeng
2745

Dear Ms Nkwane

OUR COMPLAINT AGAINST THE OFFICE OF THE PREMIER

We write to thank you very much for the professional and efficient manner in which you are handling our case against the Office of the Premier. Your regular updates have us to follow the process in a transparent manner. Thank you very much for your continued determination to get to the bottom of this matter.

We confirm that we received a telephone call from the Office of the Premier requesting us to come for a meeting on Tuesday 3 October 2006. We plan to attend this meeting and we will inform you of the outcome.

In the meantime, we confirm that we would keep this case on until we reach a logical conclusion, and we will keep you informed of progress in this regard.

Thank you for your hard work.

Yours sincerely

Andrew Kudakwashe Dube
Chief Executive Officer

Directors: K. Dube, Z. Millelo, Z. Ntshaluba, L. Kikana, M. Nkosi, N. Tasa, A. Zimell

9. HUMAN RESOURCE MANAGEMENT

9.1 Service Delivery

Table 9.1.1 – Main services provided and standards

Main services	Actual customers	Potential customers	Standard of service	Actual achievement against standards
Outreach Initiatives	General public, government departments and institutions, NGO's	General public, government departments and institutions, NGO's	Three visiting points per province. Identification of systemic investigations	Achieved. (see part 3 of the report)
Effective and efficient investigations	Public in rural areas, government departments and institutions, NGO's	Public in rural areas, government departments and institutions, NGO's	Identification of root cause investigations, reports (general and parliamentary) on investigations completed.	Achieved. (see part 3 of the report)
Improve administrative support	OPP-internal clients	OPP-internal clients and outside job applicants	Appointment of staff, training and support	Appointment of staff, training and support achieved.

Table 9.1.2 – Consultation arrangements with customers

Type of arrangement	Actual Customers	Potential Customers	Actual achievements
Staff Meetings	Internal Staff	None	Twice per annum

Table 9.1.3 – Service delivery access strategy

Access Strategy	Actual achievements
<i>Awareness campaign and community clinics</i>	73 clinics organised for the year
Appointment of outreach facilitators (to assist with campaign)	

Table 9.1.4 – Service information tool

Types of information tool	Actual achievements
1. Radio, brochures, newspapers, press briefings	2 press briefings for the year. Brochures printed Radio interviews held
Community meetings and workshops	167 information sessions conducted
Workshops and meetings with government departments, institutions and NGO	Workshop with Chapter 9 institutions and the EU held.

Table 9.1.5 – Complaints mechanism

Complaints Mechanism	Actual achievements
Lodge complaints via correspondence/ telephone	See Report
Own initiative investigations	See Report
Identification of root cause and systemic investigations	See Report
Clinics and visiting points	See Report
Receiving complaints at workshops and meetings	See Report
Visibility at functions (e.g. Rand Easter Show)	Conducted an exhibition at the Rand Show, Pretoria Show and Public Service Trainers Forum conference

9.2 Expenditure

Table 9.2.1 – Personnel costs by programme, 2006/07

Programme	Total Expenditure (R'000)	Personnel Expenditure (R'000)	Training Expenditure (R'000)	Professional and Special Services (R'000)	Personnel cost as a percent of total expenditure	Average personnel cost per employee
OPP	61 170	42 863	449	2 251	70.1%	209 087.81
Total	61 170	42 863	449	2 251	70.1%	209 087.81

Table 9.2.2 – Personnel costs by salary bands, 2006/07

Salary bands	Personnel Expenditure (R'000)	% of total personnel cost	Average personnel cost per employee
Lower skilled (Levels 1-2)	69	0.2%	69 261
Skilled (Levels 3-5)	4 016	9.4%	65 827.98
Highly skilled production (Levels 6-8)	8 612	20.1%	111 845.05
Highly skilled supervision (Levels 9-12)	16 376	38.2%	363 911.35
Senior management (Levels 13-16)	13 790	32.2%	656 673.90
Total	42 863	100%	209 087.80

Table 9.2.3 – Salaries, Overtime, Home Owners Allowance and Medical Assistance by programme, 2006/07

Programme	Salaries		Overtime		Home Owners Allowance		Medical Assistance	
	Amount (R'000)	Salaries as a % of personnel cost	Amount (R'000)	Overtime as a % of personnel cost	Amount (R'000)	HOA as a % of personnel cost	Amount (R'000)	Medical Assistance as a % of personnel cost
OPP	40 976	95.6%	233	0.6%	479	1.1%	1 175	2.7%
Total	40 976	95.6%	233	0.6%	479	1.1%	1 175	2.7%

Table 9.2.4 – Salaries, Overtime, Home Owners Allowance and Medical Assistance by salary bands, 2006/07

Salary Bands	Salaries		Overtime		Home Owners Allowance		Medical Assistance		Personnel expenditure
	Amount (R'000)	Salaries as a % of personnel cost	Amount (R'000)	Overtime as a % of personnel cost	Amount (R'000)	HOA as a % of personnel cost	Amount	Medical Assistance as a % of personnel cost	Amount (R'000)
Lower skilled (Levels 1-2)	69	0.2%	0	0%	0	0%	0	0%	69
Skilled (Levels 3-5)	3 645	8.5%	39	0.1%	35	0.1%	296	0.7%	4 016
Highly skilled production (Levels 6-8)	8 160	19%	0	0%	50	0.1%	402	0.9%	8 612
Highly skilled supervision (Levels 9-12)	15 520	36.2%	195	0.5%	186	0.4%	476	1.1%	16 376
Senior management (Levels 13-16)	13 582	31.7%	0	0%	208	0.5%	0	0%	13 790
Total	40 976	95.6%	233	0.6%	479	1.1%	1 175	2.7%	42 863

9.3 Employment and vacancies

Table 9.3.1 – Employment and vacancies by programme, 31 March 2007

Programme	Number of posts	Number of posts filled	Vacancy Rate	Number of posts filled additional to the establishment
OPP	238	205	13.9%	6
Total	238	205	13.9%	6

Table 9.3.2 – Employment and vacancies by salary bands, 31 March 2007

Critical occupations	Number of posts	Number of posts filled	Vacancy Rate	Number of posts filled additional to the establishment
CFO	1	1	0%	N/A
Senior Manager IT	1	0	100%	
Total	2	1	50%	N/A

Table 9.3.3 – Employment and vacancies by critical occupation, 31 March 2007

Critical occupations	Number of posts	Number of posts filled	Vacancy Rate	Number of posts filled additional to the establishment
CFO	1	1	0%	N/A
Senior Manager IT	1	0	100%	
Total	2	1	50%	N/A

9.4 Job evaluation

Table 9.4.1 – Job Evaluation, 1 April 2006 to 31 March 2007

Salary band	Number of posts	Number of Jobs Evaluated	% of posts evaluated by salary bands	Posts Upgraded		Posts downgraded	
				Number	% of posts evaluated	Number	% of posts evaluated
Lower skilled (Levels 1-2)	0	0	0	0	0	0	0
Skilled (Levels 3-5)	0	0	0	0	0	0	0
Highly skilled production (Levels 6-8)	0	0	0	0	0	0	0
Highly skilled supervision (Levels 9-12)	60	1	1.7%	1	100%	0	0
Senior Management Service Band A	0	0	0	0	0	0	0
Senior Management Service Band B	0	0	0	0	0	0	0
Senior Management Service Band C	0	0	0	0	0	0	0
Senior Management Service Band D	0	0	0	0	0	0	0
Total	60	1	1.7%	1	100%	0	0

Table 9.4.2 – Profile of employees whose salary positions were upgraded due to their posts being upgraded, 1 April 2006 to 31 March 2007

Beneficiaries	African	Asian	Coloured	White	Total
Female	0	0	0	0	0
Male	1	0	0	0	1
Total	1	0	0	0	1

Table 9.4.3 – Profile of employees whose salary level exceed the grade determined by job evaluation, 1 April 2006 to 31 March 2007 (in terms of PSR 1.V.C.3)

Occupation	Number of employees	Job evaluation level	Remuneration level	Reason for deviation
	N/A	N/A	N/A	N/A
	N/A	N/A	N/A	N/A
Total Number of Employees whose salaries exceeded the level determined by job evaluation in 2006/07				
Percentage of total employment				

Table 9.4.4 – Profile of employees whose salary level exceed the grade determined by job evaluation, 1 April 2006 to 31 March 2007 (in terms of PSR 1.V.C.3)

Total Number of Employees whose salaries exceeded the grades determined by job evaluation in 2006/07	None
Employees with a disability	None

9.5 Employment changes

Table 9.5.1 – Annual turnover rates by salary band for the period 1 April 2006 to 31 March 2007

Salary Band	Number of employees per band as on 1 April 2006	Appointments and transfers into the department	Terminations and transfers out of the department	Turnover rate
Lower skilled (Levels 1-2)	1	0	1	100.0%
Skilled (Levels 3-5)	61	16	12	19.7%
Highly skilled production(Levels 6-8)	77	28	16	20.8%
Highly skilled supervision(Levels 9-12)	45	1	3	6.7%
Senior Management Service Band A	10	2	2	20%
Senior Management Service Band B	5	0	1	20.%
Senior Management Service Band C	5	1	0	0%
Senior Management Service Band D	1	0	0	0%
Total	205	48	35	17.1%

