



PUBLIC PROTECTOR
SOUTH AFRICA

Public Protector South Africa **Annual Report**

2009 - 2010

Accountability • Integrity • Responsiveness



Repositioning for Enhanced Effectiveness in Helping the State to Remedy its Service Failures



PUBLIC PROTECTOR
SOUTH AFRICA

Accountability Integrity Responsiveness

PUBLIC PROTECTOR

ANNUAL REPORT

April 2009-March 2010

opt. remedial action
integrity fairness **trust**
accessibility accountability trust

responsiveness trust accessibility
accessibility good governance
integrity **responsiveness**

LETTER TO THE SPEAKER

The Hon. Mr Max Sisulu

Speaker of the National Assembly of South Africa

Parliament Building

Parliament Street

P O Box 15

CAPE TOWN

Dear Honourable Speaker

It is an honour to submit my first report in terms of section 181 (5) of the Constitution of the Republic of South Africa, 1996, which covers the period 1 April 2009 to 31 March 2010.

The report, which is the 14th Annual Report of the Public Protector, covers the last seven months of office of my predecessor and my first five months since assuming office on 15 October 2009 as the third Public Protector of the Republic of South Africa.

I would like to express sincere appreciation from my team and myself to your office, the National Assembly, representatives of organs of state and the people of South Africa for supporting my office and facilitating the fulfillment of its constitutional mandate.

Yours sincerely



Adv. Thulisile (Thuli) Nomkhosi Madonsela

Public Protector of the Republic of South Africa

31 August 2010

opt. remedial action
integrity fairness **trust**
accessibility accountability trust

responsiveness trust accessibility
accessibility good governance
integrity **responsiveness**

TABLE OF CONTENTS

FOREWORD BY THE PUBLIC PROTECTOR	6
CONSTITUTIONAL MANDATE OF THE PUBLIC PROTECTOR	8
INSTITUTIONAL PERFORMANCE FRAMEWORK	9
1. PUBLIC PROTECTORS OVERVIEW	11
1.1 General Overview	11
1.2 Summary of Key Achievements	11
1.3 Institutional Governance and Management	13
1.4 Selected Reports	14
1.5 Systemic Investigations	34
1.6 Own Initiative Investigations	37
1.7 Settlements and Monitoring of Remedial Action	40
1.8 International Relations	40
1.9 Concluding Observations: Impact, Trends and Forward Planning	40
2. CHIEF EXECUTIVE OFFICER'S REVIEW	42
2.1 Introduction	42
2.2 Summary of Actual Performance against Targets for the Year Ended 31 March 2010	47
2.3 Human Resources Management and Development	65
3. ANNUAL FINANCIAL STATEMENTS	85
4. ADDRESSES	139

FOREWORD BY THE PUBLIC PROTECTOR



The past year has been a particularly important year in the history of the Public Protector South Africa as an Ombudsman institution. In the year under review, we celebrate two key milestones in the progression towards the achievement of good governance and an accountable state in our nation.

The first of these milestones is that this year marks 200 years since the global inception of the institution of the Ombudsman in Sweden, to serve as a buffer between the state and the citizen. The second milestone, much closer to home, is that we are on the eve of celebrating 15 years of the existence of the South African version of this institution. I feel particularly privileged that I have been entrusted with the honour and responsibility of steering this office during the next seven years of its evolution.

This has presented us with an opportunity to reflect on progress achieved and lessons learned, with a view to consolidating and refocusing for optimal effectiveness and impact. This 14th annual report, which is entitled “*Repositioning for Enhanced Effectiveness in Helping the State to Remedy its Service Failures*” is informed by this reflection and repositioning.

As has been the case over the years, the specific targets set at the beginning of the fiscal year 2009/2010 have been carefully and scientifically employed as a yardstick to measure progress. The last five months of the year under review focussed on reorganising the Office with a view to enhancing adherence to the constitutional mandate and smart deployment of resources in pursuit of efficiency and effectiveness. One of the outcomes of the mandate analysis is a publication entitled “*Constitutional and Legislative Mandate of the Public Protector*”. The process has also helped to highlight the various mandate areas of the Public Protector, which transcend the classical ombudsman mandate captured in the Public Protector Act 23 of 1994.

‘ In the year under review, we celebrate two key milestones in the progression towards the realisation of good governance and an accountable state in our nation ’

The result of the refocusing and reorganisation exercise has been a sharper focus on remedial action as envisaged in section 182(1) (c) of the Constitution, enhanced rigour of investigations and reduction of turnaround times. The report also highlights swift and concrete measures implemented to address the gaps identified by the Auditor-General (AG) in the 2008/09 Annual Report leading to this year’s unqualified report from the AG.

Also captured in the report, is a brief report back on a stakeholder consultative process I undertook at the commencement of my term and the valuable feedback this process provided on how stakeholders interpret the Public Protector’s constitutional mandate, perceptions about this office and public expectations.

I have also taken this opportunity to introduce the new vision (Public Protector Vision 2020) and strategic objectives of the office, which are, once again, outcomes of the thorough mandate analysis and stakeholder consultation. The new vision focuses on righting administrative wrongs of the state while facilitating systemic administrative and

governance improvements to transform the state in pursuit of good governance and the rule of law.


The vision is supported by an extensive organisational realignment with a view to ensuring efficient and effective business systems and processes while leveraging our internal and external people for optimal performance and a customer service culture. Specific interventions include restructured operational units, separating matters for early resolution from investigations focussing on service delivery and those directed at promoting good governance and integrity in all state affairs.

‘ The promise to Parliament and the people of South Africa is to: be accessible and trusted by all persons; deliver prompt remedial action; and to promote good governance in all state affairs. ’

The report briefly touches on the challenges that hamper the optimal realisation of the constitutional mandate. Chief among these is a considerable disconnect between the ever-expanding mandate of this office, the increasingly stretching, ambitious targets for the future and the resources allocated to achieve these noble ends. This gap is most apparent in the number of investigators, which is less than a hundred (100) and the budget, which is about R112 million. This makes it difficult to balance investigation rigour with promptness. It is also not possible to be accessible to all persons and communities as envisaged in section 182(4) of the Constitution.

I am grateful for the solid legacy of my predecessors, Adv. Selby Baqwa and Adv. Lawrence Mushwana and on which my team and I seek to build in achieving higher ground with regard to meeting constitutional obligations and addressing the needs of the people of South Africa.

I wish to express my sincere gratitude to the leadership and support team in my Office for the professionalism and selfless service that never ceases to amaze me. It is because of my faith in this team that I boldly pledge to deliver prompt and quality service in fulfilment of the constitutional mandate of this Office.



Adv. Thulisile (Thuli) Nomkhosi Madonsela
Public Protector of the Republic of South Africa

CONSTITUTIONAL MANDATE OF THE PUBLIC PROTECTOR

Established under section 181 of the Constitution to strengthen and support constitutional democracy, the Public Protector is mandated by the Constitution to investigate any conduct in state affairs, or in the public administration in any sphere of government, that is alleged to be improper or result in any impropriety or prejudice; to report on that conduct; and to take appropriate remedial action.

The Public Protector's mandate covers six (6) key mandate areas, which include (1) investigating maladministration and resolving disputes involving alleged improper or prejudicial conduct by organs of state through mediation, conciliation, negotiation or any appropriate means as provided for under the Public Protector Act 23 of 1994; (2) investigating alleged violations of the Executive Members' Ethics Act 82 of 1998 and the Executive Ethics Code; (3) investigating alleged violations of the Prevention and Combating of Corrupt Activities Act 12 of 2004; (4) resolving disputes under the Promotion of Access to Information Act 2 of 2000; (5) receiving disclosures from whistle-blowers under the Protected Disclosures Act 26 of 2000; and (6) reviewing decisions of the National Home Builders Registration Council. The matters dealt with by the Public Protector on a day-to-day basis range from service failures to abuse of power and state resources.

The Public Protector, whose position is equivalent to that of a Judge of the Supreme Court of Appeal, is independent and subject only to the Constitution and the law, and must be impartial and exercise her/his powers and perform her/his functions without fear, favour or prejudice. The current Public Protector, Advocate Thulisile (Thuli) Nomkhosi Madonsela, assumed office on 15 October 2009.

Section 182(4) of the Constitution requires the Public Protector to be accessible to all persons and communities. Subject to section 4 of the Executive Members' Ethics Act, any person or organisation may approach the Public Protector with any complaint involving improper or prejudicial conduct or service failure by a public official, office bearer or organ of state.

' The Public Protector is constitutionally mandated to investigate, report and take remedial action '

The services of the Public Protector are free and include a toll-free line for telephone complaints: 0800 11 20 40. A complaint may also be lodged directly at office of the Public Protector in all nine provinces or by writing to the Public Protector or by sending an e-mail or using the website: www.publicprotector.org

INSTITUTIONAL PERFORMANCE FRAMEWORK

VISION

A trusted, effective and accessible Public Protector that rights administrative wrongs and consistently acts with integrity to ensure fair, accountable and responsive decision-making, service and good governance in all state affairs and public administration in every sphere of government.

MISSION

To strengthen constitutional democracy in pursuit of our constitutional mandate by investigating, rectifying and redressing any improper or prejudicial conduct in state affairs and resolving related disputes through mediation, conciliation, negotiation and other measures to ensure fair, responsive and accountable public sector decision-making and service delivery.

PRINCIPLES AND VALUES

Anchored in the supremacy of the Constitution and the rule of law, delivery on the mandate, vision, strategic objectives and targets for the year ahead is underpinned by the Constitution, particularly the Bill of Rights and Public Service Principles in Chapter 10, *Batho Pele* Principles, Global Ombudsman Principles, the institutional core principles of **Accountability, Integrity and Responsiveness**, and the following core values:

Independence and Impartiality – *we perform our constitutional duties without fear or favour, and without deference to any person or institution*

Human Dignity – *we respect the constitutionally protected dignity of all those we interact with as we deliver services and manage our affairs*

Equality – *we treat all those we serve, or interact, with equal consideration, taking into account human diversity and related needs*

Ubuntu – *we serve with humanity, empathy, compassion, understanding and respect for every person's human rights*

Redress – *we strive to achieve remedial action where wrong has been done*

Accountability – *we always give an account of our actions and decisions and promote the same within the state*

Integrity – *we keep our promises and maintain high standards of trustworthiness, mindful of our obligation of confidentiality*

Responsiveness – *we expeditiously deliver services that equally address the needs of all persons and communities*

Transparency – we maintain openness in all our actions, keeping affected parties informed at all times

Justice and Fairness – we investigate and resolve complaints and treat all persons in a manner that promotes fair administrative action and lawfulness

PUBLIC PROTECTOR'S SERVICE PLEDGE

We promise Parliament and the people of South Africa, to:

- 1 *be accessible to and trusted by all persons and communities*
- 2 *take prompt remedial action*
- 3 *promote good governance in the conduct of all state affairs*



Representatives of various interest groups during a stakeholders' meeting in Gauteng

PUBLIC PROTECTOR'S OVERVIEW

1.1 GENERAL OVERVIEW

This report covers the fiscal year commencing on 1 April 2009 until 31 March 2010 and accordingly straddles terms of two Public Protectors, covering the last seven months of the previous Public Protector, Adv. Lawrence Mushwana's term, and the first five months of the new Public Protector's term of office. The vision that underpinned the Public Protector's work during the year under review was: "To be one of the leading Public Protector (Ombudsman) institutions in the world". The Strategic Objectives were:

- To be one of the leading Public Protector (Ombudsman) institutions in the world.
- To ensure that all allegations of improper conduct by the state and its entities are investigated, reported and appropriate remedial action taken.
- To ensure accessibility to services provided by the Office of the Public Protector all persons and communities.
- To ensure the efficient and effective management/leadership of the Office of the Public Protector.
- To ensure a high performance culture by attracting and retaining highly competent and skilled individuals.

A new vision has since been adopted and given effect from 1 April 2010.

1.2 SUMMARY OF KEY ACHIEVEMENTS

The Public Protector continued to pursue its constitutional mandate of strengthening constitutional democracy by acting as a buffer between the state and disgruntled citizens while seeking to improve good governance and service delivery in the public sector. More and more members of the public sought the intervention of the Public Protector and in many instances obtained recourse. Significant progress was made in pursuit of the vision and specifically towards meeting each of the strategic objectives highlighted above.

During the period under review, the Public Protector received 16 136 cases, accepted jurisdiction in respect of 12 316 cases and finalised 14 738 cases, which included cases carried over from the previous year. Nearly three thousand cases (2 987) fell outside the jurisdiction of the Public Protector and were disposed of through advice and referrals and eight hundred and thirty-three cases (833) were referred to other competent oversight agencies such as the Judicial Inspectorate for Prisons, the Independent Complaints Directorate (ICD) and the Public Service Commission (PSC).

- **16 136:** total number of cases received
- **14 738:** total number of cases finalised
- **12 316:** total number of cases within jurisdiction
- **2 987:** total number of cases out of jurisdiction
- **833:** total number of cases referred to other institutions
- **44:** total number of finalised reports

integrity fairness trust

Organisational realignment was effected with one of the outcomes being an early resolution mechanism, which contributed immensely to the expeditious finalisation of cases and delivery of remedial action in appropriate circumstances. Attention was paid to the powers of the Public Protector that transcend investigating. The use of mediation, conciliation and negotiation among other avenues brought about a number of early settlements that brought speedy redress to victims of maladministration and other forms of improper conduct by state actors.

More attention was also given to the other mandate areas, particularly the enforcement of executive ethics and integrity matters. A specialised Good Governance and Integrity Unit was established for this purpose. Matters that require the investigation of service failure and facilitation of service delivery improvement were also given a specialised Service Delivery Unit.

Considerable effort was invested in reorganising the Office with a view to deploying resources smartly for enhanced efficiency and effectiveness. This included a move towards specialisation to ensure that investigators are familiar with the regulatory framework and are thus able to deepen and accelerate the pace of investigations.

‘ Considerable effort was invested in reorganising the Office with a view to deploying resources smartly for enhanced efficiency and effectiveness. ’

In-depth attention was also paid to the findings of the Auditor-General. Interventions in this regard included paying closer attention to asset management and the accuracy of performance information. A new Audit Committee was also appointed. The result of these efforts is an unqualified report from the AG. However, there are still matters that the AG required to be attended to and monitored closely and this remains one of the focus areas in the Strategic Plan.

The transition to a third Public Protector also presented a unique opportunity for an extensive mandate analysis. This process incorporated an analysis of section 182 of the Constitution and the 16 key pieces of legislation that give the Public Protector specific powers and responsibilities. One of the outcomes of this exercise is a booklet entitled “*Constitutional and Legislative Mandate of the Public Protector*”. The mandate analysis also informed the new vision (Public Protector Vision 2020) and the three year Strategic Plan.

The period under review also witnessed an extensive stakeholder consultation process, which included the circulation of the draft vision and strategic objectives as well as stakeholder consultative forums in all nine provinces and a national stakeholder consultative forum. Through this process, stakeholders across a wide spectrum informed the mandate interpretation, vision and Strategic Plan of the Public Protector. This exercise distilled the following key mandate areas for the Public Protector:

- Investigation (complaint or own initiative) and dispute resolution regarding alleged maladministration or improper conduct by the state, through mediation, conciliation or negotiation under the Public Protector Act, with a view to provide remedial action or redress;
- Investigation of alleged violations of the Executive Ethics Code in terms of the Executive Ethics Act;
- Resolution of disputes through mediation, conciliation or negotiation under the Promotion of Access to Information Act;
- Receiving protected disclosures from whistle-blowers under the Protected Disclosures Act;
- Investigating alleged violation of the Prevention and Combating of Corrupt Activities Act;
- Review of decisions of the National Home Builders Registration Council.

1.3 INSTITUTIONAL GOVERNANCE AND MANAGEMENT

EXECUTIVE AUTHORITY

The Public Protector remains the Executive Authority in terms of the Public Protector Act, particularly section 4 thereof.

In performing her duties, the Public Protector is assisted by the Deputy Public Protector, to whom several responsibilities and powers have been delegated in terms of section 2A(6) of the Public Protector Act.

EXECUTIVE COMMITTEE (EXCO)

A committee comprising the Public Protector, Deputy Public Protector and the Chief Executive Officer (CEO) currently sits at least every two months to assist the Public Protector with performance review and decision advice.

AUDIT COMMITTEE

An audit committee supervises and advises the Public Protector South Africa in compliance with the provisions of section 40(6)(a) of the Public Finance Management Act 1 of 1999. A new committee was appointed in October 2009. The Committee sits at least four times a year.

THINK TANK

A peer review mechanism currently referred to as the Think Tank, comprising all leaders of investigation teams, sits quarterly to assist the Public Protector in reviewing cases, mainly reports, before they are finalised. Efforts are currently under way to review this mechanism with a view to making it more effective and efficient.



Adv Thuli Madonsela
Public Protector



Adv Mamiki Shai
Deputy Public Protector



Themba Mthethwa
Chief Executive Officer

1.4 SELECTED REPORTS

When cases are not resolved through early settlement or other appropriate action, a report is issued. This part of the report provides a summary of some reports that were issued in the fiscal year 2009/10.

1.4.1 REPORTS INVOLVING NATIONAL DEPARTMENTS

1.4.1.1 DEPARTMENT OF WATER AFFAIRS AND FORESTRY

REPORT 4 OF 2009/10

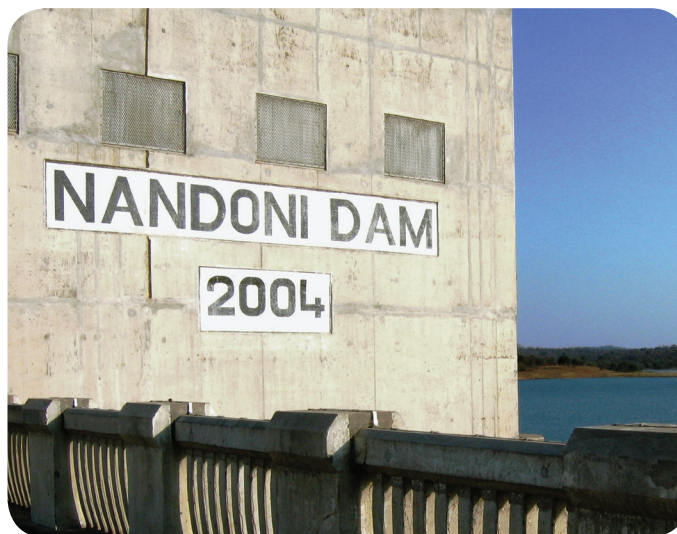
Construction of dam affects communities negatively

The Public Protector investigated complaints lodged by individuals and communities from ten villages in Limpopo Province affected by the construction of the Nandoni Dam near Thohoyandou. The investigation incorporated a public hearing and an interim report.

The complaints primarily dealt with issues such as: inadequate or lack of compensation for loss of the right to access to arable land, secure access to the river, compensation for domestic fruit trees, compensation for commercial fruit orchards or farms, poor quality of workmanship on newly built houses, relocation of graves, traditional medicinal plants, poor communication, poorly constructed access roads, water supply, dam safety and other related matters.

Overview of Findings

The Public Protector found that most of the complaints by individuals and communities that were affected by the development of the Dam were genuine. An inspection of houses by the Complaints Resolution Committee revealed that 29 houses, including three which were identified during the public hearing, needed immediate attention, and the DWAF undertook to effect the necessary repairs.