Table 9.5.2 – Annual turnover rates by critical occupation for the period 1 April 2006 to 31 March 2007

Occupation:	Number of employees per occupation as on 1 April 2006	Appointments and transfers into the department	Terminations and transfers out of the department	Turnover rate
	N/A	N/A	N/A	N/A
Total	N/A	N/A	N/A	N/A

Table 9.5.3 – Reasons why staff are leaving the department

Termination Type	Number	% of total
Death	2	5.7%
Resignation	31	88.6%
Expiry of contract	2	5.7%
Dismissal – operational changes	0	0%
Dismissal – misconduct	0	0%
Dismissal – inefficiency	0	0%
Discharged due to ill-health	0	0%
Retirement	0	0%
Transfers to other Public Service Departments	0	0%
Other	0	0%
Total	35	100%
Total number of employees who left as a % of the total employment		

Table 9.5.4 – Promotions by critical occupation

Occupation	Employees as at 1 April 2006	Promotions to another salary level	Salary level promotions as a % of employees by occupation	Progressions to another notch within a salary level	Notch progressions as a % of employees by occupation
	N/A	N/A	N/A	N/A	N/A
Total	N/A	N/A	N/A	N/A	N/A

Table 9.5.5 – Promotions by salary band

Salary Band	Employees 1 April 2006	Promotions to another salary level	Salary bands promotions as a % of employees by salary level	Progressions to another notch within a salary level	Notch progressions as a % of employees by salary band
Lower skilled (Levels 1-2)	1	0	0%	1	0.9%
Skilled (Levels 3-5)	61	1	1.6%	35	32.7%
Highly skilled production (Levels 6-8)	77	1	1.3%	34	31.8%
Highly skilled supervision (Levels 9-12)	45	4	8.9%	37	34.6%
Senior management (Levels 13-16)	21	4	19%	0	0%
Total	205	10	4.9%	107	100%

9.6 Employment equity

Table 9.6.1 – Total number of employees (including employees with disabilities) in each of the following occupational categories as on 31 March 2007

Occupational categories (SASCO)	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Legislators, senior officials and managers	8	0	1	5	5	0	0	2	21
Professionals	17	1	2	1	6	1	1	3	32
Technicians and associate professionals	44	2	1	1	20	1	4	1	74
Clerks	6	0	0	0	44	7	3	6	66
Service and sales workers	0	0	0	0	0	0	0	0	0
Skilled agriculture and fishery workers	0	0	0	0	0	0	0	0	0
Craft and related trades workers	0	0	0	0	0	0	0	0	0
Plant and machine operators and assemblers	0	0	0	0	0	0	0	0	0
Elementary occupations	8	0	0	0	4	0	0	0	12
Total	83	3	4	7	79	9	8	12	205
Employees with disabilities	0	0	0	0	0	0	0	1	1

Table 9.6.2 – Total number of employees (including employees with disabilities) in each of the following occupational bands as on 31 March 2007

Occupational Bands	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Top Management	2	0	0	2	2	0	0	0	6
Senior Management	6	0	1	3	3	0	0	2	15
Professionally qualified and experienced specialists and mid-management	17	1	2	1	6	1	1	3	32
Skilled technical and academically qualified workers, junior management, supervisors, foreman and superintendents	44	2	1	1	20	1	4	1	74
Semi-skilled and discretionary decision making	6	0	0	0	44	7	3	6	66
Unskilled and defined decision making	8	0	0	0	4	0	0	0	12
Total	83	3	4	7	79	9	8	12	205

Table 9.6.3 – Recruitment for the period 1 April 2006 to 31 March 2007

Occupational Bands	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Top Management	0	0	0	0	0	0	0	0	0
Senior Management	2	0	1	0	0	0	0	0	3
Professionally qualified and experienced specialists and mid-management	0	0	0	0	0	0	1	0	1
Skilled technical and academically qualified workers, junior management, supervisors, foreman and superintendents	17	0	0	0	9	0	0	0	26
Semi-skilled and discretionary decision making	2	0	0	0	11	0	1	0	14
Unskilled and defined decision making	3	0	0	0	1	0	0	0	4
Total	24	0	1	0	21	0	2	0	48
Employees with disabilities	0	0	0	0	0	0	0	0	0

Table 9.6.4 – Promotions for the period 1 April 2006 to 31 March 2007

Occupational Bands	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
<i>Top Management</i>	1	0	0	0	1	0	0	0	2
Senior Management	1	0	0	1	0	0	0	0	2
Professionally qualified and experienced specialists and mid-management	2	1	0	0	1	0	0	0	4
Skilled technical and academically qualified workers, junior management, supervisors, foreman and superintendents	1	0	0	0	0	0	0	0	1
Semi-skilled and discretionary decision making	1	0	0	0	0	0	0	0	1
Unskilled and defined decision making	0	0	0	0	0	0	0	0	0
Total	6	1	0	1	2	0	0	0	10
Employees with disabilities	0	0	0	0	0	0	0	0	0

Table 9.6.5 – Terminations for the period 1 April 2006 to 31 March 2007

Occupational Bands	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
<i>Top Management</i>	0	0	0	0	0	0	0	0	0
Senior Management	0	0	1	0	2	0	0	0	3
Professionally qualified and experienced specialists and mid-management	0	0	0	0	2	0	0	1	3
Skilled technical and academically qualified workers, junior management, supervisors, foreman and superintendents	8	1	0	1	6	0	0	0	16
Semi-skilled and discretionary decision making	1	0	0	0	10	0	0	0	11
Unskilled and defined decision making	1	0	0	0	1	0	0	0	2
Total	10	1	1	1	21	0	0	1	35
Employees with disabilities	0	0	0	0	0	0	0	0	0

Table 9.6.6 – Disciplinary action for the period 1 April 2006 to 31 March 2007

	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Disciplinary action	2	0	0	0	2	0	0	0	4

Table 9.6.7 – Skills development for the period 1 April 2006 to 31 March 2007

Occupational categories	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Legislators, senior officials and managers	8	0	1	5	5	0	0	2	21
Professionals	17	1	2	1	6	1	1	3	32
Technicians and associate professionals	44	2	1	1	20	1	4	1	74
Clerks	6	0	0	0	44	7	3	6	66
Service and sales workers	0	0	0	0	0	0	0	0	0
Skilled agriculture and fishery workers	0	0	0	0	0	0	0	0	0
Craft and related trades workers	0	0	0	0	0	0	0	0	0
Plant and machine operators and assemblers	0	0	0	0	0	0	0	0	0
Elementary occupations	8	0	0	0	4	0	0	0	12
Total	83	3	4	7	79	9	8	12	205
Employees with disabilities	0	0	0	0	0	0	0	1	1

9.7 Performance rewards

Table 9.7.1 – Performance Rewards by race, gender, and disability, 1 April 2006 to 31 March 2007

	Beneficiary Profile			Cost	
	Number of beneficiaries	Total number of employees in group	% of total within group	Cost (R'000)	Average cost per employee
African					
Male	50	83	60.2%	519	10 375.79
Female	56	79	70.9%	365	6 151.36
Asian					
Male	2	4	50%	41	20 638.50
Female	6	8	75%	43	7 139.50
Coloured					
Male	3	3	100%	22	7 231.67
Female	8	9	88.9%	41	5 095.88
White					
Male	7	7	100%	139	19 910.57
Female	12	12	100%	125	10 448.00
Total	146	205	71.2%	1, 295	8 869.69
Employees with a disability	2	2	100%	15	7 660.50

Table 9.7.2 – Performance Rewards by salary bands for personnel below Senior Management Service, 1 April 2006 to 31 March 2007

Salary Bands	Beneficiary Profile			Cost		
	Number of beneficiaries	Number of employees	% of total within salary bands	Total Cost (R'000)	Average cost per employee	Total cost as a % of the total personnel expenditure
Lower skilled (Levels 1-2)	1	1	100%	5	2 674.00	0.54%
Skilled (Levels 3-5)	43	61	70.5%	134	3 123.77	13.47%
Highly skilled production (Levels 6-8)	40	68	58.8%	225	5 621.00	22.54%
Highly skilled supervision (Levels 9-12)	48	54	88.9%	633	13 184	63.54%
Total	131	184	71.2%	997	24 603.33	100%

Table 9.7.3 – Performance Rewards by critical occupations, 1 April 2006 to 31 March

Critical Occupations	Beneficiary Profile			Cost	
	Number of beneficiaries	Number of employees	% of total within occupation	Total Cost (R'000)	Average cost per employee
CFO	1	1	100%	17.1	17 064
Senior Manager: IT	N/A	N/A	N/A	N/A	N/A
Total	1	1	100%	17.1	17 064

Table 9.7.4 – Performance related rewards (cash bonus), by salary band, for Senior Management Service