1.4.1.2 DEPARTMENT OF HOME AFFAIRS

REPORT 11 OF 2009/10

Department must issue IDs without further delay

The Public Protector investigated complaints relating to allegations of undue delay by the Department of Home Affairs (the Department) in connection with the processing of applications for identity documents by Mr S and Ms D (the Complainants).



Overview of Findings

The Public Protector found that the Department had been aware of the delay and the duplication of the identity numbers of the Complainants for a considerable period and had failed to resolve the problem. The failure of officials to attend to the matters when they were raised by the Public Protector further delayed the processing of the applications.

Public Protector's Recommendations/Remedial Action

The Public Protector recommended that the Director-General of the Department take urgent steps to ensure that the identity documents referred to in this report be issued without any further delay.

1.4.1.3 SOUTH AFRICAN POLICE SERVICE

REPORT 18 OF 2009/10

Complainant not liable for payment of DNA test

The Public Protector investigated an allegation that the South African Police Service (SAPS) improperly held the Complainant liable for payment of a hospital bill that was incurred during a police investigation in which the Complainant was a suspect. The bill related to a DNA test that was conducted as part of an investigation by the Piet Retief SAPS, and the costs thereof should have been recovered from the SAPS.

Overview of Findings

The Public Protector found that the official who captured the Complainant's details mistakenly overlooked the completed form SAPS 308 that should have been captured in order for the costs to be recovered from the SAPS, and the cost for the DNA test was erroneously billed to the Complainant's medical aid scheme which declined to pay – the Complainant became liable for the unpaid bill. When the Complainant failed to pay his hospital bill, the hospital handed his account over to debt collectors.

Recommendations/Remedial Action

The Public Protector recommended that Piet Retief hospital should ensure that the necessary authorisation be promptly given to the debt collector to reverse payment made in respect of the account billed for the DNA test conducted to the Complainant on 14 February 2005.

1.4.1.4 DEPARTMENT OF PUBLIC WORKS

REPORT 27 OF 2009/10

Public Protector mediates land sale dispute successfully

The Public Protector investigated the allegation that the Department of Public Works (Department) agreed to sell the Complainant a portion of erf 634, Simon's Town, as approved by the Land Affairs Board, but there was undue delay on the part of the Department in ensuring finalisation of the sale.

Overview of Findings

The Public Protector found that there was clearly an undue delay on the part of the Department in dealing with the Complainant's matter, and this was caused by a number of factors, including staff shortages and resignations. Following intervention by the Public Protector a settlement agreement was entered into between the Complainant and the Department.

Recommendations/Remedial Action

The Public Protector recommended that the Regional Office of the Department in Cape Town should increase its capacity and provide training to staff in order to improve service delivery to its customers and stakeholders and to prevent a recurrence of delays of this nature in future. The Regional Manager should also ensure that the mediation agreement entered into with the Complainant be implemented during 2009, soon after the approval of the diagrams by the Surveyor-General.

1.4.1.5 SOUTH AFRICAN POLICE SERVICE (SAPS)

REPORT 47 OF 2009/10

SAPS failed to assist widow in claiming deceased pension benefits

The Public Protector investigated an allegation of undue delay by the South African Police Service (SAPS) to process and submit pension documents in respect of a former member who passed away in 2005, to the Government Employee Pension Fund (GEPPF) for processing and payment of the pension benefits to the beneficiaries.

Overview of Findings

The Public Protector found that the SAPS had failed to inform the beneficiaries that there were outstanding documents to be submitted before the claim for pension benefits could be processed by the GEPF. This information was only conveyed to the beneficiaries after the intervention of the then Minister of Safety and Security.

The Public Protector also found that the process of getting the exit documents from the SAPS Provincial Commissioners' offices to the SAPS Head Office and ultimately to GEPF was unduly delayed by the strict adherence to the cumbersome SAPS protocol and procedures. The Public Protector also noted that the beneficiaries delayed submitting the correct outstanding documents after they had been informed to do so.

Recommendations/Remedial Action

The Public Protector recommended that the National Commissioner of the SAPS take appropriate steps to ensure that the cumbersome procedures of submitting exit documents of former members of the SAPS who were based in the provinces be reviewed in order to streamline and expedite the relevant administrative processes; and that the Terminations Section of the SAPS inform beneficiaries or affected parties of queries relating to exit documents that have to be submitted to GEPF and the corrections that have to be made without delay.

1.4.2 REPORTS INVOLVING PROVINCIAL DEPARTMENTS

EASTERN CAPE PROVINCE

1.4.2.1. DEPARTMENT OF LOCAL GOVERNMENT AND TRADITIONAL AFFAIRS

REPORT 16 OF 2009/10

Appointment of headman not consistent with applicable legislation

The Public Protector investigated allegations that the Member of the Executive Council (MEC) for Local Government, Housing and Traditional Affairs had incorrectly appointed and recognised Mr M as a headman to rule the Tsengiwe Administrative Area in Cala in the Eastern Cape Province and that the appointment process was not transparent as the community had never been involved.

Overview of Findings

The Public Protector found that Mr M was not from a royal family and there is no royal family in the Tsengiwe Administrative Area and therefore his appointment was not in terms of the applicable legislation. Furthermore, there was a shortcoming in the Provincial legislation with regard to the filling of vacancies for headman/headwoman in instances where there is no royal family in the traditional community.

Recommendations/Remedial Action

The Public Protector recommended that the matter be referred to the House of Traditional Leaders for recommendation and that the Provincial legislation be amended to address the limitations identified in section 18 regarding the appointment of a headman/headwoman for traditional communities without royal families.

The Department should, in order to avoid conflict in the area, facilitate the establishment of an interim structure to take charge of the administration of the Tsengiwe Administrative Area while these recommendations are being implemented.

1.4.2.2 DEPARTMENT OF SAFETY AND LIAISON

REPORT 34 OF 2009/10

MEC and Head of Department fail to comply with relevant provisions of the Public Service Act and Regulations

The Public Protector conducted an investigation against the former MEC and Head of the Department for Safety and Liaison in the Eastern Cape Province for alleged improper altering of the organogram of the Department, nepotism and irregular appointment of certain staff members.

Overview of Findings

The Public Protector found that there was no substance in the allegations raised. However, The Public Protector found that the MEC had failed to comply with the requirement of regulation VII D.8 of the Regulations under the Public Service Act 103 of 1994, of satisfying himself that certain candidates appointed qualified in all respects for the positions in which they were appointed.

Recommendations/Remedial Action

The Public Protector recommended that the Premier of the Eastern Cape Province should take urgent steps to ensure that the Executing Authorities are aware of, and fully comply with, the relevant provisions of the Public Service Act and Regulations when exercising their powers in the appointment of staff.

FREE STATE PROVINCE

1.4.2.3 MASTER OF THE HIGH COURT

REPORT 24 OF 2009/10

Master must pay beneficiary the due amount

The Public Protector investigated allegations of maladministration and undue delay by the Master of the High Court, Free State, in remitting payment of pension benefits held in the Guardian's Fund to its beneficiary. The Complainant had been receiving a monthly allowance from the Guardian's Fund as a beneficiary of the deceased's estate and in January 2008, he lodged an application with the Guardian's Fund for the release of benefits from the fund as per the prescribed form (J251). The Master of the High Court received his documents as acknowledged by the date stamp of 4 January 2008, however, no benefits had been received at the time of the report.

Overview of Findings

The Public Protector found that payment had been approved by the Master of the High Court, and a non-transferable, non-negotiable cheque was issued on 22 February 2008 to the amount of R82 133.65; the said cheque was cashed on 31 March 2008 at FNB Westonaria by an unknown person and was not deposited into the Complainant's bank account as instructed per form J251 and the endorsing signature on the back of the cheque differed materially from that of the Complainant. It is standard procedure at the Guardian's Fund that after the deposit has been effected, the deposit slip must be filed for record purposes. However, in this instance no proof to the effect that the cheque had been deposited into the Complainant's account could be produced.

Recommendations/Remedial Action

The Public Protector recommended that the Complainant be paid the full amount with applicable interest effective from 22 February 2008 to the date of payment, being the date the original cheque was due for payment; and that urgent steps be taken to ensure that an effective electronic system be put in place to prevent the re-occurrence of similar situations.

The Public Protector further recommended that the Master should consider conducting an internal investigation into the circumstances surrounding this matter with a view to taking appropriate disciplinary and/or remedial action to prevent re-occurrences, and this should also be reported to the South African Police Services for criminal investigation.

1.4.2.4 FREE STATE YOUTH COMMISSION

REPORT 51 OF 2009/10

State institutions should be wary of joining forces with political parties in the celebration of national events

The Public Protector investigated a complaint in connection with the Youth Day celebrations that were held at Selosesha in the Free State on 16 June 2008. It was alleged that the former Free State Youth Commission (Youth Commission) had funded the said event, which was a political rally of the African National Congress (ANC) and that the expenditure incurred therefore amounted to the misappropriation of public funds.

The investigation revealed that the Youth Commission had planned and organised a Youth Day event for 16 June 2008. Stakeholders, such as political parties, were invited to participate in the programme. It also transpired that the African National Congress Youth League (ANCYL) was organising an event in Selosesha on the same date. The Youth Commission, by direction of the former Premier, decided to join the ANCYL in the event planned for Selosesha. It therefore became a joint effort and involved the former Premier and the Chairperson of the Youth Commission as the main speakers. Prominent leaders of the African National Congress also addressed the crowd who attended the event and it drew a substantial amount of media attention.

The expenditure incurred by the Youth Commission for the event was mainly for transportation, advertising, catering, accommodation and entertainment, and was not irregular as it was incurred in terms of the Free State Youth Commission Act.

Overview of Findings

The Public Protector found that the Youth Commission would have incurred the expenditure in terms of its involvement in the Youth Day Celebrations, irrespective of where it was held. There was no indication that the ANCYL or the ANC improperly benefited from the said expenditure incurred by the Youth Commission as the originally planned rally of the ANCYL was not dependent on the Youth Commission's involvement. It would have happened and most probably would have been well attended anyway.

The Public Protector further found that the allegation of the misappropriation of public funds by the Youth Commission was unfounded. The Public Protector held that it is unfortunate that the platform of the event, which was to celebrate our youth, was used for party political statements by some of the speakers. Institutions of the State should refrain from joining forces with political parties in the celebration of national events, as it will always have the potential of creating a perception of political bias and an abuse of public resources.

GAUTENG PROVINCE

1.4.2.5 PROVINCIAL SOUTH AFRICAN POLICE SERVICES

REPORT 31 OF 2009/10

Ex-Provincial Commissioner's failure to investigate allegations against SAPS members improper

The Public Protector conducted an investigation against the former Deputy Provincial Commissioner (Major-General) for Gauteng, for failure to investigate or to ensure the investigation into allegation of criminal activities committed by certain members of the South African Police Service (SAPS) and the public during September 2008 and May 2009 in the Tshwane Municipal area.

Overview of Findings

The Public Protector found that the failure by the former Deputy Provincial Commissioner for Gauteng (DPCG) to investigate the complaint or to ensure that an investigation was urgently instituted, was unjustified, unreasonable and in conflict with the spirit of the Constitution of the Republic of South Africa, 1996, and the South African Police Act 68 of 1995, as it adversely affected the credibility of the SAPS and could therefore amount to defeating the ends of justice. The Commissioner's failure to respond to the enquiries of the Public Protector, and to provide progress reports when requested to do so, was also found to be unjustified and in conflict with the relevant provisions of the Constitution and therefore improper

Recommendations/Remedial action

The Public Protector recommended that the National Commissioner of the SAPS take urgent steps to ensure the expedition and finalisation of the investigation of the allegations, to ensure that an inquiry be held into the failure by the DPCG to respond or ensure that a response is provided to the Public Protector and to consider appropriate action, sensitise the SAPS management about their constitutional mandate to co-operate with the Public Protector and to ensure that proper monitoring systems for handling complaints be established and adhered to in the Office of the Provincial Commissioner.



KWAZULU-NATAL PROVINCE

1.4.2.6 DEPARTMENT OF EDUCATION

REPORT 9 OF 2009/10

The Department must pay leave arrears, including interest, to former educator

The Public Protector investigated a complaint relating to allegations of undue delay by the KwaZulu-Natal Provincial Department of Education (the Department) in payment of capped leave arrears to a former employee, and undue delay by the Office of the Member of the Executive Council responsible for Education (Office of the MEC) to attend to a subsequent complaint raised by the Complainant.

Overview of Findings

The Public Protector found that the Complainant was prejudiced by the undue delay in the matter and was entitled to interest on the leave arrears that is to be paid to him.

Recommendations/Remedial Action

The Public Protector recommended that the Department pay interest within three months from the date of the report on the amount that was owed in respect of capped leave.

LIMPOPO PROVINCE

1.4.2.7 DEPARTMENT OF HEALTH AND SOCIAL DEVELOPMENT AND SASSA (LIMPOPO)

REPORT 2 OF 2009/10

Dependants entitled to benefit from deceased's arrear grant payment

The Public Protector investigated a complaint lodged by Mr M regarding arrear payments by the Limpopo Provincial Department of Health and Social Development (the Department) and the South African Social Security Agency (SASSA) of an older person's grant that was due to his late father.

According to the Complainant, his father's grant was suspended by the Gauteng Department of Social Development in September 2000. His grant payments were reinstated in October 2001 but he was only paid for two months (September and October 2001).

The Department and subsequently SASSA failed to pay the arrears due to Mr M and he passed away in February 2006.

Overview of Findings

The Public Protector found that:

- The late Mr M was entitled to the amount in arrears in respect of his grant from September 2000 to August 2001.
- As Mr M died before the arrears were paid and his dependants are entitled to payment thereof by SASSA.



1.4.2.8 DEPARTMENT OF EDUCATION

REPORT 39 OF 2009/10

Department responsible for delayed payment of benefits to Complainant

The Public Protector investigated a complaint relating to allegations of maladministration and undue delay by the Limpopo Provincial Department of Education (the Department) in connection with the processing and submission of pension documents of an ex-employee (the Complainant) to the Government Employees Pension Fund (the GEPF).

Overview of Findings

The Public Protector found that the Department was responsible for the delayed payment of benefits to the Complainant for more than two years. Officials of the Department were aware of the maladministration and delay, but failed to resolve the matter. The failure of officials to attend to the matter resulted in an additional financial obligation to the GEPF, as interest in the amount of R37 334.41 was paid to the Complainant. The payment of interest could have been avoided if documents had been submitted to the GEPF within the prescribed period of six weeks. The Complainant was prejudiced by the lack of service delivery and undue delay by officials of the Department.

Recommendations/Remedial Action

The Public Protector recommended that the Head of the Department considers whether disciplinary action should be taken against the officials responsible for the undue delay in the processing of the pension documents of the Complainant.

1.4.2.9 PREMIER'S OFFICE

REPORT 21 OF 2009/10

No existing legislation to govern administration of Animal pounds in North West province

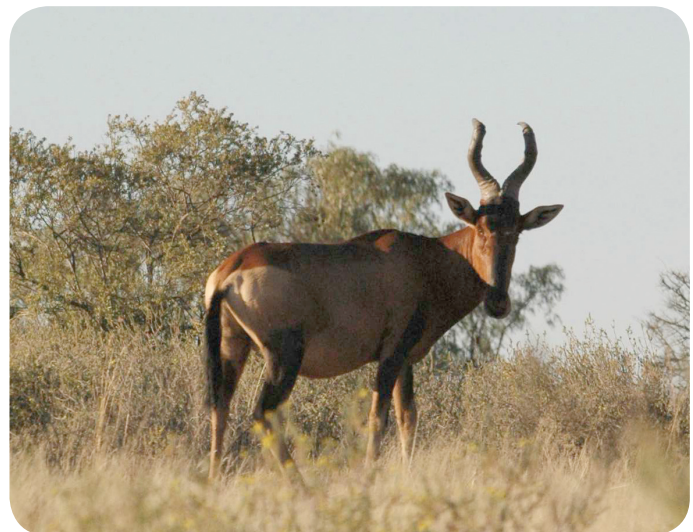
The Public Protector investigated a complaint of improper administration of the Mooifontein Animal Pound (the Pound) situated within the Mafikeng Local Municipality, that was at the time operated and administered by a private individual who was allegedly charging exorbitant fees/retainers for animals impounded.

Overview of Findings

The Public Protector found that since 1994 the North West Provincial Legislature has not enacted new, nor amended any existing legislation and this caused a lacuna with regard to the operation of pounds in the North West Province, ultimately resulting in pounds being operated by private individuals. The acquisition and transfer by the Kopano Tribal Authority of the Pound to the current operator raises some concern. The infrastructure of the pound was established with public funds by the then Department of Agriculture of the former Republic of Bophuthatswana. There is no indication that the present occupier leases nor has bought the property from any government department or institution.

Recommendations/Remedial action

The Public Protector recommended that the North West Provincial Legislature must as a matter of urgency finalise the enactment of a Pounds Act; and the Municipal Manager of the Mafikeng Local Municipality, in conjunction with the Departments of Agriculture, Conservation, Environment and Rural Development and the Department of Local Government and Traditional Affairs should in the interim, pending the enactment of the Pounds Act, take urgent steps to address the current administration of the Pound.



1.4.2.10 DEPARTMENT OF HEALTH

REPORT 46 OF 2009/10

Department must urgently improve medical waste management procedures

The Public Protector conducted an investigation into a complaint from a member of the public who had been injured by stray medical waste (a used syringe) being kicked about by children in a public road of Mannenberg, Cape Town. When she subsequently sought medical attention at the G F Jooste Hospital close to where the incident occurred, she was allegedly given the run-around and ridiculed.



Overview of Findings

The Public Protector found that:

- The waste management procedures and controls of the Western Cape Department of Health failed in this instance, which led to unlawful disposal of medical waste;
- There is a need for training of staff at the Nyanga Junction Clinic on medical waste management;
- The facts show that the Complainant was not treated with the required courtesy that is expected from public officials, particularly towards a person who had endured such a traumatic experience;

Recommendations/Remedial action

The Western Cape Department of Health should extend an apology to the Complainant regarding the inadequate standard of courtesy that was displayed towards her.

The Public Protector recommended that the Western Cape Department of Health should ensure that staff of the Nyanga Junction Clinic be trained in medical waste management.

The Public Protector further recommended that the Department must also review all medical waste management procedures, services, protocols and controls to assess their adequacy and effectiveness. This includes a review of the collection, transportation, storage and disposal procedures and practices of the relevant service provider and whether contractual obligations of the Service Level Agreement are met.

In addition to the review, the Department of Health should conduct a comprehensive risk assessment to ascertain whether sufficient controls are in place to mitigate risks in relation to medical waste management.

1.4.3 REPORTS INVOLVING OTHER ORGANS OF STATE

1.4.3.1 COMMISSION FOR CONCILIATION, MEDIATION AND ARBITRATION (CCMA)

REPORT 12 OF 2009/10

CCMA fails to issue arbitration award

The Public Protector investigated an allegation that a commissioner of the CCMA and the management of the CCMA had failed to issue an award or ruling in terms of the Labour Relations Act 66 of 1995, following an arbitration hearing into his complaint of unfair dismissal lodged against the Complainant's former employer.

Overview of Findings

The Public Protector found that the Commissioner had not issued the arbitration award or ruling on the arbitration hearing. The omission to issue an award or ruling constituted a gross breach of the provisions of section 195 of the Labour Relations Act 66 of 1995.

Recommendations/Remedial Action

The Public Protector recommended that the Governing Body of the CCMA and the Director of the CCMA take steps to ensure that:

- An award or ruling in the arbitration hearing held on 6 June 2005 into the complaint of unfair dismissal lodged by the Complainant be issued within a period of one month from the date of this report and be served upon both the Complainant and his former employer within 14 days from the date of its issue; and
- The original award or ruling be filed with the Registrar of the Labour Court as required in terms of the Labour Relations Act 66 of 1995.

1.4.3.2 INDEPENDENT COMPLAINTS DIRECTORATE (ICD) (WESTERN CAPE)

REPORT 17 OF 2009/10

ICD fails to investigate allegations of police brutality

The Public Protector investigated a complaint of failure by the Western Cape Office of the Independent Complaints Directorate (ICD) to investigate allegations of assault by police officers. It transpired that a complaint of alleged assault was lodged with the Grassy Park Police Station, but due to the undue delay in their investigation, the Complainant approached the ICD for assistance in September 2005. It was further alleged that the ICD also failed to conclude the investigation after more than three years since the matter had been raised with them. From the information obtained by the Public Protector during its investigation, it appeared that the National Prosecuting Authority (NPA) instructed that an identification parade (ID Parade) should be held for the Complainant to identify his assailants before a decision in respect of prosecution could be taken. This instruction had however, not been complied with.

During the investigation, the ICD failed on a number of occasions to co-operate with the Public Protector.

Overview of Findings

The Public Protector found that the ICD, by its failure to conduct an ID Parade when instructed to do so, unduly delayed the finalisation of the investigation of the allegation of assault made by the Complainant against members of the South African Police Service (SAPS); the delay was unjustified as it would adversely affect the credibility of the ID Parade, compromising the Complainant's access to the due process of law as enshrined in the Constitution and therefore amounts to a miscarriage of justice.

Recommendations/Remedial Action

The Public Protector recommended that the Executive Director of the ICD:

- Urgently intervenes to expedite the finalisation of the investigation of the allegation of assault referred to above;
- Makes further inquiries into the reasons for the delay by the ICD in conducting an ID Parade as instructed by the NPA, and take appropriate disciplinary action against whomever is found to have been responsible for the non-compliance;
- Takes urgent steps to address the lack of service delivery of the ICD identified during the investigation;
- Emphasises to the management and staff of the ICD nationally, their constitutional obligation to co-operate with the Public Protector, to respond promptly to all its enquiries whenever they are required to do so and the significance of expediting matters under their investigation which have been reported to the Public Protector.



1.4.3.3 SOUTH AFRICAN NURSING COUNCIL (SANC) AND FOREIGN WORKFORCE MANAGEMENT PROGRAMME (FWMP)

REPORT 45 OF 2009/10

Allegations of undue delay in registering foreign healthcare professional unfounded, but qualification authority urged to publish examination results timeously

The Public Protector investigated whether the South African Nursing Council (SANC) and the Foreign Workforce Management Programme (FWMP) had breached their constitutional obligations towards foreign health care professionals by operating nursing registration processes that were allegedly fraught with inadequacies.

Overview of Findings

The Public Protector found that:

- The SANC did not delay in processing an application for registration of a foreign qualified nurse, this having taken place within two months after receiving a letter of endorsement from the FWMP (who in turn processed and issued the requisite endorsement within 2½ months after receiving the request).
- The time of three months which the SANC took to process the applicant's examination results was reasonable, taking into account other examination processes that had to be followed.
- The applicant's allegation that the SANC had failed to make proper examination arrangements by failing to provide her with an examination number could not be sustained as there was no evidence that she experienced any problems on the day of the sitting.
- No evidence of maladministration could be found regarding the SANC registration process, and the allegation that it operated without order or efficiency could not be sustained.

Recommendations/Remedial Action

The Public Protector recommend improvements regarding the formulation of the SANC's Policy Guidelines regarding registration/ enrolment of nurses and/or qualifications from foreign countries with the South African Nursing Council to eliminate interpretational problems and the perception that registration processes were being duplicated.

In addition, it was recommended that the SANC expedite the publishing of examination results to candidates in writing as soon as they become available, but by no later than five days thereafter.

On the allegation that the FWMP failed to be accessible to the general public through its telephone system for the purpose of providing information pertaining to applications, it was found that it did limit the right of access to its services by operating an outdated telephone system. The Public Protector recommended that the FWMP should abide by its undertaking to install a new telephone system when it moved into new premises by April 2010.

1.4.3.4 NATIONAL PROSECUTING AUTHORITY

REPORT 48 OF 2009/10

Special task team on missing persons must assist family of deceased

The Public Protector investigated a complaint relating to allegations of failure by the Special Task Team on Missing Persons (Task Team) to facilitate a presumption of death process, assist the Complainant to claim for reparation and special pension benefits and to make available pathology reports and video material, following the exhumation and reburial of the Complainant's brother in 2006.

Overview of Findings

The Public Protector found that the Special Task Team on Missing Persons had failed to discharge its mandate as recommended by the Truth and Reconciliation Commission in that the Task Team failed to facilitate the presumption of death process, to make available the pathology reports and video materials and to assist or refer the Complainant to the President's fund for reparation.

Recommendations/Remedial Action

The Public Protector recommended that the National Director of Public Prosecution must take remedial action to ensure that the deceased's death is duly registered with the Department of Home Affairs, the pathology report is issued to the Complainant and the video footage/photographs are procured for the family at the expense of the Special Task Team within six months of receipt of the report.

1.4.4 REPORTS INVOLVING LOCAL GOVERNMENT (MUNICIPALITIES)

1.4.4.1 CITY OF TSHWANE METROPOLITAN MUNICIPALITY

REPORT 5 OF 2009/10

Tshwane Metro failed to properly implement council resolution on land sale in Lady Selborne

The Public Protector investigated an allegation of maladministration by the City of Tshwane involving Lady Selborne homes. On 3 June 2005, the City of Tshwane Metropolitan Municipality (City of Tshwane) adopted a resolution to make a number of residential erven in Lady Selborne Extension 1 available to the Regional Land Claims Commissioner (RLCC) for the allocation to beneficiaries of certain areas, as well as to former residents of Lady Selborne, a suburb of Tshwane, at a cost of R43 000 (plus escalation) per site. This initiative was intended to accommodate former residents of these areas who did not benefit from the Land Restitution process, or who opted for financial compensation.

The Lady Selborne Concerned Applicants (the Complainants) approached the Office of the Public Protector on behalf of approximately 88 members of the public who unsuccessfully applied for sites at Lady Selborne. They were aggrieved by the manner in which the Housing, Planning and Environmental Management Department of the City of Tshwane managed the allocation and sale of sites at Lady Selborne to its former residents and alleged that the allocation process was unfair and highly irregular.

In terms of the said Council Resolution, the beneficiaries of the allocation process had to be approved by the RLCC and the Lady Selborne Rates Committee (LSRC) – a committee consisting of representatives of the community affected by the land restitution process in Lady Selborne and certain other areas in Tshwane.

The matter was pursued with all the parties involved, including the Complainants, the LSRC, the Member of the Mayoral Council responsible for Housing (MMC for Housing), officials of the City of Tshwane, and officials of the RLCC.

The MMC for Housing subsequently offered to consider the possibility that additional sites (residential erven in Lady Selborne, Extension 1, Phase 2) be made available to certain beneficiaries, including former residents of Lady Selborne and that his Department would start the necessary consultation and/or negotiation with the RLCC and the Member responsible for Housing of the Executive Council of the Gauteng Provincial Government.

The investigation revealed that the RLCC was not involved in the selection and allocation process as required by the Council Resolution. The available information suggested that the decisions had actually been taken solely by the LSRC and that the process had merely been “rubber stamped” by the City of Tshwane.

There was no indication of a framework or strategy to ensure that implementation of the Resolution had been properly managed, and that the process complied with the requirements for the disposal and transfer of municipal immovable property, including sections 14 and 90 of the Local Government: Municipal Finance Management Act 56 of 2003 (the MMFA) and the Municipal Supply Chain Management Regulations.

Overview of Findings

The Public Protector found that:

- Council Resolution of 3 June 2005 by the City of Tshwane, which provided for the sale of properties in Lady Selborne, Extension 1 Phase 1 to certain beneficiaries, including former residents of Lady Selborne, was not properly implemented in accordance with the relevant prescripts and requirements.
- By entrusting the entire process to the LSRC, the Housing, Planning and Environmental Management Department of the City of Tshwane did not perform its functions and discharge its responsibilities properly in terms of the said Resolution of Council.
- The City of Tshwane failed to ensure that it was able to exercise its discretion regarding the transfer and disposal of the properties in a manner that is consistent with the Municipal Supply Chain Management legislation and prescripts, as well as section 25(8) of the Constitution.
- There was undue delay by the Office of the MMC for Housing to communicate progress on its undertaking of 27 September 2007 to explore the possibility of allocating sites in Lady Selborne, Extension 1, Phase 2 to former residents of Lady Selborne and other areas.

Recommendations/Remedial Action

The Public Protector recommended that the Speaker of the Municipal Council of the City of Tshwane take urgent steps to ensure that:

- The Council take a decision on the feasibility of allocating sites in Lady Selborne, Extension 1, Phase 2 at a specific price to former residents of Lady Selborne and other areas within 90 days of receipt of this report.
- The decision be communicated to the Public Protector and the parties involved in this matter within 30 days from the date of the decision.

It was also recommended that the Municipal Manager of the City of Tshwane take sufficient measures to ensure that the disposal of immovable municipal property complies with the relevant statutory provisions, including sections 14 and 90 of the MFMA, the Municipal Supply Chain Management Regulations and the Municipal Asset Transfer Regulations.

1.4.4.2 CITY OF TSHWANE

REPORT 10 OF 2009/10

Municipality must protect identity of whistle-blowers

The Public Protector investigated a complaint of the improper disclosure by an official of the City of Tshwane (the Municipality) of the identity of an informant who provided information of an alleged violation of Municipal by-laws. The Complainant alleged that the official to whom she reported the violation disclosed her identity to the owner of the property where an alleged unlawful water connection was made, which resulted in a statement that was made to her detriment in civil court proceedings.

Overview of Findings

The Public Protector found that:

- The identity of the Complainant had been inadvertently disclosed or displayed by the official but that her telephone number had been recorded on the official file relating to the matter, which was later coincidentally recognised by the owner of the said property as that of his mother-in-law.
- The allegation of an unlawful water connection made by the Complainant was without substance.
- The Municipality has taken measures, such as developing an appropriate policy and establishing a hotline, to manage the prevention of crime, but it is not clear how the existence of these measures is effectively communicated to the general public and the officials of the Municipality.

Recommendations/Remedial action

The Public Protector recommended that:

- The Municipal Manager take steps to ensure that the existence of a fraud hotline and a dedicated team of trained investigators to attend to information of unlawful and improper conduct complaints is properly communicated to the general public as well as to officials of the Municipality.
- Investigators be properly trained to handle complaints from whistle-blowers and related matters; and are subjected to taking an Oath of Secrecy.

1.4.4.3 MATZIKAMA MUNICIPALITY

REPORT 6 OF 2009/10

Municipality urged to treat official languages equally

The Public Protector investigated complaints against the Matzikama Municipality (the Municipality) after a complaint was lodged by a Xhosa-speaking resident. The complaints lodged were that the Municipality has failed to develop a language policy that takes into account the interests of Xhosa and English-speaking residents of the Municipality and has effectively maintained a unilingual approach in that it has consistently communicated exclusively in Afrikaans to the detriment of the other two official languages.

The Municipality in its response conceded that it had not developed a language policy that is responsive to the needs of the above-mentioned linguistic communities. It informed the Office that it was in the process of requesting assistance and guidance from the Pan South African Language Board (PANSALB) in developing one. Such guidance and assistance was still awaited at the time of the report.

It also transpired that the South African Human Rights Commission (SAHRC) had previously received and investigated similar complaints against the Municipality. It would appear that the complaint was lodged in frustration of perceived reluctance by the Municipality to address the situation.

Overview of Findings

The Public Protector found that the Municipality had not developed a language policy despite the obvious need to do so. The investigation revealed that the Municipality had failed from 2005 to address the situation in relation to equitable language usage delivery. It was also found that a natural consequence of the aforesaid failure and continuous communications in Afrikaans is a feeling of marginalisation of the minority linguistic communities within the Municipality.

It was also found that lack of financial resources and capacity on the subject matter has had an impact on the policy of the Municipality to develop a coherent and comprehensive language policy. It was found that the Municipality has sought assistance and guidance from the PANSALB.

Recommendations/Remedial action

The Public Protector recommended that the Municipality must take urgent steps to diversify its communication to include all three official languages of the Western Cape Province.

1.4.4.4 KAI! GARIB MUNICIPALITY

REPORT 8 OF 2009/10

Resale of land by Municipality irregular and improper

The Public Protector investigated an allegation that on 16 August 2004, the Complainant purchased Erf 1697 (the Erf)

from the Kai! Garib Municipality (the Municipality) and in June 2006 he discovered that the Erf had been resold. The Municipality allegedly informed him that he had followed an incorrect procedure when he purchased the Erf and was allegedly offered Erf 1429 subject to the condition that he paid an additional R9 000.00, but he refused.

Overview of Findings

The Public Protector found that:

- the Complainant purchased the Erf and paid an amount of R3 490.52 as the purchase price to the Municipality. The Erf was resold and was subsequently registered at the Deeds Office on 31 May 2007.
- It was irregular and improper for the Municipality to have resold the Erf and as a result, the Complainant suffered financial prejudice.

Recommendations/Remedial action

The Public Protector recommended that the Municipality should refund the Complainant the purchase price with interest at the prescribed rate; and the Council should formulate a formal policy and procedure manual on the alienation of municipal land.

1.4.4.5 STEVE TSHWETE MUNICIPALITY – MPUMALANGA

REPORT 14 OF 2009/10

Service Delivery Charter must ensure prompt responses by Municipality

The Public Protector investigated a complaint that the Steve Tshwete Municipality (the Municipality) ignored all written correspondence and representations he made regarding the Municipality's alleged failure to perform some of its statutory duties.

Overview of Findings

The Public Protector found that the Complainant had sent numerous letters and a petition to the Municipality and made several personal visits to the Municipal Manager's office to follow up on his complaint. The Municipality acknowledged receipt of the Complainant's documents, but failed to respond to him.

Recommendations/Remedial action

The Public Protector recommended that the Municipality should establish appropriate mechanisms, processes and procedures for the receipt, processing and consideration of petitions and complaints lodged by members of the community, indicating the timelines within which complaints from the public are dealt with.

1.5 SYSTEMIC INVESTIGATIONS

With a view to correcting structural and systemic administrative, governance and service delivery deficiencies, it has become customary practice to conduct a systemic or comprehensive investigation and issue a special report where a systemic pattern is identified.

During the period under review, nine systemic investigations were conducted. Of these three were finalised and six were carried over from the previous year. The following report was issued during the period under review:

1.5.1 Office of the Unemployment Insurance Commissioner (UIF)

Report 3 OF 2009/10

Upgrading of Labour Centres will address delay in processing and paying UIF claims

The Public Protector conducted a systemic investigation to determine the reasons for the alleged undue delay in processing and paying unemployment insurance claims by the Office of the Unemployment Insurance Commissioner (the Office of the Commissioner). This was prompted by the fact that the Public Protector received 92 Unemployment Insurance Fund complaints between 1 January 2002 and 31 January 2006.

Overview of Findings

The Public Protector found that:

- The Department of Labour (the Department) has a duty to provide efficient service to the unemployed and other stakeholders in line with the principles of Batho Pele.
- There were delays in processing and paying claims for unemployment insurance benefits. However, the reasons were established and the Department has endeavoured to correct the situation.
- The Department was struggling mainly with old claims that were lodged in terms of the Unemployment Insurance Act 30 of 1966, but the Unemployment Insurance Act 63 of 2001 (the Act) has abolished several requirements that created obstacles in the past and resulted in a backlog.
- The decentralisation of services by the Department has improved service delivery, but the number of processing centres already in existence is not enough.
- In some instances the delay was occasioned by lack of co-operation by employers and the Department was not doing enough to enforce compliance.

Recommendations/ Remedial Action

The Public Protector recommended that:

- The Department should prioritise the upgrading of more Labour Centres to become processing and payment Centres;
- The Department must exercise its powers in terms of Chapter 4 of the Act to enforce compliance by employers;
- The Department should expedite the establishment of the RACs in the remaining provinces; and
- The Department should expedite the envisaged restructuring of Labour Centres in order to separate unemployment insurance claims from other services rendered by the Department.

1.5.2 COMPENSATION FUND

REPORT 28 OF 2009/10

Compensation Fund must expedite its claims process

The Public Protector conducted an investigation into systemic deficiencies in the operation of the Compensation Fund in order to identify root causes of complaints of undue delay and inaccessibility. Some of the complaints were related to allegations of lack of transparency and undue delay in processing and finalising compensation claims.

Case Study A1:

Ms SFG alleged that the Compensation Fund failed to inform her of its decision regarding liability for her original claim for compensation and unduly delayed finalising her request to have her claim re-opened.

Case Study A2:

Mr SJB approached the Public Protector with a complaint that the Compensation Fund had unduly delayed finalising his claim for compensation after he was shot while on duty on 28 May 1999.

Case Study A3:

Mr DP alleged that the Compensation Fund prematurely assessed him at 35% permanent disablement while he was still entitled to receive compensation in respect of temporary disablement, and that the Compensation Fund unduly delayed providing him with authorisation to have an MRI scan taken so that his doctor could assess how to stem further deterioration of his medical condition.

Allegations of inaccessibility to the general public:

Case Study B1: Mr KHD and Mr NHdV approached the Public Protector with complaints that the Compensation Fund had failed in its duty to be accessible to the general public through its telephone system.

Concomitant to the investigation, the following were established:

- In the matter of Ms SFG , the Compensation Fund expressed the view that it was not obliged, in terms of the Compensation for Occupational Injuries and Diseases Act 130 of 1993 (COIDA) to give information to employees regarding their claims.
- In the matter of Mr SJB, the Compensation Fund submitted that correspondence had never been sent to him advising of the outcome of his claim, as he had not made enquiries directly from the Compensation Commissioner.
- In the matter of Mr DP, the Compensation Fund maintained that he had been properly awarded permanent disablement.
- With regard to the matters of Mr KHD and Mr NHdV, the Compensation Fund submitted that its telephone system (as at 2005) was outdated and unable to provide proper functionality.

Overview of Findings

The Public Protector found that:

- The Compensation Fund is duty bound to provide injured employees with information about the status and outcome of their claims, and to include information regarding their legal rights should a claim be repudiated.
- The Compensation Fund unduly delays the finalising of claims and objection matters (some objections having taken up to three years to be dealt with before affected employees had access to effective remedies).
- The Compensation Fund has an insufficient number of call centre agents to manage the huge influx of calls received on a daily basis. In addition, call centre agents require training in the proper application of COIDA legislation.
- The Compensation Fund has an insufficient number of staff at its Legal Services directorate to process and finalise objection hearings timeously.

Recommendations/Remedial Action

The Public Protector recommended that the Compensation Fund should expedite its processes by:

- Registering claims, objections and other legal processes within 10 days of receiving accident reports, objection forms and other documents.
- Furnishing progress reports regarding claims, objections and other legal processes, to employers and employees every eight weeks.
- Adjudicating claims within six months of receiving accident reports and other supporting documents required to finalise claims. In addition, adjudicating and finalising objections and other legal processes within 90 days of receiving objection forms or other legal documents required to finalise the processes.