Salary Band	Beneficiary Profile			Total Cost (R'000)	Average cost per employee	Total cost as a % of the total personnel expenditure
	Number of beneficiaries	Number of employees	% of total within band			
Band A	12	18	66.7%	2 105	17 538	97.1%
Band B	3	3	100%	64	21 320.67	2.9%
Band C	0	0	0%	0	0	0%
Band D	0	0	0%	0	0	0%
Total	15	21	71.4%	2 169	38 858.67	100%

9.8 Foreign workers

Table 9.8.1 – Foreign Workers, 1 April 2006 to 31 March 2007, by salary band

Salary Band	1 April 2006		31 March 2007		Change	
	Number	% of total	Number	% of total	Number	% change
Lower skilled (Levels 1-2)	N/A	N/A	N/A	N/A	N/A	N/A
Skilled (Levels 3-5)	N/A	N/A	N/A	N/A	N/A	N/A
Highly skilled production (Levels 6-8)	N/A	N/A	N/A	N/A	N/A	N/A
Highly skilled supervision (Levels 9-12)	N/A	N/A	N/A	N/A	N/A	N/A
Senior management (Levels 13-16)	N/A	N/A	N/A	N/A	N/A	N/A
Total	N/A	N/A	N/A	N/A	N/A	N/A

Table 9.8.2 – Foreign Worker, 1 April 2006 to 31 March 2007, by major occupation

Major Occupation	1 April 2006		31 March 2007		Change	
	Number	% of total	Number	% of total	Number	% change
N/A	N/A	N/A	N/A	N/A	N/A	N/A
Total	N/A	N/A	N/A	N/A	N/A	N/A

9.9 Leave utilisation for the period 1 January 2006 to 31 December

Table 9.9.1 – Sick leave, 1 January 2006 to 31 December 2006

Salary Band	Total days	Total days taken with medical certificate	% days with medical certification	Number of Employees using sick leave	% of total employees using sick leave	Average days per employee	Estimated Cost (R'000)
Lower skilled (Levels 1-2)	19	19	100%	2	1.0%	0.1	2.8
Skilled (Levels 3-5)	282	212	75%	54	26.3%	0.19	55.6
Highly skilled production (Levels 6-8)	219	175	80%	65	31.7%	0.30	78.8
Highly skilled supervision (Levels 9-12)	266	207	76%	47	22.9%	0.18	328.9
Senior management (Levels 13-16)	99	79	80%	15	7.3%	0.15	190.69
Total	885	692	78%	183	89.3%	4.83	656.8

Table 9.9.2 – Disability leave (temporary and permanent), 1 January 2006 to 31 December 2006

Salary Band	Total days taken	% days with medical certification	Number of Employees using disability leave*	% of total employees using disability leave	Average days per employee	Estimated Cost (R'000)
Lower skilled (Levels 1-2)	0	0%	0	0%	0	0
Skilled (Levels 3-5)	14	73.7%	2	1.0%	7	0.5
Highly skilled production (Levels 6-8)	0	0%	0	0%	0	0
Highly skilled supervision (Levels 9-12)	5	26.3%	1	0.5%	5	1.2
Senior management (Levels 13-16)	0	0%	0	0%	0	0
Total	19	100%	3	1.5%	6.3	1.7

*Actual confirmed % of days with medical certificate can only be confirmed by 22 Aug 2007.

Table 9.9.3 – Annual Leave, 1 January 2006 to 31 December 2006

Salary Bands	Total days taken	Average per employee
Lower skilled (Levels 1-2)	0	0
Skilled Levels 3-5)	926	16.53
Highly skilled production (Levels 6-8)	682	10.49
Highly skilled supervision(Levels 9-12)	956	20.34
Senior management (Levels 13-16)	371	13.74
Total	2 935	15.05

Table 9.9.4 – Capped leave, 1 January 2006 to 31 December 2006

Salary Bands	Total days of capped leave taken	Average number of days taken per employee	Average capped leave per employee as at 31 December 2006
Lower skilled (Levels 1-2)	0	0	0
Skilled Levels 3-5)	5	2.5	193
Highly skilled production (Levels 6-8)	2	2	179
Highly skilled supervision(Levels 9-12)	0	0	0
Senior management (Levels 13-16)	9	3	155
Total	16	2.6	171.8

Table 9.9.5 – Leave payouts for the period 1 April 2006 to 31 March 2007

The following table summarises payments made to employees as a result of leave that was not taken.

Reason	Total Amount (R'000)	Number of Employees	Average payment per employee
Leave payout for 2006/07 due to non-utilisation of leave for the previous cycle	0	0	0
Capped leave payouts on termination of service for 2006/07	0	0	0
Current leave payout on termination of service for 2006/07	132	21	6 268.13
Total	132	21	6 268.13

9.10 HIV and AIDS & health promotion programme

Table 9.10.1 – Steps taken to reduce the risk of occupational exposure

Units/categories of employees identified to be at high risk of contracting HIV & related diseases (if any)	Key steps taken to reduce the risk
None	EWP

Table 9.10.2 – Details of Health Promotion and HIV and AIDS Programmes (tick the applicable boxes and provide the required information)

Question	Yes	No	Details, if yes
1. Has the department designated a member of the SMS to implement the provisions contained in Part VI E of Chapter 1 of the Public Service Regulations, 2001? If so, provide her/his name and position.		X	
2. Does the department have a dedicated unit or has it designated specific staff members to promote the health and well being of your employees? If so, indicate the number of employees who are involved in this task and the annual budget that is available for this purpose.		X	In progress
3. Has the department introduced an Employee Assistance or Health Promotion Programme for your employees? If so, indicate the key elements/services of this Programme.		X	In progress
4. Has the department established (a) committee(s) as contemplated in Part VI E.5 (e) of Chapter 1 of the Public Service Regulations, 2001? If so, please provide the names of the members of the committee and the stakeholder(s) that they represent.		X	
5. Has the department reviewed its employment policies and practices to ensure that these do not unfairly discriminate against employees on the basis of their HIV status? If so, list the employment policies/practices so reviewed.		X	In progress
6. Has the department introduced measures to protect HIV -positive employees or those perceived to be HIV-positive from discrimination? If so, list the key elements of these measures.		X	Employee wellness programme in progress
7. Does the department encourage its employees to undergo Voluntary Counselling and Testing? If so, list the results that you have achieved.		X	HIV Launch to take place by September 2007
8. Has the department developed measures/indicators to monitor & evaluate the impact of its health promotion programme? If so, list these measures/indicators.		X	

9.11 Labour relations

The following collective agreements were entered into with trade unions within the department.

Table 9.11.1 – Collective agreements, 1 April 2006 to 31 March 2007

Total collective agreements None

Table 9.11.2 – Misconduct and disciplinary hearings finalised, 1 April 2006 to 31 March 2007

Outcomes of disciplinary hearings	Number	% of total
Correctional counselling	0	0
Verbal warning	0	0
Written warning	2	50%
Final written warning	1	25%
Suspended without pay	0	0
Fine	0	0
Demotion	0	0
Dismissal	1	25%
Not guilty	0	0
Case withdrawn	0	0
Total	4	100%

Table 9.11.3 – Types of misconduct addressed at disciplinary hearings

Type of misconduct	Number	% of total
Insubordination	2	100%
Total	2	100%

Table 9.11.4 – Grievances lodged for the period 1 April 2006 to 31 March 2007

	Number	% of Total
Number of grievances resolved	2	66.7%
Number of grievances not resolved	1	33.3%
Total number of grievances lodged	3	100%

Table 9.11.5 – Disputes lodged with Councils for the period 1 April 2006 to 31 March 2007

	Number	% of Total
Number of disputes upheld	N/A	N/A
Number of disputes dismissed	N/A	N/A
Total number of disputes lodged	N/A	N/A

Table 9.11.6 – Strike actions for the period 1 April 2006 to 31 March 2007

Total number of person working days lost	
Total cost (R'000) of working days lost	N/A
Amount (R'000) recovered as a result of no work no pay	N/A

Table 9.11.7 – Precautionary suspensions for the period 1 April 2006 to 31 March 2007

Number of people suspended	N/A
Number of people whose suspension exceeded 30 days	N/A
Average number of days suspended	N/A
Cost (R'000) of suspensions	N/A

9.12 Skills development

This section highlights the efforts of the department with regard to skills development.