- Paying compensation to employers (where payment is due to them) and/or injured employees, within four weeks of taking decisions.
- The Compensation Fund indicated that it would finalise its call centre permanent post structure by September 2009, with a view to employing additional call centre agents. Where this has not already been done, the Compensation Fund should ensure that it complies with its undertaking by December 2009, so that more call centre agents are employed to manage the huge number of calls received on a daily basis.
- The Compensation Fund should finalise the filling of all vacant approved posts throughout its office by March 2010, especially at the Chief Directorate: Financial Management.

1.6 OWN INITIATIVE INVESTIGATIONS

1.6.1 WESTERN CAPE DEPARTMENT OF EDUCATION

REPORT 22 OF 2009/10

Department must urgently address conditions at Duneside Primary School

The Public Protector conducted an investigation, on own initiative, regarding the alleged undue delay on the part of the Western Cape Education Department (WCED) to attend to conditions at the Duneside Primary School (the School) in Mitchell's Plain. The investigation emanates from a newspaper article published on 16 January 2009. In the article the following was reported:

- The principal of the School was frustrated with the alleged undue delay on the part of the WCED to assist after half of the school building was closed in August 2008 due to vandalism.
- Learners had access to only two toilets, one for boys and another for girls.
- The School had been turned into a dumping place and posed a health threat to learners and educators, which was confirmed by a health inspector.
- The School had been one of the top primary schools in the Western Cape in a previous year, but registration at the School had since plummeted.
- Some money had been given to the School Governing Body (SGB) for repairs and the way in which the money had been used was under "formal" investigation.



Overview of Findings

The Public Protector found that:

- The vandalism at the School started during the June/July 2007 school vacations, but during January 2009 the School had still not been secured and was still experiencing the same problems.
- From April 2008 the WCED had been aware of the fact that the Department of Public Works would only attend to repairs when the School had been secured. Meanwhile, several officials visited the School, but the conditions perpetuated. The School eventually received money to secure the School on 14 December 2008 during the school holidays. The School only secured the services of a service provider for burglar proofing during March 2009, which was more than a month after the re-opening of schools on 21 January 2009. When the Public Protector visited the School on 1 April 2009, the service provider had not started with his work. This inaction over a period of almost a year was found to constitute undue delay on the part of the WCED.
- The Health Inspector's urgent recommendations of 20 August 2008 were not implemented despite the fact that they were aimed at ensuring that there was enhancement of the general environmental health conditions at the School. Failure by the WCED in this regard was also found to have been improper.
- The undue delay in addressing the dire conditions at the School infringed the learners' and educators' right to a clean and safe environment that is conducive to education.

' The Public Protector places emphasis on a twin pronged approach of promptly righting each wrong committed by the state or state actor while facilitating systemic administrative and governance improvements '

Recommendations/ Remedial Action

The Public Protector recommended that:

- The WCED should ensure that the security and repairs at the School be concluded as soon as possible.
- The School should ensure that the health risks that were identified by the Health Inspector not recur after the repairs and maintenance had been effected.
- The WCED should introduce measures to ensure that the delays experienced at the School did not recur at other schools in the Western Cape Province.
- In addition to burglar-proofing, the WCED should also consider upgrading the wire fence at the school in order to reduce unauthorised access to the school premises and to enhance the safety of learners and educators.
- The WCED should ensure that a 24-hour security service provider be contracted to guard the premises, also after hours and during school holidays.

1.6.2 NORTH WEST DEPARTMENT OF TRANSPORT, ROADS AND COMMUNITY SAFETY

REPORT 1 OF 2009/10

Department not obliged to pay volunteer, but must attend to Learner Transport Programme urgently

The Public Protector conducted an own initiative investigation into an allegation published in a newspaper that the North West Department of Transport, Roads and Community Safety (the Department) failed to pay Mr K for providing transportation to learners of the Calvyn Primary School in Schweizer-Reneke. It was also alleged in the article that more than 100 learners were unable to write their mid-year examinations because Mr K stopped transporting them to school in a bid to get payment from the North West Department of Transport.

Overview of Findings

The Public Protector found that the Department was under no obligation to remunerate Mr K for the transportation that he provided to learners of the Calvyn Primary School as he was not an appointed service provider; however, there was an urgent need for the learner transport programme to be improved and for adequate funding to be made available in this regard.

Recommendations/ Remedial Action

The Public Protector recommended that the Member of the Executive Council of the North West Provincial Government responsible for public works, roads and transport take appropriate steps to ensure that the urgent need to improve and adequately fund the Learner Transport Programme of the North West Department of Transport was attended to.

1.6.3 THEMBISILE LOCAL MUNICIPALITY

REPORT 33 OF 2009/10

Municipality should take appropriate action to ensure safety of residents

The Public Protector conducted an own initiative investigation which arose out of a news report by the South African Broadcasting Corporation (SABC). The report relates to an incident where a trench was dug for purposes of constructing a storm water pipeline in Block 17, Moloto Village, but was allegedly left unfilled by Thembisile Local Municipality, thus causing prejudice to some of the residents.

Overview of Findings

The Public Protector found that the Municipality's action amounted in maladministration as it had allowed a situation that endangered the public in contravention of section 152(1) of the Constitution as well as section 11(3) of the Local Government: Municipal Systems Act 32 of 2000. It was further found that the conduct of the Municipality prejudiced some of the residents as they were denied unimpeded access to their homes.

Recommendations/Remedial action

The Public Protector recommended that the construction of the storm water pipeline should be completed without further delay, and the Municipality should take appropriate action to ensure the safety of residents in the affected areas of Moloto Village.

1.7 SETTLEMENTS AND MONITORING OF REMEDIAL ACTION

Through the newly established Early Resolution Unit and the move towards harnessing the full constitutional and statutory powers of the Public Protector, many complaints and/or disputes regarding state maladministration and other forms of improper conduct and related prejudice or injustice, were resolved through conciliation, mediation and negotiation. These Appropriate Dispute Resolution (ADR) interventions not only facilitated early resolution but ensured that wronged complainants got prompt remedial action. A process, led by the Deputy Public Protector is working on systematised ADR implementation, which includes the development of rules to promote cooperation from the state thus expediting investigations and other case resolution processes.

Considerable effort was also devoted towards monitoring the implementation of findings and settlement agreements. This is an area that is targeted for closer attention in the coming year. Interventions include a new unit to be established to focus on compliance support.

1.8 INTERNATIONAL RELATIONS

Efforts aimed at establishing, enhancing and sustaining international relations and cooperation continued. The key focus of international relations efforts has been the Association of African Ombudsmen and Mediators Association (AOMA), where South Africa remains the Executive Secretary and host country for the Secretariat and headquarters. Key activities included participation in commemorating 200 years of the Ombudsman institution and participation in international and regional conferences. Efforts towards establishing an African Ombudsman Research Centre in collaboration with the University of KwaZulu-Natal also achieved significant progress, which included funding estimated at R3 million from the Department of International Relations and Cooperation (DIRCO). Involvement in international relations transcended interface with Ombudsman institutions and included participation by the new Public Protector in forums seeking global solutions to promote anti-corruption, good governance and the rule of law.

1.9 CONCLUDING OBSERVATIONS: IMPACT, TRENDS AND FORWARD PLANNING

The complaints that were brought to the Public Protector during the period under review highlighted serious challenges with regard to service delivery and adherence to good governance. Most of the complaints centred on service delivery failure or maladministration regarding basic necessities of life such as identity documents, social grants, government pension fund payout and local government service delivery. There were also a considerable number of investigations

regarding conduct failure mostly involving tender irregularities and abuse of power in the management of people in various organs of state. Investigations into service and conduct failure invariably proved that in most organs of state, particularly in local government, such failures were mere symptoms of systemic administrative and governance failures in affected organs of state.

The new strategic plan of the Public Protector places emphasis on a twin pronged approach of promptly righting each wrong committed by the state or state actor while facilitating systemic administrative and governance improvements with a view to minimising demand and generally promoting good governance. The importance of this was highlighted during a period where the nation saw an eruption of service delivery protests and during the Public Protector's interface with affected communities.

The experiences of the year under review and the new strategic plan further highlight the importance of partnerships with other oversight agencies and stakeholders that can serve as enablers for the work of the Public Protector. Accordingly, efforts in the last five months and the new strategic plan have placed emphasis on leveraging stakeholder relationships for enhanced institutional effectiveness.

Unfortunately, the issue of resources remains a recurring theme. The problem is particularly acute with regard to the number of investigators which is a little over ninety for the whole country. The accessibility of services through effective communication, outreach activities and expanded presence is also hampered by resources.

The period under review was a pivotal period as it involved the end of term for the second Public Protector and the critical first few months of the third one. The transfer of institutional memory by the outgoing Public Protector made the transition easy which allowed the new incumbent to hit the ground running. Most of the efforts went into wrapping up the one term and planning for the new term and 15th anniversary of the Public Protector. The systems are now in place and ready for delivery.

Top ten Organs of State complained against:

- 1. Justice & Constitutional Development***
- 2. Municipalities***
- 3. Home Affairs***
- 4. Social Development and SASSA***
- 5. National/Provincial Treasury/GEPP***
- 6. SA Police Service***
- 7. Labour***
- 8. Human Settlement***
- 9. Education***
- 10. Health***

PART 2: CHIEF EXECUTIVE OFFICER'S REVIEW

2.1 INTRODUCTION

The Annual Report of the Public Protector provides an audited account of the performance of the Public Protector for the financial year 2009/10. The report describes the key areas of performance against the Strategic Plan and the budget of the Public Protector.

The vision of the Public Protector in the 2009/10 Strategic Plan was defined as follows:

To be one of the leading Public Protector (Ombudsman) institutions in the world

The mission of Public Protector, South Africa was defined as follows:

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

2.1.1 KEY STRATEGIC OBJECTIVES

The key strategic objectives of the Public Protector, South Africa defined during 2009/10 are as follows:

- a) To be one of the leading Public Protector (Ombudsman) institutions in the world.
- b) To ensure that all allegations of improper conduct by the state and its entities are investigated, reported and appropriate remedial action taken.
- c) To ensure accessibility of the Public Protector services to all persons and communities.
- d) To ensure the efficient and effective management/ leadership of the Office of the Public Protector.
- e) To ensure a high performance culture by attracting and retaining highly competent and skilled individuals.

2.1.2 PROGRAMMES AND SUB-PROGRAMMES

The operations of the Public Protector were revised into three programmes, which are the following:

a) **Investigations and Outreach**

The sub-programmes defined under the programme are National Investigations, Provincial Investigations, Special Investigations and the Outreach Programme. The purpose of the programme is to conduct investigations in terms of the constitutional and legislative mandate of the Public Protector and to empower the people through knowledge, and ensure accessibility of the services of the Public Protector.

b) Executive Management

The programme consists of the Public Protector, Deputy Public Protector, Chief Executive Officer, Executive Support and Security and Risk Management. The purpose of the programme is to provide leadership, oversight and strategic direction and effective support services to the Executive Authority.

c) Corporate Support Services

The programme consists of corporate support sub-programmes such as Human Resources Management and Development, Finance and Supply Chain Management, Information Technology and Knowledge Management, Administration Support and Communications. The purpose of the programme is to provide effective and efficient corporate support services.

2.1.3 KEY ACHIEVEMENTS

2.1.3.1 Investigations and Outreach

- a) 12 316 new complaints were received, and a total of 18 111 complaints were investigated, of which 14 738 complaints were finalised.
- b) 44 formal reports were produced and signed by the Public Protector.
- c) The following Outreach activities were achieved:
 - 81 collaboration activities
 - 245 information sessions
 - 48 slots obtained on community radio stations
 - 29 articles on the Public Protector's mandate published in provincial/community newspapers
 - 362 posters put up at key service centres
 - 921 clinics conducted.

2.1.3.2 Executive Management

- a) An exchange strategy has been reviewed and adopted.
- b) A process of consultation with stakeholders in all nine provinces was held to brief and consult with stakeholders.
- c) Organisational risks were identified and monitored monthly and reported on quarterly.

2.1.3.3 Corporate Support Services

a) The Master Systems Plan has been reviewed and approved, and the following projects have been implemented:

- Case management was further developed to enhance business reporting and training provided to all users
- Development and implement of Sharepoint technology: training for all users will be provided in the next financial year
- The financial system Great Planes has been upgraded and implementation is ongoing.

b) The Human Resources Staff Manual has been drafted and approved.

c) Reviewed and implemented Performance Management and Development System and Performance Agreements have been signed by all staff.

d) Staff workshops were conducted on the Disease Management and Life Skills Management programmes, a Health Awareness Day was arranged and World AIDS Day was commemorated at all the Public Protector offices.

2.1.4 STATISTICAL OVERVIEW OF CASES AND INVESTIGATIONS

Table 1: Statistics of complaints brought forward, received, finalised and carried over to the 2009/10 financial year

Branch	Brought Forward From 2008/09	Received = 16 136			Finalised	Carried Over To 2010/11
		Jurisdiction	No Jurisdiction	Referral To Other Institutions		
National	568 ¹	1 628	23	107	1 731	221 ²
Early Resolution		911	219	118	789	366 ²
Eastern Cape	547 ³	828	89	49	1 245	130
Free State	121	1 206	65	9	1 146	181
Gauteng	831	1 305	950	394	1 758	378
Kwazulu-Natal	697 ⁴	742	151	11	1 298	141
Limpopo	1 050 ⁵	1 147	362	26	2 073	124
Mpumalanga	611	593	148	29	945	259
Northern Cape	213	1 108	84	12	745	576
North West	665	1635	612	21	1734	566
Western Cape	492	1213	284	57	1274	431
Total	5 795⁶	12 316	2 987	833	14 738	3 373

¹ Corrected from 459 that was reported in 2008/09

² The Early Resolution Unit was created in November 2009 and staff were transferred with 244 existing files from National Investigations

³ Corrected from 558 that was reported in 2008/09

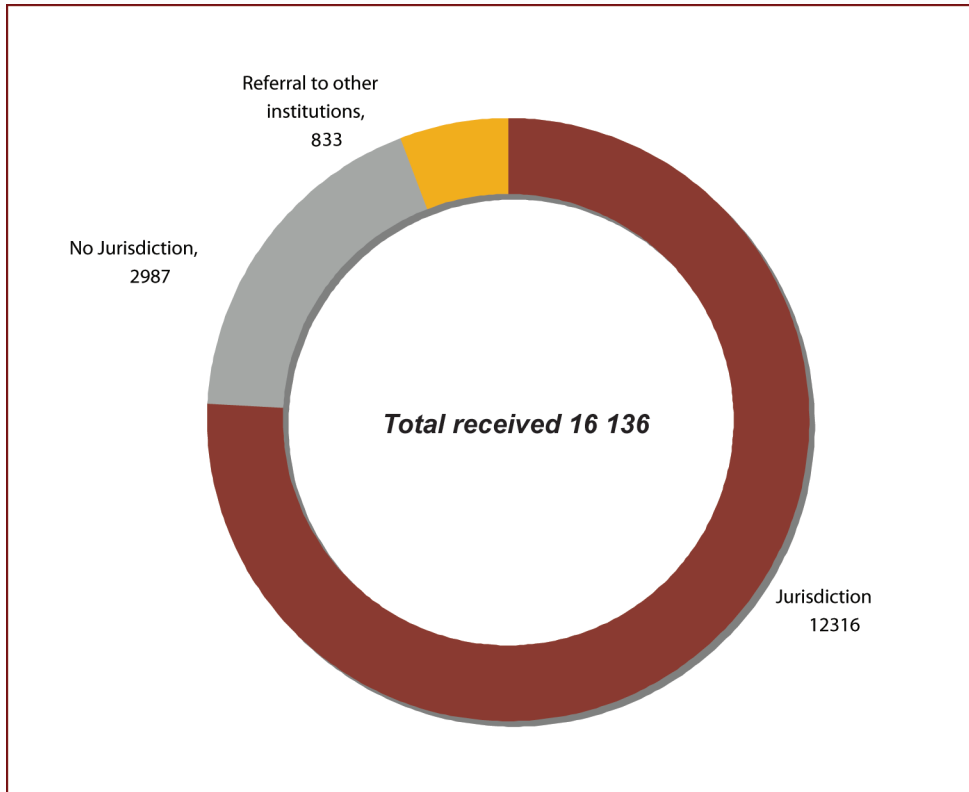
⁴ Corrected from 1015 that was reported in 2008/09

⁵ Corrected from 1030 that was reported in 2008/09

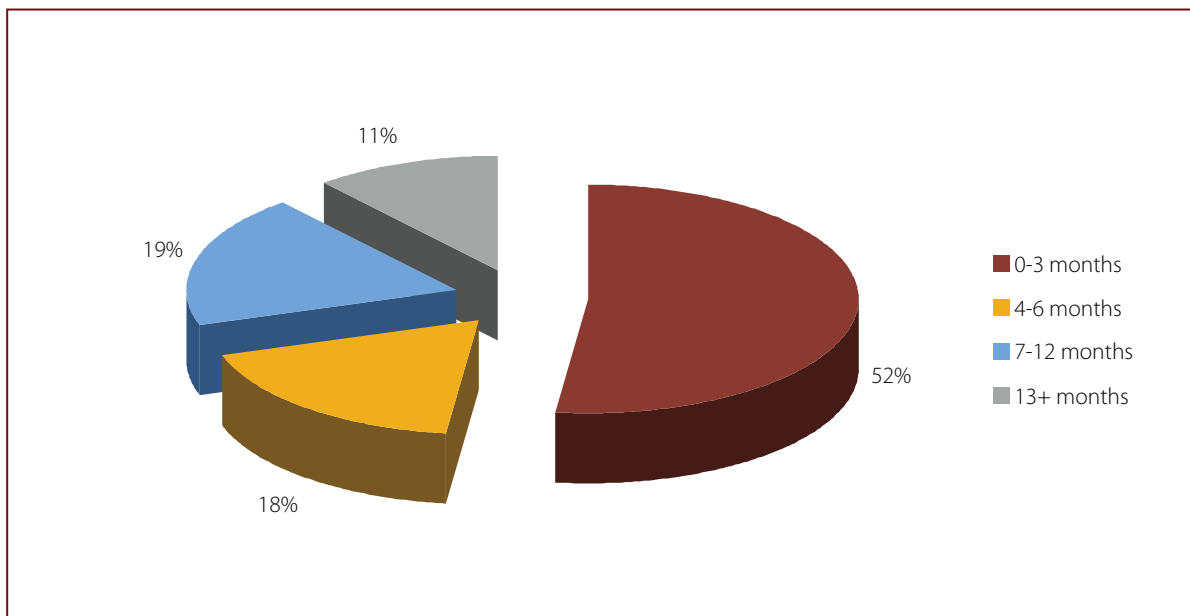
⁶ Corrected from 5 995 that was reported in 2008/09

Breakdown of Complaints received during 2009/10

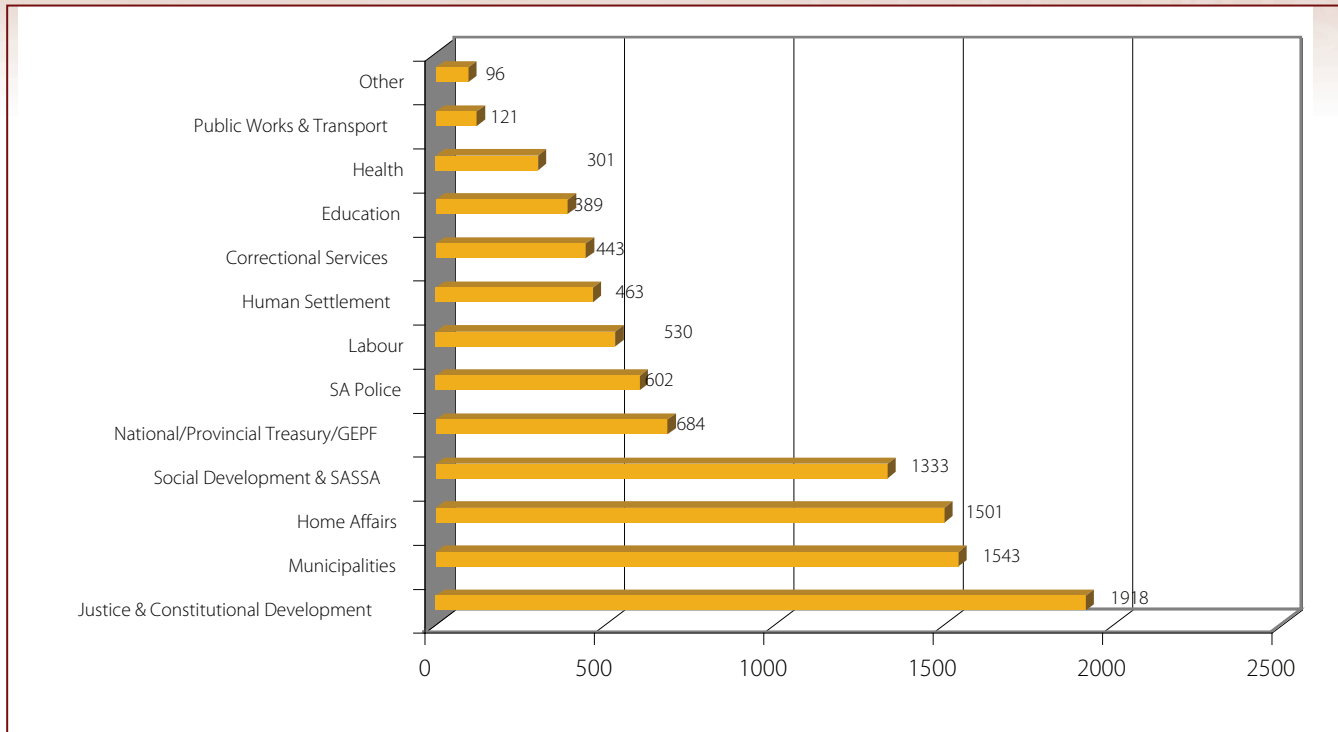
Breakdown of Complaints received during 2009/10



Average turnaround times for the finalisation of investigations in the 2009/10 financial year.



Sample of complaints received against top 12 organs of state



2.2 SUMMARY OF ACTUAL PERFORMANCE AGAINST TARGETS FOR THE YEAR ENDED 31 MARCH 2010

Strategic Objective 1: To be one of the leading Public Protector (Ombudsman) institutions in the world

Elements of the Strategy Objective		To enhance international participation		
Sub-programme	Outputs/ Outcome	Measures / Indicators	2009/10 Target	Actual performance against target
Executive Support	Increased visibility and participation	Evidence of international exchange strategy enhancement and implementation Quarterly reports on participation and impact	Ensure international exchange strategy enhanced and implemented Quarterly report on participation and impact of African Ombudsman and Mediators Association (AOMA) and International Ombudsman Institute (IOI), international human rights / ombudsman workshops	Exchange strategy has been reviewed, adopted on 18 June 2009 and is being implemented. Quarterly reports on the participation and impact of AOMA and IOI activities submitted. The Public Protector participated in the following IOI and AOMA activities: a) 9th IOI World Conference in Stockholm in June 2009 and Bicentennial Celebration of the Swedish Ombudsman. Public Protector presented a paper entitled <i>Establishing a New Institution at a Time of Transition: Experiences from South Africa</i> . b) AOMA Executive Committee meeting in Libya in April 2009. c) Public Protector visited the IOI and the Austrian Ombudsman in November 2009 when she attended the World Justice Programme Conference in Vienna. d) The Public Protector presented a paper at an anti-corruption conference in Nigeria in January 2010. e) Hosted and exchanged experiences with the following institutions: <ul style="list-style-type: none"> • Ombudsman of Sierra Leone • Ombudsman of Norway • Ombudsman of Kenya • Ombudsman of Thailand • Ombudsman of Finland • Australian Parliamentary Committee
Reasons for major variance				

Strategic Objective 1: To be one of the leading Public Protector (Ombudsman) institutions in the world

Elements of the Strategy Objective		To enhance international participation		
Sub-programme	Outputs/ Outcome	Measures / Indicators	2009/10 Target	Actual performance against target
Communications	Increased visibility and participation	Quarterly and annual consolidated reports	Quarterly and Annual consolidated report on the initiatives/ programmes undertaken to increase the publicity of the Public Protector	Quarterly and Annual consolidated report on the initiatives/ programmes undertaken to increase the publicity of the Public Protector. The following initiatives/ programmes were undertaken to increase the publicity of the Public Protector: (a) Media Briefing Media briefing to release report on the Nandoni Dam investigation; (b) Consultation with Stakeholders Stakeholder briefing and consultation on the Public Protector Vision 2020 in all 9 Provinces and one at National level; (c) Events: Launch of Newcastle Regional office; (d) 8 Media releases (e) 30 Radio and TV interviews
Reasons for major variance				

Strategic Objective 1: To be one of the leading Public Protector (Ombudsman) institutions in the world

Elements of the Strategy Objective		To establish an effective relationship with organs of state		
Sub-programme	Outputs/ Outcome	Measures / Indicators	2009/10 Target	Actual performance against target
All Investigations Sub-programmes	Timeous and qualitative responses	Evidence of timeous and qualitative responses	Timeous and qualitative responses Minimum of one engagement per quarter	The following organs of state that do not co-operate with the Public Protector have been identified: a) Department of Home Affairs b) Independent Complaints Directorate c) Registrar of the High Court Johannesburg d) City of Tshwane e) SASSA f) Compensation Commissioner g) Legal Aid Board of South Africa At the end of the financial year the Public Protector held meetings to establish an effective relationship, co-operation and improving response times with the following organs of state: a) Legal Aid Board b) Tshwane Metered Services on 26 March 2010 c) SAPS on 16 March 2010 d) SASSA on 18 March 2010
Reasons for major variance				

Strategic Objective 1: To be one of the leading Public Protector (Ombudsman) institutions in the world

Elements of the Strategy Objective		To establish the media as a critical partner for enhancing the work of the Public Protector		
Sub-programme	Outputs/ Outcome	Measures / Indicators	2009/10 Target	Actual performance against target
Communications	Media considers the Public Protector a valued partner and in turn produces balanced and objective media reports	Media relations plan implemented and enhanced	Media relations plan approved and implemented Activities Approval of the media relations plan Implementation as per the approved plan	Media relations strategy and plan have been drafted and will be finalised during 2010/11 financial year. However, there was ongoing interaction with the media as follows: (a) Media briefing One media briefing to release report on the Nandoni Dam investigation (b) Media releases Eight media releases (c) Radio and TV interviews 30 radio and TV interviews with the Public Protector (d) Meeting with Deputy Editor of Mail & Guardian
Reasons for major variance				

Strategic Objective 1: To be one of the leading Public Protector (Ombudsman) institutions in the world

Strategic Objective 1			
Sub-programme	Outputs/ Outcome	To establish strategic partnerships with stakeholders	Actual performance against target
Executive Support	Robust engagements with stakeholders resulting in the Public Protector being viewed as a value-adding partner	<p>Evidence of a comprehensive integrated stakeholder plan implemented and enhanced</p> <p>Activities Identification of stakeholders Draft MOU for prioritised stakeholders Adoption of the stakeholder plan Finalisation and implementation</p>	<p>All stakeholders have been identified and a comprehensive stakeholder list drafted. In order to identify the needs of all stakeholders, a process of consultation with stakeholders in all nine provinces was held to brief and consult with Stakeholders prior to drafting the plan. The meetings were held as follows:</p> <ul style="list-style-type: none"> a) Free State: 17 February 2010 b) Northern Cape: 22 February 2010 c) North West: 1 March 2010 d) KwaZulu-Natal: 8 March 2010 e) Eastern Cape: 10 March 2010 f) Western Cape: 17 March 2010 g) Limpopo: 25 March 2010 h) Gauteng: 19 March 2010 i) Mpumalanga: 30 March 2010 j) National Stakeholder: 29 March 2010 <p>The inputs received during stakeholder consultation meetings will be used to draft a comprehensive integrated stakeholder management plan during the 2010/11 financial year.</p> <p>Stakeholder Collaboration Forum established and MOU signed with stakeholders in Eastern Cape, Free State, KwaZulu-Natal, Limpopo, Mpumalanga, North West and Western Cape. In Gauteng and Northern Cape the forum has been established, but a MOU is still being negotiated with stakeholders.</p>
Reasons for major variances			<p>The Stakeholder Collaboration Plan was deferred to the next financial year because the Public Protector was appointed mid-year and a process of consultation with stakeholders in all nine provinces was held to brief and consult with them prior to drafting the plan.</p>

Strategic Objective 1: To be one of the leading Public Protector (Ombudsman) institutions in the world

Strategic Objective 1		An effective integrated internal and external communications strategy	
Sub-programme	Outputs/ Outcome	Measures / Indicators	2009/10 Target
Communications	An effective integrated internal and external communications strategy	Approved communications strategy	Integrated external and internal communications strategy
Reasons for major variances			
			Actual performance against target
			The framework and draft strategy have been reviewed and an integrated external and internal communications strategy was drafted but not adopted.
			Adoption of the Communications Strategy was deferred to the next financial year in order to ensure that the strategy addresses the needs of stakeholders and is enhanced with the inputs obtained during stakeholder consultations.

Strategic Objective 2: To ensure that all allegations of improper conduct by the state and its entities are investigated, reported on and appropriate remedial action taken

Strategic Objective 2			
Sub-programme	Outputs/ Outcome	To investigate alleged improper conduct Measures / Indicators	2009/10 Target
All investigations Sub-programmes	All complaints investigated 1 Own-initiative investigation finalised and one systemic investigation finalised	Number of investigations completed within approved timelines, agreed standards and quality	Completion of targeted number of investigations within approved timelines, agreed standards and quality 12 investigations per investigator per month
			<p>Actual performance against target</p> <p>Complaints investigated 5 795⁷ complaints were carried over from 2008/09 and 12 316 jurisdiction complaints received. A total of 18 111 complaints were investigated, of which 14 738 were finalised. The target was exceeded as 12 636 complaints should have been finalised (12 files per investigator per month)</p> <p>The 14 738 complaints were finalised within the following approved timelines: 0-3 Months - 7 687 complaints finalised 4-6 months - 2 597 complaints finalised 7-12 months - 2 797 complaints finalised 13+ months –1 657 complaints finalised</p> <p>Service Delivery Indicators have been developed providing guidelines and standards to be followed in investigations. However, it is acknowledged that in view of the new approach to ensure speedy resolution of complaints, the standards need to be reviewed. The above complaints also include:</p> <p>Own-Initiative Investigations 12 own-initiative investigations were identified and approved, five were finalised and six are ongoing</p> <p>Systemic investigations Nine systemic investigations were identified and approved, three have been finalised and six are ongoing</p>
Reasons for major variances			

In addition to the 12 316 jurisdiction complaints received, 2 987 no-jurisdiction complaints were dealt with and a further 833 complaints were referred to other institutions.

⁷ In the 2008/09 Annual Report, complaints carried over were reported as 5 995, the files have been verified and 5 795 complaints were carried over to the 2009/10 financial year

Strategic Objective 2: To ensure that all allegations of improper conduct by the state and its entities are investigated, reported on and appropriate remedial action taken

Strategic Objective 2			
Outputs/ Outcome		To produce reports on investigations	
Sub-programme	Measures / Indicators	2009/10 Target	Actual performance against target
All investigations Sub-programmes	Reports signed by the Public Protector Quarterly report on the number of reports signed by the Public Protector	To produce quality reports on appropriate investigations signed by the Public Protector. Quarterly report on the number of reports signed by the Public Protector	44 formal reports were produced and signed by the Public Protector. Quarterly reports on the number of reports signed and submitted.
Reasons for major variances			

2.3.2 Strategic Objective 2: To ensure that all allegations of improper conduct by the state and its entities are investigated, reported on and appropriate remedial action taken

Strategic Objective 2			
Outputs/ Outcome		To take remedial action	
Sub-programme	Measures / Indicators	2009/10 Target	Actual performance against target
All investigations Sub-programmes	Evidence of remedial action taken and monitored	Ensure remedial action is taken and monitored	Remedial action was taken and is being monitored in all appropriate complaints through letters and quarterly reports as follows: <ul style="list-style-type: none"> • 26 reports: the recommendations were followed up through letters to the relevant organs of state • one report was followed up telephonically • one report was an interim report in terms of the Executive Members Ethics Act 82 of 1998 and no recommendations were made and there was no need for follow-up • Two reports: there was no need for follow-up as the recommendations were already implemented • 14 reports were signed towards the end of the last quarter and will be followed up in the next financial year. <p>However, the system is currently being enhanced to ensure that all remedial action taken is regularly monitored.</p>
Reasons for major variances			

Strategic Objective 2: To ensure that all allegations of improper conduct by the state and its entities are investigated, reported on and appropriate remedial action taken

Strategic Objective 2		To monitor the implementation of recommendations		
Sub-programme	Outputs/ Outcome	Measures / Indicators	2009/10 Target	Actual performance against target
All investigations Sub-programmes	Compliance with recommendations	Quarterly report on the implementation of recommendations	Quarterly report on the implementation of recommendations	Quarterly reports on the implementation of recommendations submitted. However, as stated above, the system is currently being enhanced to ensure that all remedial action taken is regularly monitored.
Reasons for major variances				

Strategic Objective 3: To ensure accessibility of the Public Protector services to all persons and communities

Strategic Objective 3		To raise awareness of the mandate of the Public Protector		Actual performance against target
Sub-programme	Outputs/ Outcome	Measures / Indicators	2009/10 Target	
Outreach	Empowered communities	Annual report on the impact of the awareness programme Annual report on the impact of the awareness programme Year-on-year increase in outreach activities	To develop an impact assessment methodology for the awareness programme Year-on-year increase in outreach activities- Activities (a) 20 collaborative activities (b) 70 information sessions (c) 20 slots obtained on a community radio station (d) 20 articles on the Public Protector mandate published in provincial/ community newspapers (e) 120 Public Protector posters put up at key service centres	Impact assessment methodology for the awareness programme was developed and the following quantitative tools were adopted to measure the impact of outreach activities: <ul style="list-style-type: none"> The number of information sessions/workshops conducted throughout the country and attendance at such information sessions The number of radio interviews and presentations and the listenership of the radio station in question The number of provincial and community newspaper articles commissioned by provinces on the mandate of the Public Protector and the readership of the newspapers The geographical spread of outreach activities such as clinics, information sessions/ workshops A survey question included in the Public Protector complaint forms which indicates the sources from which Complainants get information about the Public Protector, e.g. radio, friends, newspapers, TV, etc An indication from the Public Protector website of how many visitors have been to the website The different areas covered by the Mobile Public Protector, South Africa and number of activities The number of times information material about the Public Protector such as posters and newsletters are distributed at key service centres (municipalities, government departments, Thusong Centres) and the geographical spread of the distribution Year-on-year increment of Outreach activities. The outreach awareness activities are reviewed monthly and the following were archived: a) 81 collaboration activities b) 245 information sessions c) 48 slots obtained on community radio stations d) 29 articles on the Public Protector mandate published in a provincial/ community newspaper e) 362 posters put up at key service centres. The annual report on the impact of the awareness programme was compiled and the key impact of the programme is that the Public Protector actually reached out to: <ul style="list-style-type: none"> 5 371 people through MOPP 28 095 through clinics 19 525 through information_sessions.
Reasons for major variances				

Strategic Objective 3: To ensure accessibility of the Public Protector services to all persons and communities

Strategic Objective 3			
Sub-Programme	Outputs/ Outcome	To take the services of the Public Protector to communities Measures / Indicators	2009/10 Target
Outreach	To take the services of the Public Protector to communities	Quarterly report on the number of clinics conducted	Annual report on the number of clinics conducted Minimum of 249 clinics conducted per quarter
			<p>Actual performance against target</p> <p>921 of 996 targeted clinics conducted as follows: National Office = 49 clinics Eastern Cape = 106 clinics Free State = 95 clinics Gauteng = 76 clinics KwaZulu-Natal = 98 clinics Limpopo = 106 clinics Mpumalanga = 63 clinics Northern Cape = 96 clinics North West = 157 clinics Western Cape = 75 clinics</p> <p>A decision was taken by Management to minimise the number of outreach activities during the last quarter in order to reduce the cases on hand and reduce complaints older than six (6) months</p> <p>The following outreach events were held and the Public Protector addressed stakeholders on the mandate of the Public Protector, South Africa:</p> <ul style="list-style-type: none"> a) Botshabelo Stadium, Mangaung, 18 February 2010 b) Recreational Hall, Galeshewe Township 23 February 2010 c) Barolong Community Hall, Mafikeng, 2 March 2010 d) Umlazi V Section Community Hall, 9 March 2010 e) Moses Twebe hall (Dimbaza Township) 11 March 2010 f) Delft Community Hall, Cape Town, 18 March 2010 g) Bungheni Community Hall, Louis Trichardt, 24 March 2010 h) San Kopano Centre, Alexandra Township, 10 February 2010 i) Glenmore Community Hall, Carolina Town, 31 March 2010
Reasons for major variances			

Strategic Objective 4: To ensure the efficient and effective management/ leadership of the Public Protector

Strategic Objective 4				
Sub-programme	Outputs/ Outcome	Measures / Indicators	2009/10 Target	Actual performance against target
Information Technology	Re-engineered and integrated business processes, stable and reliable infrastructure	MSP reviewed, approved and implemented Implementation of the MSP monitored and evaluated	MSP reviewed, approved and implemented. Monitor and evaluate the implementation of the MSP Activities a) Stabilise the Case Management System and provide training to the system users. b) Development and implementation of the Office Share Point solution, including the Intranet c) Upgrade the financial system – Great Planes d) Rehearsals of the Disaster Recovery Plan. e) Systems upgrade and reliable infrastructure and reduced downtime, provide Active user Sync	MSP has been reviewed, approved and the following projects have been implemented: a) Case Management further developed to enhance business reporting and training provided to all users. However, CMS is still being developed further and piloted. b) Development and implementation of Sharepoint technology. Training to all users will be provided in the next financial year. c) Great Planes financial system-was upgraded and implementation is ongoing. d) Rehearsals of the Disaster Recovery Plan done. e) The VPN requirements were documented and discussed with SITA. A Proposal was drafted by SITA, and due to financial constraints, this has been deferred to the next financial year.
Reasons for major variances				

Strategic Objective 4: To ensure the efficient and effective management/ leadership of the Public Protector