9.12.1 – Training needs identified 1 April 2006 to 31 March 2007

Occupational Categories	Gender	Number of employees as at 1 April 2006	Training needs identified at start of reporting period			
			Learnerships	Skills Programmes & other short courses	Other forms of training	Total
Legislators, senior officials and managers	Female	7	0	6	0	6
	Male	14	0	13	0	13
Professionals	Female	11	0	11	0	11
	Male	21	0	21	0	21
Technicians and associate professionals	Female	26	0	26	0	26
	Male	48	0	48	0	48
Clerks	Female	60	0	60	0	60
	Male	6	0	6	0	6
Service and sales workers	Female	N/A	N/A	N/A	N/A	N/A
	Male	N/A	N/A	N/A	N/A	N/A
Skilled agriculture and fishery workers	Female	N/A	N/A	N/A	N/A	N/A
	Male	N/A	N/A	N/A	N/A	N/A
Craft and related trades workers	Female	N/A	N/A	N/A	N/A	N/A
	Male	N/A	N/A	N/A	N/A	N/A
Plant and machine operators and assemblers	Female	N/A	N/A	N/A	N/A	N/A
	Male	N/A	N/A	N/A	N/A	N/A
Elementary occupations	Female	4	0	4	0	4
	Male	8	0	8	0	8
Sub Total	Female	108	0	107	0	107
	Male	97	0	96	0	96
Total		205	0	203	0	203

9.12.2 – Training provided 1 April 2006 to 31 March 2007

Occupational Categories	Gender	Number of employees as at 1 April 2006	Training provided within the reporting period			
			Learnerships	Skills Programmes & other short courses	Other forms of training	Total
Legislators, senior officials and managers	Female	7	0	6	0	6
	Male	14	0	6	0	6
Professionals	Female	11	0	7	0	7
	Male	21	0	9	0	9
Technicians and associate professionals	Female	26	0	26	2	28
	Male	48	0	47	0	47
Clerks	Female	60	0	45	8	53
	Male	6	0	3	1	4
Service and sales workers	Female	N/A	0	0	0	0
	Male	N/A	0	0	0	0
Skilled agriculture and fishery workers	Female	N/A	0	0	0	0
	Male	N/A	0	0	0	0
Craft and related trades workers	Female	N/A	0	0	0	0
	Male	N/A	0	0	0	0
Plant and machine operators and assemblers	Female	N/A	0	0	0	0
	Male	N/A	0	0	0	0
Elementary occupations	Female	4	0	1	0	1
	Male	8	0	7	0	7
Sub Total	Female	108	0	85	10	95
	Male	97	0	72	1	73
Total		205	0	157	11	168

9.13 Injury on duty

The following tables provide basic information on injury on duty.

Table 9.13.1 – Injury on duty, 1 April 2006 to 31 March 2007

Nature of injury on duty	Number	% of total
Required basic medical attention only	1	100%
Temporary Total Disablement	0	0
Permanent Disablement	0	0
Fatal	0	0
Total	1	100%

9.14 Utilisation of consultants

Table 9.14.1 – Report on consultant appointments using appropriated funds

Project Title	Total number of consultants that worked on the project	Duration: Work days	Contract value in Rand
Remuneration	1	4	27 360
Strategic Plan	1	3	80 000
Total number of projects	Total individual consultants	Total duration: Work days	Total contract value in Rand
1	1	4	27 360
1	1	3	80 000

Table 9.14.2 – Analysis of consultant appointments using appropriated funds, in terms of Historically Disadvantaged Individuals (HDIs)

Project Title	Percentage ownership by HDI groups	Percentage management by HDI groups	Number of Consultants from HDI groups that work on the project
Remuneration	30	30	0
Strategic Plan	100%	100%	2

Table 9.14.3 – Report on consultant appointments using Donor

Project Title	Total Number of consultants that worked on the project	Duration: Work days	Donor and Contract value in Rand
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A
Total number of projects	Total individual consultants	Total duration: Work days	Total contract value in Rand

Table 9.14.4 – Analysis of consultant appointments using Donor funds, in terms of Historically Disadvantaged Individuals (HDIs)

Project Title	Percentage ownership by HDI groups	Percentage management by HDI groups	Number of Consultants from HDI groups that work on the project
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A

10. OFFICE OF THE PUBLIC PROTECTOR: REPORT OF THE AUDIT COMMITTEE

We are pleased to present our report for the financial year ended 31 March 2007.

Audit Committee members and attendance

The Audit Committee consists of the members listed hereunder and meets twice per annum as per its approved terms of reference. During the current year three meetings were held.

Name of Member	No. of meetings attended
Ms. M. Vuso (Chairperson)	3
Mr. A. Soma	3
Mr. J. Mokwena (appointed 1 September 2006)	1
Ms. T. Mashanda (resigned 31 May 2006)	1

Audit Committee responsibility

The Audit Committee reports that it has complied with its responsibilities arising from section 38 (1) (a) of the PFMA and Treasury Regulation 3.1.13. The Audit Committee also reports that it has adopted appropriate formal terms of reference as its audit committee charter, has regulated its affairs in compliance with this charter and has discharged all its responsibilities as contained therein.

The effectiveness of internal control

The system of controls is designed to provide cost effective assurance that assets are safeguarded and that liabilities and working capital are efficiently managed. In line with the PFMA, Internal Audit provides the Audit Committee and management with assurance that the internal controls are appropriate and effective. This is achieved by means of the risk management process, as well as the identification of corrective actions and suggested enhancements to the controls and processes. From the various reports of the Internal Auditors, the Audit Report on the Annual Financial Statements and management letter of the Auditor-General, it was noted that no significant or material non-compliance with prescribed policies and procedures have been reported. Accordingly, we can report that the system of internal control for the period under review was efficient and effective.

The quality of in year management and monthly / quarterly reports submitted in terms of the Act and the Division of Revenue Act


The Committee is satisfied with the content and quality of monthly and quarterly reports prepared and issued by the Accounting Officer and the Office of the Public Protector during the year under review.

Evaluation of financial statements

The Audit Committee has:

- reviewed and discussed the audited annual financial statements to be included in the annual report with the Auditor-General and the Accounting Officer;
- reviewed the Auditor-General's management report and management's response thereto; and
- reviewed significant adjustments resulting from the audit.

The Audit Committee concurs and accepts the Auditor-General's conclusions on the annual financial statements, and is of the opinion that the audited annual financial statements be accepted and read together with the report of the Auditor-General.



.....
Chairperson of the Audit Committee

27 July 2007

11. ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2007

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11.1 Report Of The Auditor-general To Parliament On The Financial Statements And Performance Information Of Office Of The Public Protector For The Year Ended 31 March 2007

REPORT ON THE FINANCIAL STATEMENTS

Introduction

1. I have audited the accompanying financial statements of the Office of the Public Protector which comprise the statement of financial position as at 31 March 2007, statement of financial performance statement of changes in net assets and cash flow statement for the year then ended, and a summary of significant accounting policies and other explanatory notes, as set out on pages 90 to 100.

Responsibility of the accounting officer for the financial statements

2. The accounting officer is responsible for the preparation and fair presentation of these financial statements in accordance with the South African Statements of Generally Accepted Accounting Practice (GAAP) including any interpretations of such statements issued by the Accounting Practice Board, with the effective Standards of Generally Recognised Accounting Practices (GRAP) and in the manner required by the Public Finance Management Act, 1999 (Act No. 1 of 1999) (PFMA) and the Public Protector Act, 1994 (Act No. 23 of 1994). This responsibility includes:
 - designing, implementing and maintaining internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error
 - selecting and applying appropriate accounting policies
 - making accounting estimates that are reasonable in the circumstances.

Responsibility of the Auditor-General

3. As required by section 188 of the Constitution of the Republic of South Africa, 1996 read with section 4 of the Public Audit Act, 2004 (Act No. 25 of 2004) section 4.(2) of the Public Protector Act, 1994 (Act No. 23 of 1994), my responsibility is to express an opinion on these financial statements based on my audit.
4. I conducted my audit in accordance with the International Standards on Auditing, General Notice 647 of 2007 issued in Government Gazette No. 29919 of 25 May 2007. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free from material misstatement.
5. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control.
6. An audit also includes evaluating the:
 - appropriateness of accounting policies used
 - reasonableness of accounting estimates made by management
 - overall presentation of the financial statements.
7. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Basis of accounting

8. The Office of the Public Protector policy is to prepare financial statements on historical cost basis, as set out in accounting policy note 1.2.

Audit opinion

9. In my opinion, the financial statements, in all material respects, fairly present the financial position of Office of the Public Protector as at 31 March 2007 and its financial performance and cash flows for the year then ended, in accordance with the basis of accounting as described in paragraph 8 and in the manner required by the PFMA.

OTHER REPORTING RESPONSIBILITIES

Reporting on performance information

10. I have audited the performance information as set out on pages xx to xx.

Responsibilities of the accounting officer

11. The accounting officer has additional responsibilities as required by section 40(3)(a) of the PFMA to ensure that the annual report and audited financial statements fairly present the performance against predetermined objectives of the Office of the Public Protector

Responsibility of the Auditor-General

12. I conducted my engagement in accordance with section 13 of the Public Audit Act, 2004 (Act No. 25 of 2004) read with General Notice 646 of 2007, issued in Government Gazette No. 29919 of 25 May 2007.
13. In terms of the foregoing my engagement included performing procedures of an audit nature to obtain sufficient appropriate evidence about the performance information and related systems, processes and procedures. The procedures selected depend on the auditor's judgment.
14. I believe that the evidence I have obtained is sufficient and appropriate to provide a basis for the audit findings reported below.

Audit findings

15. No material findings were identified.

APPRECIATION

16. The assistance rendered by the staff of the Office of the Public Protector during the audit is sincerely appreciated.



.....
FJ Joubert for Auditor-General
PRETORIA

31 July 2007



AUDITOR-GENERAL

11.2.1 LEGISLATIVE MANDATE

The Office of the Public Protector is an institution established in terms of Chapter Nine of the Republic of South Africa Constitution Act (Act No. 108 of 1996). Its additional mandate is further provided for in the Public Protector Act (Act No. 23 of 1994) as amended. The primary objective of Chapter Nine institutions, including the Office of the Public Protector, is to strengthen constitutional democracy. The Office fulfils its mandate by investigating, either at its own initiative or on receipt of complaints from aggrieved persons, allegations of improper conduct by organs of the State. The Office has the power to report and recommend remedial action.

The core business of the Office is:

- To investigate any conduct in State Affairs or in the public administration in any sphere of government that is alleged or suspected to be improper or to result in impropriety or prejudice.
- To mediate, negotiate, conciliate, report and recommend remedial actions.

11.2.2 GENERAL REVIEW OF THE STATE OF FINANCIAL AFFAIRS

As a result of the Medium-Term Expenditure Framework (MTEF) requiring a three year planning horizon, the five-year strategic plan adopted in the 2005/06 financial year was reviewed and a new three-year strategic plan, covering this as well as the next two financial years, was developed and adopted, in line with guidelines provided by National Treasury.

The fundamental shift emanating from the adoption of the three-year strategic plan is the restructuring of and the creation of new programmes in line with the operations of the Office. The Office now operates with four programmes, which are as follows:

Programme	Sub-programme
Programme 1: Investigations and Reporting	Programme 1.1: National Investigations Programme 1.2: Provincial Investigations Programme 1.3: Special Investigations
Programme 2: Communication Services	Programme 2.1: Outreach Programme Programme 2.2: Marketing and Communications
Programme 3: Corporate Support Services	Programme 3.1: Human Capital Programme 3.2: Finance and Supply Chain Management Programme 3.3: Administrative Support Programme 3.4: Security Management
Programme 4: Knowledge Management and Information Technology	Programme 4.1: Knowledge Management Programme 4.2: Information Technology

Whilst it is pleasing to report that the Office was successful in achieving its constitutional mandate and has made significant progress in reaching the poorest of the poor through the outreach programme, staff turnover and difficulties in filling critical posts, most notably in the field of Information Technology, has resulted in delays in the achievement of some of the strategic objectives set for the period under review (for details, refer to the "Performance against Strategic Objectives" section of the Annual Report).

Due to the critical nature of these strategic objectives, as well as the funding limitations anticipated for the Office in the coming financial years, an amount of R6 500 000 received during the period under review has been deferred to fund these strategic objectives in the next financial year (refer to note 2 and note 16 of the Notes to the Annual Financial Statements).

11.2.3 CAPACITY CONSTRAINTS

During the period under review, staff turnover and difficulties in filling critical posts has impacted on the ability of the Office to achieve the strategic objectives set for this period. These essential posts included the post of the Chief Executive Officer, the Chief Financial Officer, the Senior Manager: Information Technology, the Senior Manager: Human Resources, the Senior Manager: Provincial Co-ordination, the Senior Manager: Communications and the Senior Manager: Administration. Although the Office has, as at the date of this report, filled most of these critical posts, the difficulties experienced in filling these posts and the general high staff turnover suggest that a review of the compensation structure is needed in order to attract and retain suitably skilled employees.

11.2.4 UTILISATION OF DONOR FUNDS

As disclosed in note 2 of the Notes to the Annual Financial Statements, the Office concluded an agreement with the European Union, whereby the salaries of six OPP employees will be funded for two years, starting from 1 January 2007, by the European Union through the Civil Advocacy Support Programme (CSAP). This has allowed the Office to expand the Outreach Programme, with the results of this expansion expected to bear fruit in the coming financial years.

11.2.5 PUBLIC PRIVATE PARTNERSHIPS (PPP)

During the financial year under review, the Office of the Public Protector has, along with other National Departments, begun participating in a transversal Public Private Partnership with Phavisworld. This PPP is for a term of five years and is managed by National Treasury and the Department of Transport. The following services are provided for in this PPP:

- Long Term Fleet Rental (5 years)
- Short Term Fleet Rental (day to day)
- Short Medium Term Fleet Rental (more than a month but less than a year)
- 24/7 Call Centre
- Internet Based System with an Electronic Log Book
- Chauffeur and Point to Point Driven Services
- Fuel Management System
- Vehicle Tracking Device for Long Term and Short Medium Term Rental
- Classroom-Based Driver Training
- Fleet Consultancy Services

11.2.6 EVENTS AFTER THE REPORTING DATE

The Office of the Public Protector was able to fill the vacant Chief Executive Officer post, and I assumed duties on 1 April 2007. As mandated by the Public Finance Management Act (Act No. 1 of 1999), the Chief Executive Officer is required to perform the duties and responsibilities of the Accounting Officer, which I assumed on that date.

11.2.7 BUSINESS ADDRESS

Physical Address	Postal Address
175 Lunnon Street	Private Bag X677
Hillcrest Office Park	PRETORIA
HILLCREST	0001
0083	

11.2.8. STATEMENT OF RESPONSIBILITY

The Office of the Public Protector is responsible for the preparation, integrity and fair presentation of the annual financial statements. The annual financial statements presented on pages 8 to 25 have been prepared in accordance with the South African Statements of Generally Accepted Accounting Practices (GAAP) including any interpretations of such Statements issued by the Accounting Practices Board, with the effective Standards of Generally Recognised Accounting Practices (GRAP) issued by the Accounting Standards Board replacing the equivalent GAAP Statement.

The Office considers that, in preparing the financial statements, the most appropriate accounting policies have been used, consistently applied and are supported by reasonable and prudent judgements and estimates.

The going-concern basis has been adopted in preparing the annual financial statements. There is no reason to believe that the Office of the Public Protector will not be able to continue its operations in the foreseeable future, based on forecasts and available cash resources. These annual financial statements support the viability of the Office of the Public Protector.

The Office of the Public Protector has always assumed full accountability for maintaining compliance with all applicable legislation, its established policies, systems and processes and for reporting its results with objectivity and the highest degree of integrity. It is critical for users of the Office's annual financial statements to have confidence that the financial information provided is timely, complete, relevant, and accurate.

The Office of the Public Protector has established and maintains a strong ethical climate so that its affairs are conducted to the highest standards of personal and corporate conduct. The Office also has established an effective system of internal control that provides reasonable assurance as to the integrity and accuracy of these financial statements. The internal audit function maintains critical oversight over the key areas of its business and financial processes and controls, and reports directly to the Audit Committee.

The Office of the Public Protector's external auditors, the Auditor-General, is responsible for reporting on the fair presentation of these financial statements.

The Office of the Public Protector is committed to and fully understands and embraces all its fiduciary and legislative responsibilities. The Office is dedicated to ensuring that the high standards of financial accounting and reporting as well as the underlying system of internal controls are maintained. The Office's culture demands integrity and the Office has the highest confidence in its processes, its internal controls, and its people, who are objective in their responsibilities and who operate under the highest level of ethical standards.

11.2.9 APPROVAL

The annual financial statements set out on pages 90 to 100 have been approved by the Accounting Officer.



.....
Dr R Russon
Chief Executive Officer
31 May 2007

11.3 Statement of Financial Performance for the year ended 31 March 2007

	Notes	2007 Actual R'000	2006 Actual R'000
REVENUE			
Grants and transfers	<u>2</u>	61,598	58,627
Other income	<u>3</u>	1	3
Income from investments	<u>4</u>	1,342	628
TOTAL REVENUE		62,941	59,258
EXPENDITURE			
Administrative expenses	<u>5</u>	10,036	9,733
Staff costs	<u>6</u>	42,863	39,790
Financial transactions in assets and liabilities	<u>7</u>	-	508
Other operating expenses	<u>8</u>	6,841	7,100
Depreciation	<u>9</u>	2,626	1,068
Finance Costs	<u>10</u>	51	32
TOTAL EXPENDITURE		62,417	58,231
Surplus/(Deficits) for the year	<u>20</u>	524	

11.4 Statement of Financial Position for the year ended 31 March 2007

	Notes	2007 Actual R'000	2006 Actual R'000
ASSETS			
Non-current assets			
Property, plant and equipment	<u>11</u>	8,657	6,980
Current assets			
Accounts and other receivables	<u>12</u>	269	498
Cash and cash equivalents	<u>13</u>	21,120	10,621
Total assets		30,046	18,099
EQUITY AND LIABILITIES			
Capital and reserves			
Accumulated Surplus		10,328	9,804
Non-current liabilities			
Non-current finance lease liability	<u>17</u>	1,272	59
Current liabilities			
Accounts and other payables	<u>14</u>	5,550	3,010
Provisions	<u>15</u>	6,240	5,150
Deferred Income	<u>16</u>	6,500	0
Current finance lease liability	<u>17</u>	156	75
Total equity and liabilities		30,046	18,098