Strategic Objective 4				Ensure good governance	
Sub-programme	Outputs/ Outcome	Measures / Indicators	2009/10 Target	Actual performance against target	
Corporate Support Services	Adherence to applicable legislation, policies and corporate governance principles and synergy	The Public Protector compliant with all applicable legislation and regulations	Ensure compliance with applicable legislation and regulations, e.g. PFMA, Treasury regulations, etc.	Compliance with applicable legislation and regulations, e.g. PFMA, Treasury regulations, etc. was monitored and incidents of non-compliance were identified and dealt with	
	Organisational Risk Managed	Evidence of organisational risk assessed and managed	Organisational risk assessed and managed	Organisational risks identified and monitored monthly and reported on quarterly	
	Protection of assets and information ensured	Evidence of security management policy reviewed and changes implemented	Review policy and implement changes	Security management policy has been reviewed and changes are being implemented	
	Clean audits maintained	Clean audits maintained	Clean audits maintained	Unqualified audit report obtained	
	Best practice cost management institutionalised	Cost model implemented, reviewed and enhanced	Cost model implemented. Quarterly report on the expenditure on budget vs. actual per line item per BU	Quarterly reports on the expenditure on budget vs. actual per line item per BU circulated	
Reasons for major variances					

Strategic Objective 4 : To ensure the efficient and effective management/ leadership of the Public Protector

Strategic Objective 4			
Ensure that the organisational structure is aligned to strategy			
Sub-programme	Outputs/ Outcome	Measures / Indicators	2009/10 Target
CEO	Organisational structure aligned to strategy	Evidence of organisational structure aligned to strategy	Ensure that the organisational structure is aligned to strategy
Reasons for major variances			The organisational structure was reviewed, aligned to the strategy and tabled in Parliament for approval
Actual performance against target			

Strategic Objective 4			
Monitor and evaluate the overall institutional performance			
Sub-programme	Outputs/ Outcome	Measures / Indicators	2009/10 Target
CEO	The Public Protector performance aligned to mandate	Evidence of the Public Protector performance monitored and evaluated	Ensure the monitoring and evaluation of business performance Ensure quarterly monitoring and evaluation of the organisation's annual plan
Reasons for major variances			Organisational annual plan monitored through quarterly reporting on the performance of the strategic objectives
Actual performance against target			

Strategic Objective 4: To ensure the efficient and effective management/ leadership of the Public Protector

Strategic Objective 4			
Ensure the implementation of the Service Delivery Charter			
Sub-programme	Outputs/ Outcome	Measures / Indicators	2009/10 Target
Executive Support	Aligning the Public Protector to the Service Delivery Charter	Evidence of the implementation of the Service Delivery Charter reviewed	Ensure the implementation of the Service Delivery Charter Review the Service Delivery Charter
Reasons for major variances			The review of the Service Delivery Charter was deferred to the next financial year in order to ensure that the strategy addresses the needs of stakeholders and is enhanced with the inputs obtained during stakeholder consultations
Reasons for major variances			The Service Delivery Charter was not implemented and reviewed
Actual performance against target			

Strategic Objective 4			
Sub-programme	Outputs/ Outcome	Measures / Indicators	2009/10 Target
Knowledge Management	Organisational memory, research and knowledge products institutionalised	Integrated strategy on organisational memory, research and knowledge products	Monitor and evaluate the implementation of the strategy Review and enhance the strategy
Actual performance against target		Knowledge Management strategy implemented and monitored through quarterly reports. All hard copies of reports from investigators and provinces collected and scanned for inclusion in Sharepoint	
Reasons for major variances			

Strategic Objective 5: To ensure a high-performance culture by attracting and retaining highly competent and skilled individuals

Strategic Objective 5			
Sub-programme	Outputs/ Outcome	Measures / Indicators	2009/10 Target
Human Resources	Best practice approach to managing Human Resources	Approval, communication and implementation of the HR policies Evidence of HR strategy and policies reviewed and enhanced	HR policies approved, communicated and implemented
Actual performance against target		The HR Staff Manual was drafted and approved on 11 August 2009. Information sessions on HR policies were conducted in all offices as follows: a) Limpopo: 1 – 2 October 2009 b) Mpumalanga: 24 – 25 November 2009 c) North West: 9 – 10 December 2009 d) Northern Cape: 25 – 26 January 2010 e) Free State: 28: – 29 January 2010 f) Western Cape: 11 – 12 February 2010 g) KwaZulu-Natal: 18 – 19 February 2010 h) Gauteng (including Mabopane): 23 – 24 February 2010 i) National Office (including Siyabuswa and Rustenburg): 10 – 11 March 2010	
Reasons for major variances			

Strategic Objective 5: To ensure a high-performance culture by attracting and retaining highly competent and skilled individuals

Strategic Objective 5			
Instill a conducive environment to support a high-performance culture			
Sub-Programme	Outputs/ Outcome	Measures / Indicators	2009/10 Target
Human Resources	Performance management instilled in the organisational ethos	Signed annual performance agreements aligned to operational plans	Signed annual performance agreements aligned to operational plans
			Performance Management and Development System reviewed and implemented. Performance Agreements signed by most staff except new appointees.
Reasons for major variances			

2.3.5 Strategic Objective 5: To ensure a high-performance culture by attracting and retaining highly competent and skilled individuals

Strategic Objective 5			
Ensure that the organisational values are displayed in the behaviour of employees			
Sub-programme	Outputs/ Outcome	Measures / Indicators	2009/10 Target
Human Resources	Organisational core values displayed in the behaviour of staff	Organisational core values displayed in the behaviour of staff	Review code of conduct and conduct workshop
			Deferred to 2010/11 due to budget constraints. The National Symposium to align investigations to the new vision and values was held on 27 March 2010
Reasons for major variances			

Strategic Objective 5: To ensure a high-performance culture by attracting and retaining highly competent and skilled individuals

Strategic Objective 5		Further development, review and implementation of the Employee Wellness Programme		
Sub-Programme	Outputs/ Outcome	Measures / Indicator	2009/10 Target	Actual performance against target
Human Resources	Productive and healthy employees	Quarterly report on the implementation and impact of the Wellness and Disease Management Programme Evidence of the Wellness and Disease Management	Report annually on the implementation and impact of the Wellness and Disease Management Programme Wellness and Disease Management Programme reviewed and enhanced	Detailed quarterly report on the Wellness Programme submitted to the Executive Committee and a general report presented to the Management Committee Staff workshops conducted on Disease Management Programme and Life Skills Management; Health Awareness Day arranged and World AIDS Day commemorated at all the Public Protector offices
Reasons for major variances				

MANAGEMENT



Adv Christoffel Fourie
Executive Manager
National Investigations



Jevio Mculu
Chief Financial Officer



Reginald Ndou
Executive Manager
Outreach



Dr Tinus Schutte
Executive Manager
Intake & Early Resolution



Adv Thembi Bokako
Senior Manager
Executive Support



Sello Mothupi
Senior Manager
Provincial Investigations
& Co-ordination



Zoleka Mntumtum
Senior Manager
Facility Management &
Auxillary Services



Elsabe De Waal
Chief Investigator -
National Investigations



Sechele Keebine
Chief Investigator
National Investigations



Kgalalelo Masibi
Senior Manager
Communications



Charles Motau
Senior Manager
Information Technology



Sebaba Lentsoane
Senior Manager
Human Resources



Ponatshego Mogaladi
Senior Manager
Strategic Support



Sphelo Samuel
Limpopo Provincial
Representative



**Adv Ruthven Janse
van Rensburg**
Western Cape
Provincial Representative



Adv Nomsa Thomas
Eastern Cape
Provincial Representative



Suné Griessel
Free State Provincial
Representative



Botromia Sithole
Northern Cape Provincial
Representative



Adv Johan Raubenheimer
North-West Provincial
Representative



Sibekuzo Dube
Mpumalanga Provincial
Representative



Lesedi Sekele
Gauteng Provincial
Representative



Mlandeli Nkosi
KwaZulu-Natal Provincial
Representative

2.3. HUMAN RESOURCE MANAGEMENT AND DEVELOPMENT

2.3.1 EMPLOYMENT AND VACANCIES

The following tables summarise the number of posts in the establishment, the number of employees, the vacancy rate, and whether there are any staff that are additional to the establishment. This information is presented in terms of three key variables: programme (Table 2.4.1.1), salary band (Table 2.4.1.2) and critical occupations (Table 2.4.1.3). The Public Protector, South Africa has identified critical occupations that need to be monitored. Table 2.4.1.3 provides establishment and vacancy information for the key critical occupations of the department.

The vacancy rate reflects the percentage of posts that are not filled.

TABLE 2.3.1.1: Employment and vacancies by programme, 31 March 2010

Programme	Number of posts	Number of posts filled	Vacancy rate	Number of posts filled additional to the establishment
The Public Protector	267	255	4.5%	0
Total	267	255	4.5%	0

TABLE 2.3.1.2: Employment and vacancies by salary bands, 31 March 2010

Salary band	Number of posts	Number of posts filled	Vacancy rate	Number of posts filled additional to the establishment
Lower skilled (Levels 1-2)	0	0	0	0
Skilled (Levels 3-5)	77	71	7.7%	0
Highly skilled production (Levels 6-8)	51 ⁸	49 ⁸	3.9%	0
Highly skilled supervision (Levels 9-12)	114	110 ⁸	3.5%	0
Senior management (Levels 13-16)	25	25	0%	0

⁸ The variation between the 2008/9 financial year and the 2009/10 financial year in the number of posts in each level is due to the fact that investigators' salaries were adjusted from level 8 to level 9, hence the discrepancy between levels 6-8 and 9-12.

TABLE 2.3.1.3: Employment and vacancies by critical occupation, 31 March 2010

Critical occupations	Number of posts	Number of posts filled	Vacancy rate	Number of posts filled additional to the establishment
Public Protector	1	1	0%	0
Deputy Public Protector	1	1	0%	0
Chief Executive Officer	1	1	0%	0
Executive Manager: PICU	1	0	100%	0
Executive Manager: Intake and Early Resolution	1	1	0%	0
Executive Manager: Outreach	1	1	0%	0
Executive Manager: National Investigation	1	1	0%	0
Senior Manager HRM & D	1	1	0%	0
Senior Manager: IT	1	1	0%	0
Total	9	8	11%	0

The information in each case reflects the situation as at 31 March 2010.

2.3.2 Job evaluation

The Public Service Regulations, 1999, introduced job evaluation as a way of ensuring that work of equal value is remunerated equally. Within a nationally determined framework, executing authorities may evaluate or re-evaluate any job in his or her organisation. In terms of the Regulations all vacancies on salary levels 9 and higher must be evaluated before they are filled. This was complemented by a decision by the Minister for Public Service and Administration that all SMS jobs must be evaluated before 31 December 2002.

Table 2.3.2.1 summarises the number of jobs that were evaluated during the year under review. The table also provides statistics on the number of posts that were upgraded or downgraded.

TABLE 2.3.2.1: Job Evaluation, 1 April 2009 to 31 March 2010

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%
Skilled (Levels 3-5)		2	7.69%	1	16.7%	0	0%
Highly skilled production (Levels 6-8)		3	11.5%	2	33.3%	0	0%
Highly skilled supervision (Levels 9-12)		8	30.76%	0	0%	0	0%
Senior Management Service Band A		7	27%	1	16.7%	1	100%
Senior Management Service Band B		6	23%	2	33.3%	0	0%
Senior Management Service Band C		0	0%	0	0%	0	0%
Senior Management Service Band D		0	0%	0	0%	0	0%
Total		26	100%	6	100%	1	100%

Table 2.3.2.2 provides a summary of the number of employees whose salary positions were upgraded due to their posts being upgraded. The number of employees may differ from the number of posts upgraded since not all employees are automatically absorbed into the new posts and some of the posts upgraded could also be vacant.

TABLE 2.3.2.2: Profile of employees whose salary positions were upgraded due to their posts being upgraded, 1 April 2009 to 31 March 2010

Beneficiaries	African	Asian	Coloured	White	Total
Female	N/A	N/A	N/A	N/A	N/A
Male					
Total	N/A	N/A	N/A	N/A	N/A
Employees with a disability					

Table 2.3.2.3 summarises the number of cases where remuneration levels exceeded the grade determined by job evaluation. Reasons for the deviation are provided in each case.

TABLE 2.3.2.3: Employees whose salary level exceeded the grade determined by job evaluation, 1 April 2009 to 31 March 2010 (in terms of PSR 1.V.C.3)

Occupation	Number of employees	Job evaluation level/	Remuneration level	Reason for deviation
Deputy Public Protector	1	15	15	Last notch of Deputy Director-General
Chief Executive Officer	1	15	15	Last notch of Deputy Director-General
Senior Manager: HRM&D	1	13	13	Appointment salary in 2007 on personal notch
Senior Manager: IT	1	13	13	Appointment salary in 2007 on personal notch
Manager: SCM	1	12	12	Counter-offer to retain skill
Total Number of employees whose salaries exceeded the level determined by job evaluation in 2009/10				5
Percentage of total employment				2%

Table 2.3.2.4 summarises the beneficiaries of the above in terms of race, gender, and disability.

TABLE 2.3.2.4: Profile of employees whose salary level exceeded the grade determined by job evaluation, 1 April 2009 to 31 March 2010 (in terms of PSR 1.V.C.3)

Beneficiaries	African	Asian	Coloured	White	Total
Female	1	0	0	0	1
Male	4	0	0	0	4
Total	5	0	0	0	5
Employees with a disability					

Total Number of Employees whose salaries exceeded the grades determined by job evaluation in 2009/10

2.3.3 EMPLOYMENT CHANGES

This section provides information on changes in employment over the financial year.

Turnover rates provide an indication of trends in the employment profile of the Public Protector, South Africa. The following tables provide a summary of turnover rates by salary band (Table 2.3.3.1) and by critical occupations (Table 2.3.3.2). (These "critical occupations" should be the same as those listed in Table 2.3.3.3).

TABLE 2.3.3.1: Annual turnover rates by salary band for the period 1 April 2009 to 31 March 2010

Salary band	Number of employees per band as on 1 April 2009	Appointments and transfers into the department	Terminations and transfers out of the department	Turnover rate
Lower skilled (Levels 1-2)	0	0	0	0%
Skilled (Levels 3-5)	74	10	10	13.5%
Highly skilled production (Levels 6-8)	96	8	9	9.3%
Highly skilled supervision (Levels 9-12)	54	12	4	7.4%
Senior Management Service Band A	16	1	1	6.25%
Senior Management Service Band B	4	1	1	25%
Senior Management Service Band C	2	0	0	0%
Senior Management Service Band D	1	1	1	100%
Total	247	33	26	10.52%

TABLE 2.3.3.2: Annual turnover rates by critical occupation for the period 1 April 2009 to 31 March 2010

Occupation	Number of employees per occupation as on 1 April 2009	Appointments and transfers into the department	Terminations and transfers out of the department	Turnover rate
N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	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	N/A	N/A	N/A	N/A

Table 2.3.3.3 identifies the major reasons why staff left the department.

TABLE 2.3.3.3: Reasons why staff left the department

Termination type	Number	% of total
Death	0	0%
Resignation	19	73%
Expiry of contract	6	23%
Dismissal – operational changes	0	0%
Dismissal – misconduct	0	0%
Dismissal – inefficiency	0	0%
Discharged due to ill health	0	0%
Retirement	1	4%
Transfers to other public service departments	0	0%
Other	0	0%
Total	26	100%
Total number of employees who left as a % of the total employment		10.52%

TABLE 2.3.3.4: Promotions by critical occupation

Occupation	Employees as at 1 April 2009	Promotions to another salary level	Salary level promotions as % of employees by occupation	Progressions to another notch within a salary level	Notch progressions as % of employees by occupation
	N/A	N/A	N/A	N/A	N/A
	N/A	N/A	N/A	N/A	N/A
	N/A	N/A	N/A	N/A	N/A
	N/A	N/A	N/A	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	N/A	N/A	N/A	N/A	N/A

TABLE 2.3.3.5: Promotions by salary band

Salary band	Employees 1 April 2009	Promotions to another salary level	Salary band promotions as a % of employees by salary level	Progressions to another notch within a salary level	Notch progressions as % of employees by salary band
Lower skilled (Levels 1-2)	N/A	N/A	N/A	N/A	N/A
Skilled (Levels 3-5)	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
Highly skilled supervision (Levels 9-12)	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
Total	N/A	N/A	N/A	N/A	N/A

2.3.4 EMPLOYMENT EQUITY

The tables in this section are based on the formats prescribed by the Employment Equity Act 55 of 1998.

2.3.4.1 Total number of employees (including employees with disabilities) in each of the following occupational categories as on 31 March 2010

Occupational categories (SASCO)	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Legislators, senior officials and managers	11	0	0	4	8	0	0	2	25
Professionals	61	3	2	2	34	2	3	3	110
Technicians and associate professionals	17	0	0	0	26	1	1	4	49
Clerks	17	0	0	0	43	5	3	3	71
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	0	0	0	0	0	0	0	0	0
Total	106	3	2	6	111	8	7	12	255
Employees with disabilities	1	0	0	0	0	0	0	1	2

2.3.4.2 Total number of employees (including employees with disabilities) in each of the following occupational bands as on 31 March 2010

Occupational bands	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Top management	1	0	0	0	2	0	0	0	3
Senior management	10	0	0	4	6	0	0	2	22
Professionally qualified and experienced specialists and mid-management	61	3	2	2	34	2	3	3	110
Skilled technical and academically qualified workers, junior management, supervisors, foremen and superintendents	17	0	0	0	26	1	1	4	49
Semi-skilled and discretionary decision making	17	0	0	0	43	5	3	3	71
Unskilled and defined decision making	0	0	0	0	0	0	0	0	0
Total	106	3	2	6	111	8	7	12	255

2.3.4.3 Recruitment for the period 1 April 2009 to 31 March 2010

Occupational bands	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Top management	0	0	0	0	1	0	0	0	1
Senior management	1	0	0	0	1	0	0	0	2
Professionally qualified and experienced specialists and mid-management	9	0	0	0	3	0	0	0	12
Skilled technical and academically qualified workers, junior management, supervisors, foremen and superintendents	5	0	0	0	3	0	0	0	8
Semi-skilled and discretionary decision making	2	0	0	0	7	0	0	1	10
Unskilled and defined decision making	0	0	0	0	0	0	0	0	0
Total	17	0	0	0	15	0	0	1	33
Employees with disabilities	0	0	0	0	0	0	0	0	0

2.3.4.4 Promotions for the period 1 April 2009 to 31 March 2010

Occupational bands	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Top management	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Senior management	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Professionally qualified and experienced specialists and mid-management	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Skilled technical and academically qualified workers, junior management, supervisors, foremen and superintendents	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Semi-skilled and discretionary decision making	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Unskilled and defined decision making	N/A	N/A	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	N/A	N/A	N/A
Employees with disabilities	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

2.3.4.5 Terminations for the period 1 April 2009 to 31 March 2010

Occupational bands	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Top management	1	0	0	0	0	0	0	0	1
Senior Management	0	0	0	0	2	0	0	0	2
Professionally qualified and experienced specialists and mid-management	4	0	0	0	0	0	0	0	4
Skilled technical and academically qualified workers, junior management, supervisors, foremen and superintendents	4	0	0	0	4	0	0	1	9
Semi-skilled and discretionary decision making	2	0	0	0	7	0	0	1	10
Unskilled and defined decision making	0	0	0	0	0	0	0	0	0
Total	11	0	0	0	13	0	0	2	26
Employees with disabilities	0	0	0	0	0	0	0	0	0

2.3.4.6 *Disciplinary action for the period 1 April 2009 to 31 March 2010*

	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Disciplinary action	4	0	0	1	3	0	0	0	8

2.3.4.7 *Skills development for the period 1 April 2009 to 31 March 2010*

Occupational categories	Male				Female				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Legislators, senior officials and managers	11	0	0	4	8	0	0	2	25
Professionals	61	3	2	2	34	2	3	3	110
Technicians and associate professionals	17	0	0	0	26	1	1	4	49
Clerks	17	0	0	0	43	5	3	3	71
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	0	0	0	0	0	0	0	0	0
Total	106	3	2	6	111	8	7	12	255
Employees with disabilities	1	0	0	0	0	0	0	1	2

2.3.5 PERFORMANCE REWARDS

To encourage good performance, the department has granted the following performance rewards during the year under review. The information is presented in terms of race, gender and disability (Table 2.3.5.1), salary bands (Table 2.3.5.2) and critical occupations (Table 2.3.5.3).