11.5 Statement of Changes In Net Assets for the year ended 31 March 2007

	Notes	Accumulated surplus
Accumulated surplus		
Balance as at 1 April 2005		8,777
Net surplus for the period 31 March 2006		1,028
Balance as at 31 March 2006		9,804
Net surplus for the period 31 March 2007		524
Balance at 31 March 2007		10,328

11.6 Cash Flow Statement for the year ended 31 March 2007

	Notes	2007 Actual R'000	2006 Actual R'000
CASH FLOWS FROM OPERATING ACTIVITIES			
Cash received from grants and other income		61,598	58,630
Cash paid to suppliers and employees		(49,380)	(54,521)
Cash flows from operating activities		12,218	4,109
Interest paid		(51)	(32)
Other payments		-	-
Net cash generated from operating activities		12,167	4,077
CASH FLOWS FROM INVESTING ACTIVITIES			
Purchase of property, plant and equipment		(2,898)	(1,736)
Interest received		1,342	628
Net cash generated from investing activities		(1,556)	(1,109)
CASH FLOWS FROM FINANCING ACTIVITIES			
Cash generated from borrowings		0	114
Repayment of borrowings		(112)	0
Net cash generated from financing activities		(112)	114
Net increase/(decrease) in cash and cash equivalents		10,499	3,082
Cash and cash equivalents at the beginning of the year	<u>13</u>	10,621	7,539
Cash and cash equivalents at end of the year		21,120	10,621

11.7 Notes On The Financial Statement for the year ended 31 March 2007

1. ACCOUNTING POLICIES

1.1 STATEMENT OF COMPLIANCE

The financial statements have been prepared in accordance with the South African Statements of Generally Accepted Accounting Practices (GAAP) including any interpretations of such Statements issued by the Accounting Practices Board, with the effective Standards of Generally Recognised Accounting Practices (GRAP) issued by the Accounting Standards Board replacing the equivalent GAAP Statement as follows:

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ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2007 (Cont.)

Standard of GRAP

GRAP 1: Presentation of financial statements
GRAP 2: Cash flow statements
GRAP 3: Accounting policies, changes in and errors

Replaced Statement of GAAP

AC101: Presentation of financial statements
AC118: Cash flow statements
AC103: Accounting policies, changes in accounting estimates and errors

Currently the recognition and measurement principles in the above GRAP and GAAP Statements do not differ or result in material differences in items presented and disclosed in the financial statements. The implementation of GRAP 1, 2 & 3 has resulted in the following changes in the presentation of the financial statements:

• Terminology differences:

Standard of GRAP

Statement of financial performance
Statement of financial position
Statement of changes in net assets
Net assets
Surplus/deficit
Accumulated surplus/deficit
Contributions from owners
Distributions to owners

Replaced Statement of GAAP

Income statement
Balance sheet
Statement of changes in equity
Equity
Profit/loss
Retained earnings
Share capital
Dividends

- The cash flow statement can only be prepared in accordance with the direct method.
- Specific information has been presented separately on the statement of financial position such as:
 - a. Receivables from non-exchange transactions, including taxes and transfers;
 - b. Taxes and transfers payable;
 - c. Trade and other payables from non-exchange transactions;
- Amount and nature of any restrictions on cash balances is required.

Paragraph 11 – 15 of GRAP 1 has not been implemented due to the fact that the budget reporting standard has not been developed by the local standard setter and the international standard is not effective for this financial year. Although the inclusion of budget information would enhance the usefulness of the financial statements, non-disclosure will not affect the objective of the financial statements.

1.2 BASIS OF PREPARATION

The financial statements have been prepared on the historical cost basis. The following are the principle accounting policies which are, in all material respects, consistent with those applied in the previous year, except as otherwise indicated:

1.3 CURRENCY

These financial statements are presented in South African Rands since that is the currency in which the majority of the Office of the Public Protector's transactions are denominated.

1.4 REVENUE RECOGNITION

Revenue is measured at the fair value of the consideration received or receivable. Revenue is recognised when it is probable that future economic benefits will flow to the enterprise and these benefits can be measured reliably.

ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2007 (Cont.)

Grants and transfers

Grants and transfers constitute a transfer payment from the Department of Justice and Constitutional Development (DOJCD).

Grants and transfers are not recognised until there is reasonable assurance that the Office of the Public Protector will comply with the conditions attaching to them and the grants will be received.

Grants and transfers are recognised as income over the periods necessary to match them with the costs for which they are intended to compensate, on a systematic basis. Other grants and transfers that are receivable as compensation for expenses or losses already incurred or for the purpose of giving immediate financial support to the Office with no future related costs are recognised in the period in which they become receivable.

Income from investments

Income from investments constitutes interest accrued on favourable balance with commercial banking institutions. Interest revenue is accrued on a time basis, by reference to the principal outstanding and at the effective interest rate applicable, which is the rate that exactly discounts estimated future cash receipts through the expected life of the financial asset to that asset's net carrying amount.

1.5 IRREGULAR AND FRUITLESS AND WASTEFUL EXPENDITURE

Irregular expenditure means expenditure, other than authorised expenditure, incurred in contravention of, or not in accordance with a requirement of any applicable legislation, including the Public Finance Management Act

Fruitless and wasteful expenditure means expenditure that was made in vain and would have been avoided had reasonable care been exercised.

All irregular and fruitless and wasteful expenditure is charged against income in the period in which they are incurred.

1.6 EMPLOYEE BENEFITS

Retirement benefit costs

The Office of the Public Protector offers its employees the option of choosing both a defined contribution plan and a defined benefit plan. The defined benefit plan offered to employees is the Government Employees Pension Fund (GEPF). In terms of the rules of the GEPF, the National Revenue Fund is responsible for any potential liability that might arise as a result of this plan. This implies that once contributions are paid, the Office of the Public Protector has no further payment obligations. Therefore, the defined benefit obligation, the related current service cost, the past service cost (if applicable), and any actuarial gains or losses are not recognised in the annual financial statements of the Office of the Public Protector, but is disclosed in the financial statements of the National Revenue Fund.

Payments to both defined contribution and defined benefit plans are charged to the income statement in the year to which they relate.

Short-term employee benefits

The cost of all short-term employee benefits is recognised during the period in which the employee renders the related service. Provision has been made for benefits where the employer has a present obligation to pay the benefit as a result of the employees' services rendered to balance sheet date. The provisions have been calculated at undiscounted amounts based on current salary rates.

Gratuity

In terms of the Public Protector's conditions of service, the Public Protector is entitled to a taxable lump sum gratuity on vacation of his office. The gratuity calculation is based on his basic salary, and his period in office. The provision raised in the annual financial statements is therefore the actual amount that would be payable had the Public Protector vacated his office on last day of the respective financial year.

1.7 EXTRAORDINARY ITEMS

All items of income and expense arising in the ordinary course of business are taken into account in arriving at the surplus. Where items of income and expense are of such size, nature or incidence that their disclosure is relevant to explain the performance of the Office, they are separately disclosed and appropriate explanations are provided.

1.8 PROPERTY, PLANT AND EQUIPMENT

Property, plant and equipment comprises of computer equipment, furniture and fittings, office equipment and motor vehicles. These assets are stated at cost less accumulated depreciation and any accumulated impairment losses.

Depreciation is charged so as to write off the cost or valuation of assets over their estimated useful lives, using the straight-line method. The estimated useful lives, residual values and depreciation method are reviewed at each year end, with the effect of any changes in estimate accounted for on a prospective basis.

The assets are depreciated on the straight-line method over the following periods, considered to be their estimated useful lives:

Computer equipment	3 – 6 years
Furniture & fittings	5 – 16 years
Office equipment	5 – 10 years
Motor Vehicle	5 years

Assets held under finance leases are depreciated over their expected useful lives on the same basis as owned assets or, where shorter, the term of the relevant lease.

Any proceeds arising from the disposal or retirement of an item of property, plant and equipment is recognised as a current liability, due to the requirements of Section 13 of the Public Finance Management Act which requires any such receipt received by the Office to be deposited into the National Revenue Fund. The loss arising on the disposal or retirement of an item of property, plant and equipment is therefore determined as the carrying amount of the asset and is recognised in the determination of the surplus or deficit.

1.9 INTANGIBLE ASSETS

Intangible assets consist of computer software. Intangible assets are stated at cost less accumulated depreciation and any accumulated impairment losses.

1.10 IMPAIRMENT

At each balance sheet date, the office reviews the carrying amount of its tangible and intangible assets to determine whether there is any indication that those assets may be impaired. If any such indication exists, the recoverable amount of the assets is estimated in order to determine the extent of the impairment loss (if any). Where it is not possible to estimate the recoverable amount for an individual asset, the recoverable amount is determined for the cash-generating unit to which the asset belongs.

ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2007 (Cont.)

If the recoverable amount of an asset (cash-generating unit) is estimated to be less than its carrying amount, the carrying amount of the asset (cash generating) is reduced to its recoverable amount. Impairment losses are immediately recognised as an expense, unless the relevant asset is carried at a revalued amount under another standard, in which case the impairment loss is treated as a revaluation decrease under the standard.

Where an impairment loss subsequently reverses, the carrying amount of the asset (cash-generating unit) is increased to the revised estimate of its recoverable amount, but so that the increased carrying amount does not exceed the carrying amount that would have been determined had no impairment loss been recognised for the asset (cash generating unit) in prior years. A reversal of an impairment loss is recognised as income immediately, unless the relevant asset is carried at a revalued amount under another standard, in which case the reversal of the impairment loss is treated as a revaluation increase under that other standard.

1.11 LEASES

Finance leases as per the Treasury Regulations refer to a contract that transfers the risks, rewards, rights and obligations incident to ownership to the lessee and is recorded as a purchase of equipment by means of long-term borrowing; all other leases are classified as operating leases.

Assets held under finance leases are recognised as assets of the entity/group at their fair value at the date of acquisition. The corresponding liability to the lessor is included in the balance sheet as a finance lease obligation. Finance costs, which represent the difference between the total leasing commitments and the fair value of the assets acquired, are charged to the income statement over the term of the relevant lease so as to produce a constant periodic rate of interest on the remaining balance of the obligations for each accounting period.

Rentals payable under operating leases are charged to income on a straight-line basis over the term of the relevant lease.

1.12 FINANCIAL INSTRUMENTS

Recognition

Financial assets and financial liabilities are recognised on the balance sheet when the office becomes a party to the contractual provisions of the instrument.

All "regular way" purchases and sales of financial liabilities are recognised using trade date accounting.

Measurement

Financial instruments are initially measured at cost, which includes transaction costs. Subsequent to initial recognition these instruments are measured as set out below.

Financial assets

The office's principle financial assets are accounts receivable and cash equivalents.

- Accounts receivables

Accounts receivables are stated at their nominal value as reduced by appropriate allowances for estimated irrecoverable amounts.

Financial liabilities

The office's principle financial liabilities are accounts payable.

ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2007 (Cont.)

All financial liabilities are measured at amortised cost, comprising original debt less principal payments and amortisations, except for financial liabilities held for trading and derivative liabilities, which are subsequently measured at fair value.

- Accounts payable

Accounts and other payables are stated at their nominal value.

1.13 PROVISIONS

Provisions are recognised when the office has a present obligation as a result of a past event and it is probable that this will result in an outflow of economic benefits that can be estimated reliably.

1.14 CASH AND CASH EQUIVALENTS

Cash and cash equivalents comprise cash on hand and cash held with banks, all of which is available to the office.

1.15 COMPARATIVES

Where necessary, comparative figures have been adjusted to conform to changes in presentation in the current year. The comparative figures shown in these financial statements are limited to the figures shown in the previous year's audited financial statements and such other comparative figures that the office may reasonably have available for reporting.

2. GRANTS AND TRANSFERS

		2007 R'000	2006 R'000
National Departments	<u>2.1</u>	61,284	58,627
Foreign Institutions	<u>2.2</u>	314	0
Total		61,598	58,627
2.1 National Departments			
		2007 R'000	2006 R'000
Transfer from Department of Justice		67,784	0
Deferred Income		(6,500)	0
Total		61,284	0
2.2 Foreign Institutions			
		2007 R'000	2006 R'000
European Union (Civil Society Advocacy Programme)		314	0
Total		314	0

During the financial year under review, the Office concluded an agreement with the European Union whereby the salaries for six OPP employees is funded by the European Union through the Civil Society Advocacy Programme. Also refer to Note 6.

In addition to the above, the OPP has also benefited from other projects funded and administered by the European Union through the Civil Society Advocacy Programme. The Civil Society Advocacy Programme was responsible for the procurement and expenditure related to these projects. These costs will therefore be disclosed in the Annual Financial Statements of the Civil Society Advocacy Programme.

3. OTHER INCOME

	2007 R'000	2006 R'000
Fees – Access to Information	1	3
Total	1	3

ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2007 (Cont.)

4. INCOME FROM INVESTMENTS

Interest income

Total

2007 R'000	2006 R'000
1,342	628
1,342	628

5. ADMINISTRATIVE EXPENSES

General and administrative expenses

Auditor's Remuneration

Total

2007 R'000	2006 R'000
9,742	9,759
294	(25)
10,036	9,733

6. STAFF COSTS

Basic salaries

Performance awards

Service Bonus

Defined Pension contribution plan expense

Other

Total

2007 R'000	2006 R'000
29,809	27,025
1,668	1,827
1,950	1,909
2,105	2,019
7,331	7,011
42,863	39,790

Included in the amounts above is the salary cost of R 313 746 that relates to the salaries for six employees funded by the European Union through the Civil Society Advocacy Programme. Also refer to Note 2.

7. FINANCIAL TRANSACTIONS IN ASSETS AND LIABILITIES

Impairment of assets

Total

2007 R'000	2006 R'000
0	508
0	508

During the year ended 31 March 2006, computer software with a carrying amount of R 508 000 was considered impaired, and was written off.

8. OTHER OPERATING EXPENSES

Staff training and development

Consultants, contractors and special services

Maintenance, repairs and running costs

Entertainment expense

Other

Total

2007 R'000	2006 R'000
449	495
2,251	3,275
567	75
198	112
3,376	3,142
6,841	7,100

9. DEPRECIATION

Office equipment

Motor vehicles

Computer equipment

Computer software

Furniture and fittings

Total

2007 R'000	2006 R'000
650	157
95	41
1,365	621
0	88
517	161
2,626	1,068

ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2007 (Cont.)

10. FINANCE COSTS

Obligations under finance leases
Total

2007	2006
R'000	R'000
51	32
51	32

11. PROPERTY, PLANT AND EQUIPMENT

OWNED – 2007

Cost

Balance at 1 April 2006
Additions
Balance at 31 March 2007

Depreciation

Balance at 1 April 2006
Current year charge
Balance at 31 March 2007

Book value at 31 March 2007

Computer Equipment R'000	Furniture & Fittings R'000	Office Equipment R'000	Motor Vehicle R'000	Total R'000
3,876	3,463	1,866	206	9,411
2,205	556	137	1,406	4,304
6,081	4,018	2,003	1,612	13,714
1,568	385	399	79	2,431
1,365	517	650	95	2,626
2,933	901	1,049	174	5,057
3,149	3,117	954	1,438	8,657

OWNED – 2006

Cost

Balance at 1 April 2005
Additions
Balance at 31 March 2006

Depreciation

Balance at 1 April 2005
Current year charge
Balance at 31 March 2006

Book value at 31 March 2006

Computer Equipment R'000	Furniture & Fittings R'000	Office Equipment R'000	Motor Vehicle R'000	Total R'000
3,731	2,165	1,572	206	7,674
145	1,297	294	0	1,736
3,876	3,463	1,866	206	9,411
947	224	243	38	1,452
621	161	157	41	979
1,568	385	399	79	2,431
2,308	3,078	1,467	127	6,980

12. ACCOUNTS AND OTHER RECEIVABLES

Accounts receivables
Other receivables
Total

2007	2006
R'000	R'000
269	53
0	445
269	498

13. CASH AND CASH EQUIVALENTS

Cash at bank
Cash on hand
Total

2007	2006
R'000	R'000
21,070	10,607
50	14
21,120	10,621

For the purpose of the cash flow statement:
Cash and cash equivalents at the beginning of the year

10,621	7,539
---------------	--------------

14. ACCOUNTS AND OTHER PAYABLES

Accounts payables
Accruals
Total

2007	2006
R'000	R'000
3,328	690
2,222	2,320
5,550	3,010

ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2007 (Cont.)

15. PROVISIONS

	2007 R'000	2006 R'000
Audit fees		
Opening balance	0	252
Increase/(decrease) in provision for audit fees	0	(252)
Closing balance	0	0
Salary and related expenses		
Opening balance	2,954	2,406
Increase/(decrease) in provision for salary and related expenses	309	548
Closing balance	3,263	2,954
Levies provision		
Opening balance	148	136
Increase/(decrease) in provisions for levies	15	12
Closing balance	163	148
Public Protector Gratuity		
Opening balance	2,048	1,635
Increase in provision for Public Protector Gratuity	766	413
Closing balance	2,814	2,048
Total provisions		
Opening balance	5,150	4,429
Increase/(decrease) in total provisions	1,090	721
Closing balance	6,240	5,150

16. DEFERRED INCOME

	2007 R'000	2006 R'000
Deferred Income - Transfer from Department of Justice	6,500	0
Closing balance	6,500	0

Deferred Income - Transfer from Department of Justice refers to the portion of the Grants and Transfers received which has not been recognised in the Statement of Financial Performance, as the expenditure that it is intended to compensate has not yet been incurred.

17. FINANCE LEASE OBLIGATIONS

Reconciliation between the total of the minimum lease payments and the present value:

	Up to 1 year R'000	1 to 5 years R'000	More than 5 years R'000	Total R'000
Year ended 31/3/2006				
Future minimum lease payments	83	63	0	147
Finance cost	8	4	0	12
Present value	75	59	0	135
Year ended 31/3/2007				
Future minimum lease payments	294	1,611	0	1,905
Finance cost	138	340	0	478
Present value	156	1,271	0	1,427

ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2007 (Cont.)