TABLE 2.3.5.1: Performance rewards by race, gender and disability, 1 April 2009 to 31 March 2010

	Beneficiary Profile			Cost	
	Number of beneficiaries	Total number of employees in group	% of total within group	Cost	Average cost per employee
African					
Male	38	106	36%	R530 233.21	R13 953.50
Female	62	111	55%	R510 477.12	R8 233.50
Indian					
Male	1	2	50%	R20 415.60	R20 415.60
Female	4	7	57%	R38 132.82	R9 533.20
Coloured					
Male	1	3	33%	R8 799.30	R8 799.30
Female	6	8	75%	R47 409.48	R7 901.58
White					
Male	4	6	67%	R124 785.83	R31 189.70
Female	10	12	83%	R178 402.36	R17 840.20
Employees with a disability	1	2	50%	R4 571.64	R4 571.64
Total	127	255	50%	R1 463 227.36	R11 521.40

TABLE 2.3.5.2: Performance rewards by salary bands for personnel below Senior Management Service, 1 April 2009 to 31 March 2010

Salary Bands	Beneficiary Profile			Cost		
	Number of beneficiaries	Number of employees	% of total within salary bands	Total Cost	Average cost per employee	Total cost as % of total personnel expenditure
Lower skilled (Levels 1-2)	0	0	0%	0	0	0%
Skilled (Levels 3-5)	51	71	70%	R244 364.76	R47 912.40	23%
Highly skilled production (Levels 6-8)	28	49	57%	R247 947.78	R8 855.20	20%
Highly skilled supervision (Levels 9-12)	33	110	30%	R586 360.94	R17 768.50	57%
Total	112	230	48%	R1 078 673.48	R9 631.00	100%

TABLE 2.3.5.3: Performance rewards by critical occupations, 1 April 2009 to 31 March 2010

Critical Occupations	Beneficiary Profile			Cost	
	Number of beneficiaries	Number of employees	% of total within occupation	Total cost	Average cost per employee
N/A	N/A	N/A	N/A	N/A	N/A
Total	N/A	N/A	N/A	N/A	N/A

TABLE 2.3.5.4: Performance-related rewards (cash bonus) by salary band for Senior Management Service

Salary Band	Beneficiary Profile			Total Cost	Average cost per employee	Total cost as % of total personnel expenditure
	Number of beneficiaries	Number of employees	% of total within band			
Band A	12	16	75%	R281 771.94	R23 480.90	75%
Band B	3	5	60%	R102 781.94	R34 260.60	25%
Band C	0	0	0%	R0	R0	0%
Band D	0	0	0%	R0	R0	0%
Total	15	21	71%	R384 553.88	R25 636.90	100%

2.3.6 Foreign workers

The tables below summarise the employment of foreign nationals in the department by salary bands and major occupation. The tables also summarise changes in the total number of foreign workers in each salary band and by each major occupation.

TABLE 2.3.6.1: Foreign workers, 1 April 2009 to 31 March 2010, by salary band

Salary Band	1 April 2009		31 March 2010		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 2.3.6.2: Foreign workers, 1 April 2009 to 31 March 2010, by major occupation

Major Occupation	1 April 2009		31 March 2010		Change	
	Number	% of total	Number	% of total	Number	% change
	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

2.3.7 LEAVE UTILISATION FOR THE PERIOD 1 JANUARY 2009 TO 31 DECEMBER 2009

The Public Service Commission identified the need for careful monitoring of sick leave within the public service. The following tables provide an indication of the use of sick leave (Table 2.3.7.1) and disability leave (Table 2.3.7.2). In both cases, the estimated cost of the leave is also provided.

TABLE 2.3.7.1: Sick leave, 1 January 2009 to 31 December 2009

Salary band	Total days	% days with medical certification	Number of employees using sick leave	% of total employees using sick leave	Average days per employee	Estimated Cost
Lower skilled (Levels 1-2)	0	0%	0	0%	0	R0 00
Skilled (Levels 3-5)	536	42%	71	100%	0.13	R179 000
Highly skilled production (Levels 6-8)	229	40%	37	75%	0.16	R113 000
Highly skilled supervision (Levels 9-12)	600	48%	84	76%	0.37	R861 000
Senior management (Levels 13-16)	124	51%	18	72%	0.14	R372 000
Total	1489	44%	210	82%	0.14	R1 525 000

TABLE 2.3.7.2: Disability leave (temporary and permanent), 1 January 2009 to 31 December 2009

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
Lower skilled (Levels 1-2)	0	0%	0	0%	0	R0 00
Skilled (Levels 3-5)	107	100%	5	100%	21.4	R39 000
Highly skilled production (Levels 6-8)	25	100%	2	100%	12.5	R13 000
Highly skilled supervision (Levels 9-12)	201	100%	6	100%	33.5	R317 000
Senior management (Levels 13-16)	3	100%	1	100%	3	R10 000
Total	336	100%	14	100%	24	R379 000

Table 2.3.7.3 summarises the use of annual leave. The wage agreement concluded with trade unions in the PSCBC in 2000 requires management of annual leave to prevent high levels of accrued leave being paid at the time of termination of service.

TABLE 2.3.7.3: Annual leave, 1 January 2009 to 31 December 2009

Salary bands	Total days taken	Average per employee
Lower skilled (Levels 1-2)	0	0
Skilled (Levels 3-5)	1 449	26.34
Highly skilled production (Levels 6-8)	834	16.68
Highly skilled supervision (Levels 9-12)	2 024	18.74
Senior management (Levels 13-16)	456	19
Total	4 763	20.09

TABLE 2.3.7.4: Capped leave, 1 January 2009 to 31 December 2009

Salary bands	Total days of capped leave taken	Average number of days taken per employee	Average capped leave per employee as at 31 December 2009
Lower skilled (Levels 1-2)	0	0	0
Skilled (Levels 3-5)	1	1	30.45
Highly skilled production (Levels 6-8)	8	8	30.71
Highly skilled supervision (Levels 9-12)	95	19	42
Senior management (Levels 13-16)	7	7	28.2
Total	111	13.9	34.15

TABLE 2.3.7.5: Leave payouts for the period 1 April 2009 to 31 March 2010

The following table summarises payments made to employees for leave that was not taken.

Reason	Total amount	Number of employees	Average payment per employee
Leave payout for 2009/10 due to non-utilisation of leave for the previous cycle	R0.00	0	0
Capped leave payouts on termination of service for 2009/10	R0.00	0	0
Current leave payout on termination of service for 2009/10	R119 257.46	20	R5 962.80
Total	R119 257.46	20	R5 962.80

2.3.8 HIV AND AIDS AND HEALTH PROMOTION PROGRAMMES

TABLE 2.3.8.1 Steps taken to reduce the risk of occupational exposure

Units/categories of employees identified to be at high risk of contracting HIV and related diseases (if any)	Key steps taken to reduce the risk
All categories	HIV and AIDS training for all staff
Peer educators	Voluntary testing and counselling
	Biannual voluntary testing and counselling
	Employee assistance programme including counselling

TABLE 2 3.8.2: 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		Mr SJ Lentsoane assisted by EWP Committee Members and Careways Group as service provider
2. Does the department have a dedicated unit or has it designated specific staff members to promote the health and wellbeing 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		Human Resource Department Employee Wellness Programme committee members and 20 peer educators Budget: R300 000
3. Has the department introduced an employee assistance or health promotion programme for its employees? If so, indicate the key elements/services of this programme.	x		Psychological Counselling Services. HIV and AIDS Disease Management Programme Employee Assistance Programme
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		Mr S Lentsoane Ms S Dube Ms V Setlthodimela Ms T Faku Ms M Molokomme Ms E De Waal Ms R Nair Mr N Maoka Mr S Mothupi
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		HIV and AIDS Policy and Employee Wellness Policy developed and implemented
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 and the Disease Management Programme
7. Does the department encourage its employees to undergo voluntary counselling and testing? If so, list the results that you have you achieved.	x		Voluntary Counselling and Testing done during the HIV and AIDS launch
8. Has the department developed measures/indicators to monitor and evaluate the impact of its health promotion programme? If so, list these measures/indicators.	x		Voluntary Counselling and Testing organised annually by Careways Mini-surveys conducted for monitoring and evaluation

2.3.9 LABOUR RELATIONS

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

TABLE 2.3.9.1: Collective agreements, 1 April 2009 to 31 March 2010

None concluded directly with the Public Protector negotiations with PSA on Recognition Agreement

Office benchmark against PSCBC

Total collective agreements	None
------------------------------------	-------------

The following table summarises the outcome of disciplinary actions conducted within the department in the year under review.

TABLE 2.3.9.2: Misconduct and disciplinary actions finalised, 1 April 2009 to 31 March 2010

Outcomes of disciplinary actions	Number	% of total
Correctional counselling	0	0%
Verbal warning	1	12.5%
Written warning	2	25%
Final written warning	1	12.5%
Suspended without pay	0	0%
Fine	0	0%
Demotion	0	0%
Dismissal	0	0%
Not guilty	0	0%
Case withdrawn	1	12.5%
Transfer	2	25%
Pending	1	12.5%
Total	8	100%

TABLE 2.3.9.3: Types of misconduct addressed at disciplinary hearings

Type of misconduct	Number	% of total
Use of unprofessional language	1	12.5%
Disrespect towards Public Protector and Deputy Public Protector	2	25%
Driving official vehicle under influence of alcohol	1	12.5%
Theft, insubordination	1	12.5%
Unauthorised use of office property	1	12.5%
Leave mismanagement	1	12.5%
Other	1	12.5%
Total	8	100%

TABLE 2.3.9.4: Grievances lodged for the period 1 April 2009 to 31 March 2010

	Number	% of Total
Number of grievances resolved	3	75%
Number of grievances not resolved	1	25%
Total number of grievances lodged	4	100%

TABLE 2.3.9.5: Disputes lodged with councils for the period 1 April 2009 to 31 March 2010

	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 2.3.9.6: Strike actions for the period 1 April 2009 to 31 March 2010

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 2.3.9.7: Precautionary suspensions for the period 1 April 2009 to 31 March 2010

Number of people suspended	1
Number of people whose suspension exceeded 30 days	N/A
Average number of days suspended	7
Cost (R'000) of suspensions	N/A

2.3.10 SKILLS DEVELOPMENT

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

2.3.10.1: Training needs identified for the period 1 April 2009 to 31 March 2010

Occupational Categories	Gender	Number of employees as at 1 April 2009	Training needs identified at start of reporting period			
			Learnerships	Skills programmes and other short courses	Other forms of training	Total
Legislators, senior officials and managers	Female	10	0	8	0	8
	Male	15	0	14	0	14
Professionals	Female	42	0	42	0	42
	Male	68	0	68	0	68
Technicians and associate professionals	Female	32	0	32	0	32
	Male	17	0	17	0	17
Clerks	Female	54	0	54	0	54
	Male	17	0	17	0	17
Service and sales workers	Female	0	0	0	0	0
	Male	0	0	0	0	0
Skilled agriculture and fishery workers	Female	0	0	0	0	0
	Male	0	0	0	0	0
Craft and related trades workers	Female	0	0	0	0	0
	Male	0	0	0	0	0
Plant and machine operators and assemblers	Female	0	0	0	0	0
	Male	0	0	0	0	0
Elementary occupations	Female	0	0	0	0	0
	Male	0	0	0	0	0
Subtotal	Female	138	0	136	0	136
	Male	117	0	116	0	116
Total		255	0	252	0	252

2.3.10.2: *Training provided during the period 1 April 2009 to 31 March 2010*

Occupational Categories	Gender	Number of employees as at 1 April 2009	Training provided within the reporting period			
			Learnerships	Skills Programmes and other short courses	Other forms of training	Total
Legislators, senior officials and managers	Female	10	0	4	0	4
	Male	15	0	14	0	14
Professionals	Female	42	0	24	0	24
	Male	68	0	48	0	48
Technicians and associate professionals	Female	32	0	15	0	15
	Male	17	0	13	0	13
Clerks	Female	54	0	26	0	26
	Male	17	0	6	0	6
Service and sales workers	Female	0	0	0	0	0
	Male	0	0	0	0	0
Skilled agriculture and fishery workers	Female	0	0	0	0	0
	Male	0	0	0	0	0
Craft and related trades workers	Female	0	0	0	0	0
	Male	0	0	0	0	0
Plant and machine operators and assemblers	Female	0	0	0	0	0
	Male	0	0	0	0	0
Elementary occupations	Female	0	0	0	0	0
	Male	0	0	0	0	0
Subtotal	Female	138	0	69	0	69
	Male	117	0	81	0	81
Total		255	0	150	0	150

2.3.11 INJURY ON DUTY

The following tables provide basic information on injury on duty.

TABLE 2.3.11.1: Injury on duty for the period 1 April 2009 to 31 March 2010

Nature of injury on duty	Number	% of total
Required basic medical attention only	N/A	N/A
Temporary total disablement	N/A	N/A
Permanent disablement	N/A	N/A
Fatal	N/A	N/A
Total	N/A	N/A

2.3.12 UTILISATION OF CONSULTANTS

Table 2.3.12.1: 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
Job Evaluation	2	10 Days	R69 540.00
EWP	3	2 Years	R500 000.00
Recruitment	2	1 Year	R158 155.28
Total number of projects	Total individual consultants	Total duration: Work days	Total contract value in Rand
3	7		R727 695.28

Table 2.3.12.2: 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 worked on the project
Job Evaluation	30%	30%	0
EWP	26%	26%	0
PMDS	0%	0%	0
Recruitment	57.3%	57.3%	0

Table 2.3.12.3: Report on consultant appointments using donor funds

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
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A

Table 2.3.12.4: 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 worked 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



PUBLIC PROTECTOR
SOUTH AFRICA

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

3. ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

CONTENTS	PAGE
Report of the Audit Committee	87
Report of the Auditor-General	89
Report of the Accounting Officer	94
Statement of Financial Performance	98
Statement of Financial Position	99
Cash Flow Statement	101
Statement of Changes in Net Assets	102
Notes to the Annual Financial Statements	103

REPORT OF THE AUDIT COMMITTEE

We are pleased to present our report for the financial year ended 31 March 2010

AUDIT COMMITTEE MEMBERS AND ATTENDANCE

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

CURRENT MEMBERS

Name of Member	Number of meetings attended
V Mokwena (Chairperson) – re-appointed November 2009	1
P Mzizi – appointed November 2009	1
D Lekoto – appointed November 2009	1

PREVIOUS MEMBERS

Name of Member	Number of meetings attended
M Vuso (Chairperson) term ended October 2009	2
V Mokwena	2
A Soma – term ended October 2009	0

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**. 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

In line with the PFMA and the King III Report on Corporate Governance requirements, 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 the management report of the Auditor-General, it was noted that matters were reported indicating material deficiencies in the system of internal control.

Accordingly, we can report that the system of internal control for the period under review was inadequate. During the year under review, several deficiencies in the system of internal control and deviations were reported by the internal auditors and the Auditor-General South Africa.

THE QUALITY OF IN-YEAR MANAGEMENT AND MONTHLY/QUARTERLY REPORTS SUBMITTED IN TERMS OF THE PFMA AND THE DIVISION OF REVENUE ACT

The Audit Committee is satisfied with the content and quality of monthly and quarterly reports prepared and issued by the Accounting Officer of the Department 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; reviewed changes in accounting policies and practices; reviewed the entity compliance with legal and regulatory provisions; 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.

INTERNAL AUDIT

The Audit Committee is satisfied that the internal audit function is operating effectively and that it has addressed the risks pertinent to the entity in its audit.

Auditor-General South Africa

The Audit Committee has met with the Auditor-General South Africa to ensure that there are no unresolved issues.



Mr V Mokwena

Chairperson of the Audit Committee

30 August 2010

REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON THE FINANCIAL STATEMENTS OF THE PUBLIC PROTECTOR, SOUTH AFRICA

FOR THE YEAR ENDED 31 MARCH 2010

REPORT ON THE FINANCIAL STATEMENTS

INTRODUCTION

I have audited the accompanying financial statements of the Public Protector, South Africa, which comprise the statement of financial position as at 31 March 2010, and the 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 information, as set out on pages 98 to 138.

ACCOUNTING OFFICER'S RESPONSIBILITY FOR THE FINANCIAL STATEMENTS

The accounting officer is responsible for the preparation and fair presentation of the financial statements in accordance with South African Standards of Generally Recognised Accounting Practice (SA Standards of GRAP) and in the manner required by the Public Finance Management Act of South Africa. 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; and making accounting estimates that are reasonable in the circumstances.

AUDITOR-GENERAL'S RESPONSIBILITY

As required by section 188 of the Constitution of South Africa, section 4 of the Public Audit Act of South Africa and the Public Protector Act of 1994, my responsibility is to express an opinion on these financial statements based on my audit.

I conducted my audit in accordance with International Standards on Auditing and *General Notice 1570 of 2009* issued in *Government Gazette 32758 of 27 November 2009*. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

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 judgement, 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. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

OPINION

In my opinion, the financial statements present fairly, in all material respects, the financial position of the Public Protector, South Africa as at 31 March 2010, and its financial performance and its cash flows for the year then ended in accordance with South African Standards of Generally Recognised Accounting Practice (SA Standards of GRAP) and in the manner required by the Public Finance Management Act of South Africa.

EMPHASIS OF MATTER

I draw attention to the matters below. My opinion is not modified in respect of these matters:

Restatement of corresponding figures

As disclosed in note 24 prior period errors and note 30 irregular expenditure to the financial statements, the corresponding figures for 31 March 2009 have been restated as a result of errors discovered during 2010 in the financial statements of the Public Protector, South Africa at, and for the year ended, 31 March 2009.

Irregular expenditure

As disclosed in note 30 to the financial statements, irregular expenditure amounting to R1,3 million was incurred, mainly as a result of proper tender processes not followed.

Going concern

Note 28 to the financial statements indicates that the Public Protector, South Africa incurred a net loss of R6,3 million during the year ended 31 March 2010 and, as of that date, the Public Protector, South Africa's total liabilities exceeded its total assets by R1,9 million. These conditions, along with other matters as set forth in the note 28 indicate the existence of a material uncertainty that may cast significant doubt on the Public Protector, South Africa's ability to operate as a going concern.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

In terms of the PAA of South Africa and *General notice 1570 of 2009*, issued in *Government Gazette No. 32758 of 27 November 2009*, I include below my findings on the report on predetermined objectives, compliance with the PFMA and financial management (internal control).

FINDINGS

Predetermined objectives

Non-compliance with applicable legislation

Public Finance Management Act

- ***Lack of effective, efficient and transparent systems and internal controls regarding performance management***

The accounting officer did not ensure that the Public Protector, South Africa has and maintains an effective, efficient and transparent system and internal controls regarding performance management, which describe and represent how the institution's processes of performance planning, monitoring, measurement, review and reporting will be conducted, organised and managed, as required in terms of section 38(1)(a)(i) and (b) of the PFMA.