17. FINANCE LEASE OBLIGATIONS (CONTINUED)

Analysed for financial reporting purposes:

Non-current finance lease liability (recoverable after 12 months)

Current finance lease liability (recoverable within 12 months)

Net finance lease liability

2007 R'000	2006 R'000
1,271	59
156	75
1,427	135

Finance Leases: Photocopiers

It is the Office's policy to lease photocopiers under finance leases. Included in current finance lease liabilities is an amount of R 45 831 that relates to the lease liability for these photocopiers (R 0 in non-current finance lease liabilities). The average lease term is three years. For the year ended 31 March 2007 the average effective borrowing rate was 12%. Interest rates are fixed at the contract date.

Finance Leases: Motor Vehicles (acquired under a Transversal Public Private Partnership contract)

During the year ended 31 March 2007, the office leased certain motor vehicles under finance leases in terms of a transversal public private partnership contract managed by National Treasury and the Department of Transport. The average lease period is five years. For the year ended 31 March 2007, the average effective borrowing rate was 10%. Interest rates are fixed at the contract date.

The entity/group's obligations under finance leases are secured by the lessor's charge over the leased assets.

18. KEY MANAGEMENT PERSONNEL

Public Protector & Deputy Public Protector

Chief Director

Directors

Total

2007 R'000	2006 R'000
1,506	965
1,760	1,168
7,623	8,199
10,889	10,332

The 21 directors include the Chief Financial Officer, Chief Investigators and Provincial Representatives.

19. CHANGES IN WORKING CAPITAL

Decrease/(increase) in Accounts and other receivables

Increase in Accounts and other payables

Increase in deferred income

Increase/(decrease) in provisions

Net change in working capital

2007 R'000	2006 R'000
229	231
2,540	1,150
6,500	0
1,090	721
10,359	2,102

20. SURPLUS RECONCILIATION

Surplus/(Deficits) for the year

Add back: Depreciation

Savings from operations

Less: PPE Additions

Net Surplus before removing effects of finance lease

Add back: PPE additions - Phavis World Finance Lease

Net Surplus

2007 R'000
524
2,626
3,150
(4,304)
(1,154)
1,406
252

12. THE YEAR AHEAD

The strategic framework of the office is divided into two i.e. organisational and operational.

12.1 Organisational

The organisation must remain lean, highly professional, and able to expand and contract as required as per the concertina model.

12.1.1 LEAN

To achieve the leanness of the organisation, attempts must be made to partner with other institutions for example multi-purpose community centres.

12.1.2 PROFESSIONAL

Attract and retain a highly trained and effective team of investigators and administrative support staff that are able to deliver results within set objectives, budgets and time frames. This will require a review of salaries and job descriptions. This can be scheduled as a two-year project. Staff retention must be looked at carefully to reduce the staff turnover levels.

12.1.3 CONCERTINA MODEL

Depending on the number of complaints/cases received the office must be able to contract staff for specific periods and release them as and when the need arises. A database of skilled and qualified contractors can be kept to facilitate this process. The Public Protector actually envisages such a process by permitting the office to cooperate with other individuals or institutions to meet such a requirement.

12.2 Operational

The operational framework is divided into three strategic focus areas namely, Thematic approach for own initiative investigations, Project Approach for other investigations and taking the Office of the Public Protector to the People.

12.2.1 THEMATIC APPROACH

This model is based on the selection of specific themes for each given year, for example, local service delivery, corruption, social grants etc. In this way thorough investigation can be conducted around a subject and workshops or conferences be held to profile the subject and the organisation. Each province would conduct special investigations and research if necessary on the theme and conduct provincial workshops to promote awareness and sensitise stakeholders of the relevant issues.

12.2.2. PROJECT APPROACH

This will be directed towards a more professional approach to investigations with a view to saving costs and ensuring timely completion of projects within approved budgets. Every jurisdictional investigation will be accompanied by a project charter with time frames, budget lines and clearly spelt out strategies. This will help to monitor performance, completion and outcomes of each and every case. Any case that is not concluded within one year will require special approval. Consideration will be given to developing a case barometer that can be used to measure the importance of each case so as to allocate the correct skills and resources to it.

11.2.3 MOBILE OFFICE OF THE PUBLIC PROTECTOR

The OPP is committed to reaching and touching the lives of as many South Africans as possible. Community clinics and workshops continue to be a valuable vehicle to promote access to the services of the Public Protector. In addition to this

a Mobile office of the Public Protector (MOPP) will be established to cover the entire country within a three-year cycle. Collaboration with other Chapter 9 institutions will be considered in this programme.

The office has identified four strategic objectives for 2007/08 financial year and the focus under each is as follows:

12.3 Programme 1: Investigation and Reporting

There is a need to improve on the current SDIs to ensure that they are appropriate for the OPP investigative functions. The costing of investigation activities remains a challenge and will be given priority in the 2007/08 financial year.

12.4 Programme 2: Executive Management

We have realised the need to define Executive Management as a new programme focusing on Strategic Management, Marketing and Communications. We have appointed a Chief Executive Officer who will work closely with the Public Protector and Deputy Public Protector to monitor the delivery of this strategy.

Our Marketing and Communications has made slow progress and in the 2007/08 financial year, we will focus on defining and implementing all the necessary strategies to improve internal and external communication and to inculcate a common vision and improved profile for the OPP.

12.5 Programme 3: Outreach Programme

Outreach Programme will now be a separate Strategic Programme, mainly utilising the CSAP budget to achieve its objectives. An Outreach Co-ordinator has been appointed, to take ownership of the implementation of the Outreach Strategy defined in 2006/07.

12.6 Programme 4: Corporate Services

The Corporate Support Services has managed to develop proper policies and procedures. In 2007/08, we will be implementing and enhancing some of those policies. Our Information and Communication Technology remains a challenge, however this revised strategy has identified the need to develop and implement the Master Systems Plan that will integrate our entire ICT environment.

The strategic objectives identified under each programme are as follows:

12.6.1 PROGRAMME 1: INVESTIGATIONS AND REPORTING

- a) To conduct investigations with adherence to SDIs.
- b) To identify and conduct systemic investigations.
- c) To conduct own-initiative investigations.
- d) To develop investigative techniques, processes and training.
- e) To reduce the turnaround time to a maximum of one year to finalise all cases.
- f) To ensure effective, relevant reporting in all finalised investigations.
- g) To monitor and report on remedial actions recommended to organs of state.
- h) Identify areas to be included in the Costing Model
- i) To improve the effective and efficient coordination of provincial offices.

12.6.2 PROGRAMME 2: EXECUTIVE MANAGEMENT

Strategic objectives for the programme:

Sub Programme: Executive Management

- a) To conduct file inspections.
- b) To improve on think-tank committee procedures and processes.
- c) To define and review organisational strategic performance assessment and reporting.
- d) To consolidate and continuously update the policies into an integrated Corporate Manual.
- e) To enhance collaboration with stakeholders.
- f) To co-ordinate the OPP management meetings
- g) Establish and migrate AORC.
- h) To develop the exchange programme strategy.
- i) To improve efficiency and effectiveness of the investigation process.
- j) To develop the Service Delivery Charter.

Sub-Programme: Marketing and Communications

- k) Improve communication and routing of information to stakeholders
- l) Effective communication to internal staff
- m) Improve media relations
- n) Brand and market the OPP
- o) Inculcate protocol knowledge within the OPP

12.6.3 PROGRAMME 3: OUTREACH

Strategic objectives for the programme are to:

- a) Increase accessibility to OPP services
- b) Increase public awareness
- c) Manage Outreach Activities at National Office
- d) Take the OPP to the People

12.6.4 PROGRAMME 4: CORPORATE SERVICES

Strategic objectives for the programme:

Sub programme: Human Resource Management

- a) Ensure attraction, maintenance and retention of high quality staff for OPP.
- b) Continuous monitoring and evaluation of OPP PPMDS to ensure an improved and sustained PPMDS
- c) Training and development of staff according to OPP needs
- d) Ensure the development, implementation and utilisation of an EWP for the OPP.
- e) Facilitate and monitor change management, transformation, equity and diversity
- f) Improve the Human Resources Management Information System (HRMIS)
- g) To improve, monitor and advise on Labour Relations.

Sub-Programme: Finance and Supply Chain Management

- h) To develop a costing model for investigations
- i) Improve OPP financial management and reporting
- j) Ensure compliance of OPP with financial prescripts
- k) Develop and implement cost-effective procurement processes

Sub-Programme: Administration Support

- l) To enable the optimum application and utilisation of resources
- m) To promote the effective and efficient functioning of the registry
- n) To establish and maintain suitable office accommodation

Sub-Programme: Security and Risk Management

- o) To establish and implement processes for the protection of OPP information and assets, including staff
- p) Develop and implement Risk Management Strategy.

Sub-Programme: Knowledge Management

- q) Create Knowledge Management Institution of the OPP

Sub-Programme: Information and Communications Technology

- r) Develop Master Systems Plan (MSP).

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