Treasury Regulations

- ***Inadequate quarterly reporting on performance information***

The quarterly reports of the Public Protector, South Africa did not track in all instances the progress against outputs, indicators and targets as per the approved strategic performance plan and therefore did not facilitate effective performance monitoring and evaluation, as required by Treasury Regulation 5.3.

Usefulness of reported performance information

The following criteria were used to assess the usefulness of the planned and reported performance:

- **Consistency:** Has the Public Protector, South Africa reported on its performance with regard to its objectives, indicators and targets in its approved strategic plan, i.e. are the objectives, indicators and targets consistent between planning and reporting documents?
- **Relevance:** Is there a clear and logical link between the objectives, outcomes, outputs, indicators and performance targets?

- **Measurability:** Are objectives made measurable by means of indicators and targets? Are indicators well defined and verifiable, and are targets specific, measurable, and time bound?

The following audit findings relate to the above criteria:

- ***Incomplete reporting on all the requirements indicated in the target***

The actual achievements with regard to 25% of all planned targets specified in the strategic plan regarding the investigations within approved timelines and agreed standards and quality was not reported in the annual performance report submitted for audit purposes.

- ***Planned and reported performance targets not specific and measurable***

For the selected programme (investigation and outreach):

- 37,5% of the targets were not specific in clearly identifying the nature and the required level of performance;
- 25% of the targets were not measurable in identifying the required performance.

Reliability of reported performance information

The following criteria were used to assess the usefulness of the planned and reported performance:

- **Validity:** Has the actual reported performance occurred and does it pertain to the entity i.e. can the reported performance information be traced back to the source data or documentation?
- **Accuracy:** Amounts, numbers and other data relating to reported actual performance has been recorded and reported appropriately.
- **Completeness:** All actual results and events that should have been recorded have been included in the reported performance information.

The following audit findings relate to the above criteria:

- ***Reported targets not reliable and accurate when compared to source information***

For the reported target (number of investigations) that was material by nature, 86% of the reported target was not accurate on the basis of the source information provided to support the number of investigations.

- ***Reported target not reliable as no supporting source information was provided***

For the selected investigation and outreach programmes the validity, accuracy and completeness, 25% of the reported targets could not be established as sufficient appropriate audit evidence could not be provided for audit purposes, relating to the year-on-year increase in outreach activities and annual report on the number of clinics conducted.

Compliance with laws and regulations

No matters to report.

INTERNAL CONTROL

I considered internal control relevant to my audit of the financial statements and the report on predetermined objectives and compliance with the PFMA, but not for the purposes of expressing an opinion on the effectiveness of internal control. The matters reported below are limited to the deficiencies identified during the audit.

- **Leadership**

The internal policies and procedures of the department pertaining to the planning and monitoring of performance information are not sufficient to ensure reliable reporting. Furthermore, the department did not have sufficient monitoring controls to ensure compliance with all applicable laws and regulations and internal controls.

- **Financial and performance management**

The Public Protector, South Africa does not have competent individuals who understand the financial reporting framework.

Auditor General.

Pretoria

30 July 2010



A U D I T O R - G E N E R A L

Auditing to build public confidence

REPORT BY THE ACCOUNTING OFFICER TO THE EXECUTIVE AUTHORITY AND PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA

FOR THE YEAR ENDED 31 MARCH 2010

1. LEGISLATIVE MANDATE

1.1 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 Public Protector, is to strengthen constitutional democracy. Public Protector 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 Public Protector has the power to report and recommend remedial action.

1.2 The core business of the Public Protector 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.

2. GENERAL REVIEW OF THE STATE OF FINANCIAL AFFAIRS

2.1 THE OPERATIONS OF THE PUBLIC PROTECTOR WAS REVISED INTO 3 PROGRAMMES, WHICH ARE AS FOLLOWS:

Programme	Sub-Programme
2.1.1 Investigations and Outreach	2.1.1.1 National Investigations 2.1.1.2 Provincial Investigations 2.1.1.3 Special Investigations 2.1.1.4 Outreach Programme
2.1.2 Executive Management	2.1.2.1 Public Protector 2.1.2.2 Deputy Public Protector 2.1.2.3 Chief Executive Officer 2.1.2.4 Executive Support 2.1.2.5 Security and Risk Management
2.1.3 Corporate Support Services	2.1.3.1 Human Resource Management and Development 2.1.3.2 Finance and Supply Chain Management 2.1.3.3 Information Technology and Knowledge Management 2.1.3.4 Administration Support 2.1.3.5 Communications

2.2 The Public Protector has discharged its constitutional mandate through investigating 12 316 new complaints and finalising 14 738 complaints. The Public Protector has also fulfilled its constitutional mandate of being accessible to all communities through the Outreach programme that is aimed at reaching the poorest of the poor.

2.3 In order to address the qualified audit opinion raised by Auditor General during the last financial year, the following measures were put in place:

2.3.1 Assets

The office of the Public Protector conducted asset verification, asset count and assessed the useful life of the asset as required by GRAP. Reviewed the classification of assets in terms of operating and finance leases and determined the amount to be disclosed in the Annual Financial Statements.

2.3.2 Significant uncertainties relating to operating lease payments

Meetings were held with the Department of Justice and Constitutional Development and the Department of Public Works. The outcome of the meeting was that the Office of the Public Protector is responsible for the rental of five buildings out of eighteen. This matter has been reported in the Annual Financial Statements as a liability.

2.3.3 Performance information

The Case Management System (CMS) has been developed further to enhance business reporting. The development of the system will be finalised in the 2010/11 financial year.

2.3.4 Salary Increases

- The implementation of the first and second phase of the OSD salary adjustment for legally qualified staff which resulted in an increase of approximately 1.6%; and
- DPSA overall approved salary increase percentage of 10%-13% as opposed to the Public Protector budget of only 6.5%

3. CAPACITY CONSTRAINTS

The Public Protector is not fully staffed at all times due to the high labour turnover of staff. Staff turnover is largely due to lower salaries and conditions of service. As a result the Public Protector, have a backlog of investigations cases. Some older than one year as we do not have enough resources and staff. Some posts are not funded and cannot be filled due to financial constraints. Current workload per investigator is on average 50-60 cases. Due to capacity constraints the turnaround time is impacted upon and delaying service delivery and prompt remedial action. The Public Protector recently reviewed its organogram structure to allow for more staff to be appointed in line with the strategic plan crafted in November 2009.

4. PUBLIC PARTICIPATION IN THE NATIONAL TREASURY PUBLIC PRIVATE PARTNERSHIPS (PPP) PROGRAMME

4.1 During the financial year under review, Public Protector has, along with other National Departments, continued participating in a transversal Public Private Partnership (PPP) with Phakisa World. 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;
- Chauffer and Point to Point Driven Services;
- Fuel Management System;
- Vehicle Tracking Device for Long Term and Short Medium Term Rental;
- Classroom Based Driver Training; and
- Fleet Consultancy Services.

5. EVENTS AFTER THE REPORTING DATE

There were no material events subsequent to the statement of financial position date.

6. BUSINESS ADDRESS

Physical Address

175 Lunnon Street
Hillcrest Office Park
HILLCREST
0083

Postal Address

Private Bag X677
PRETORIA
0001

7. STATEMENT OF RESPONSIBILITY

7.1 The Public Protector is responsible for the preparation, integrity, and fair presentation of the annual financial statements. The annual financial statements presented on pages 98 to 138 have been prepared in accordance with the effective Standards of Generally Recognised Accounting Practices (GRAP) issued by the Accounting Standards Board.

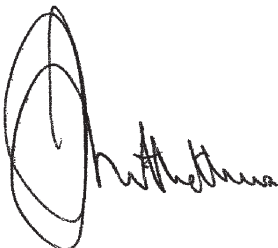
7.2 Public Protector considers that, in preparing the financial statements, the most appropriate accounting

policies have been used, consistently applied and are supported by reasonable and prudent judgments and estimates.

- 7.3 The going-concern basis has been adopted in preparing the annual financial statements. There is no reason to believe that the Public Protector will not be able to continue its operations in the foreseeable future, based on budget allocation from Department of Justice. These annual financial statements support the viability of the Public Protector.
- 7.4 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 Public Protector's annual financial statements to have confidence that the financial information provided is timely, complete, relevant, and accurate.
- 7.5 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 Public Protector 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.
- 7.6 The Public Protector's external auditors, the Auditor-General South Africa, are responsible for reporting on the fair presentation of these financial statements.
- 7.7 The Public Protector is committed to, and fully understands and embraces, all its fiduciary and legislative responsibilities. The Public Protector 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 Public Protector's culture demands integrity and the Public Protector 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.

8. APPROVAL

The annual financial statements set out on pages 98 to 139 have been approved by the Accounting Officer



Mr T Mthethwa
Chief Executive Officer
31 May 2010

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

STATEMENT OF FINANCIAL PERFORMANCE FOR THE YEAR ENDED 31 MARCH 2010

	<i>Notes</i>	2010 R	2009 R (Restated)
Revenue from non-exchange transactions		108,860,000	87,353,823
Government transfers	2	108,860,000	86,475,000
Local and foreign aid assistance	3	-	878,823
Revenue from exchange transactions		771,928	2,140,486
Gains on disposal of assets	4	161,328	-
Interest income	5	530,027	1,832,811
Other income	6	80,573	307,675
Expenditure		115,998,815	99,412,160
Administrative expenses	7	22,285,721	17,514,773
Staff costs	8	79,906,046	69,024,328
Finance costs	11	743,260	570,187
Depreciation and amortisation	9	3,418,443	3,177,363
Other operating expenses	10	9,645,345	9,125,509
Deficit for the year		(6,366,887)	(9,917,851)

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

STATEMENT OF FINANCIAL POSITION FOR THE YEAR ENDED 31 MARCH 2010

	Notes	2010 R	2009 R (Restated)
ASSETS			
Non-current assets			
Property, plant and equipment	12	10,590,880	11,745,664
Intangible assets	13	6,801,212	6,684,987
Current assets			
Trade and other receivables	14	38,732	291,731
Inventory	15	146,682	238,873
Cash and cash equivalents	16	2,370,705	7,436,104
Total assets		19,948,211	26,397,359
LIABILITIES			
Non-current liabilities			
Finance lease obligation	17	1,035,593	1,572,315
Provisions	18	1,039,621	-
Current Liabilities			
Finance lease obligation	17	485,779	573,635
Trade and other payables	19	14,524,355	9,423,973
Provisions	18	4,730,800	10,328,486
Total liabilities		21,816,148	21,898,409

integrity fairness trust
responsiveness trust accessibility
accessibility good governance
integrity responsiveness

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

	2010	2009
Notes	R	R
		(Restated)
NET ASSETS		
Accumulated (deficit)/surplus	(1,867,937)	4,498,950
Total net assets and liabilities	19,948,211	26,397,359

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

CASH FLOW STATEMENT FOR THE YEAR ENDED 31 MARCH 2010

	2010	2009
<i>Notes</i>	R	R
CASH FLOWS FROM OPERATING ACTIVITIES		
Cash receipts from transfers, grants and other income	109,193,572	93,445,584
Cash paid to suppliers and employees	(111,194,144)	(101,091,128)
Cash generated from/(utilised in) operations	(2,000,572)	(7,645,544)
Interest Paid	(743,260)	(570,187)
Net cash inflows/ outflows from operating activities	(2,743,832)	(8,215,731)
CASH FLOWS FROM INVESTING ACTIVITIES		
Proceeds on disposal of:		
Property, plant and equipment	379,045	-
Acquisition of:		
Property, plant and equipment	(1,313,792)	(2,526,493)
Intangible assets	(1,292,270)	(4,085,338)
Interest received	530,027	1,832,811
Net cash flows from investing activities	(1,696,990)	(4,779,020)
CASH FLOWS FROM FINANCING ACTIVITIES		
Repayments of Finance lease obligations	(624,577)	(477,989)
Net cash flow financing activities	(624,577)	(477,989)
Net increase/(decrease) in cash and cash equivalents	(5,065,399)	(13,472,740)
Cash and cash equivalents at the beginning of the year	7,436,104	20,908,844
Cash and cash equivalents at end of the year	2,370,705	7,436,104

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

STATEMENT OF CHANGES IN NET ASSETS FOR THE YEAR ENDED 31 MARCH 2010

	Notes	Accumulated Deficit R (Restated)
Balance at 1 April 2008 as previously reported		11,996,897
Change in accounting policy		5,000,000
Prior period error	24	(2,580,096)
Restated balance at 1 April 2008		14,416,801
Restated deficit for year		(9,917,851)
Deficit as previously reported		(5,006,360)
Change in accounting policy	25	(5,026,585)
Prior period error	24	115,094
Balance at 1 April 2009		4,498,950
Deficit for the year		(6,366,887)
Balance at 31 March 2010		(1,867,937)

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

1. SIGNIFICANT ACCOUNTING POLICIES

The Public Protector, South Africa 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 Public Protector, South Africa, is to strengthen constitutional democracy. The Public Protector, South Africa fulfils its mandate by investigating, either on its own initiative or on receipt of complaints from aggrieved persons, allegations of improper conduct by organs of the State. The Public Protector, South Africa has the power to report and recommend remedial action.

The core business of the Public Protector, South Africa 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.

The principle accounting policies applied in the preparation and presentation of these financial statements are set out below. These policies have been consistently applied to the years presented, unless otherwise stated.

1.1 BASIS OF PREPARATION

The Public Protector, South Africa's financial statements are prepared in compliance with Generally Recognised Accounting Practice (GRAP), as determined by Directive 5 (Determining the GRAP Reporting Framework) issued by the Accounting Standards Board (ASB) in accordance with Section 55 and 89 of the Public Finance Management Act, Act No. 1 of 1999 (as amended by Act 29 of 1999).

These financial statements are prepared in accordance with the going concern principle and on an accrual basis with the measurement base applied being the historical cost unless stated otherwise.

In terms of Notice 991 and 992 in Government Gazette 28095 of December 2005 and Notice 516 in Government Gazette 31021 of 9 May 2008, the Public Protector, South Africa must comply with the requirements of GRAP. Directive 5 details the GRAP Reporting Framework comprising the effective standards of GRAP, interpretations (IGRAPs) of such standards issued by the ASB, ASB guidelines, ASB directives, and standards and pronouncements of other stand setters, as identified by the ASB on an annual basis. Those relevant to the Public Protector, South Africa are listed below.

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

Title of standard	Standard
GRAP 1	Presentation of Financial Statements
GRAP 2	Cash Flow Statements
GRAP 3	Accounting Policies, Changes in Accounting Estimates and Errors
GRAP 4	The Effects of Changes in Foreign Exchange Rates
GRAP 5	Borrowing Costs
GRAP 9	Revenue from Exchange Transactions
GRAP 13	Leases
GRAP 14	Events after the Reporting Date
GRAP 17	Property, Plant and Equipment
GRAP 19	Provisions, Contingent Liabilities and Contingent Assets
GRAP 102	Intangible Assets
IPSAS 20	Related Party Disclosures
IFRS 7	Financial Instruments: Disclosures
IAS 19	Employee Benefits
IAS 32	Financial Instruments: Presentation
IAS 39	Financial Instruments: Recognition and Measurement

Accounting policies for material transactions, events or conditions not covered by the GRAP reporting framework, as detailed above, have been developed in accordance with paragraphs 7, 11 and 12 of GRAP 3 and the hierarchy approved in Directive 5 issued by the Accounting Standards Board.

In applying accounting policies management is required to make various judgements, apart from those involving estimations, which may affect the amounts of items recognised in the financial statements. Management is also required to make estimates of the effects of uncertain future events which could affect the carrying amounts of certain assets and liabilities at the reporting date. Actual results in the future could differ from estimates which may be material to the financial statements. The following significant judgements and critical estimates had been applied in respect of estimation uncertainty at the reporting date, that have a significant risk of causing material adjustment to the carrying amounts of assets and liabilities within the next financial year:

- Review of useful lives, residual values and impairment of property, plant and equipment and intangible assets – Refer note 1.7, 1.8 and 1.10 (Critical estimate).
- Provisions – Refer note 1.13 (Critical judgement and estimate).

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

1.1.1 STANDARDS AND AMENDMENTS TO STANDARDS ISSUED BUT NOT EFFECTIVE

The following standards and amendments to standards have been issued but are not effective.

Standard	Summary and impact	Effective date
GRAP 18 – Segment Reporting	<p>This standard establishes principles for reporting financial information by segments.</p> <p>The impact on the financial results and disclosure is considered to be minimal.</p>	<p>Issued by the ASB – March 2005</p> <p>Effective date – To be determined by the Minister of Finance</p>
GRAP 21 – Impairment of Non-cash-generating Assets	<p>This standard prescribes the procedures that the Public Protector, South Africa applies to determine whether a non-cash-generating asset is impaired and to ensure that impairment losses are recognised.</p> <p>The impact on the financial results and disclosure is considered to be minimal.</p>	<p>Issued by the ASB – March 2009</p> <p>Effective date – To be determined by the Minister of Finance</p>
GRAP 23 – Revenue from Non-exchange Transactions	<p>This standard prescribes the requirements for the financial reporting of revenue from non-exchange (grants and transfer payments transactions).</p> <p>The impact on the financial results and disclosure is considered to be minimal.</p> <p>However, in terms of Directive 5, the Public Protector, South Africa considered the accounting principles of GRAP 23 and developed an accounting policy to account for government transfers and foreign aid assistance. Refer note 1.4.</p>	<p>Issued by the ASB – February 2008</p> <p>Effective date – To be determined by the Minister of Finance</p>
GRAP 24 – Presentation of Budget Information in the Financial Statements	<p>This standard requires a comparison of budget and actual amounts and an explanation for material differences.</p> <p>The impact on the financial results is considered to be minimal. However, the impact on disclosure is significant.</p>	<p>Issued by the ASB – November 2007</p> <p>Effective date – To be determined by the Minister of Finance</p>
GRAP 25 – Employee Benefits	<p>The standard prescribes the accounting treatment and disclosure for employee benefits.</p> <p>The impact on the financial results and disclosure is considered to be minimal.</p>	<p>Issued by the ASB – November 2009</p> <p>Effective date – To be determined by the Minister of Finance</p>

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

1.1.1 STANDARDS AND AMENDMENTS TO STANDARDS ISSUED BUT NOT EFFECTIVE (CONTINUED)

Standard	Summary and impact	Effective date
GRAP 26 – Impairment of Cash-generating Assets	<p>This standard prescribes the procedures to determine whether a cash generating asset is impaired and to ensure that impairment losses are recognised.</p> <p>The impact on the financial results and disclosure is considered to be minimal.</p>	<p>Issued by the ASB – March 2009</p> <p>Effective date – To be determined by the Minister of Finance</p>
GRAP 104 – Financial Instruments	<p>This standard establishes principles for recognising, measuring, presenting and disclosing financial instruments.</p> <p>The impact on the financial results and disclosure is considered to be minimal.</p>	<p>Issued by the ASB – October 2009</p> <p>Effective date – To be determined by the Minister of Finance</p>
*** Improvements to the Standards of GRAP	<p>Improvements are proposed to the following standards of GRAP: GRAP 1- 4, 9-14, 16-17, 19 and 100 as part of the ASB's improvement project.</p> <p>The impact on the financial results and disclosure is considered to be minimal.</p>	<p>Proposed effective date 1 April 2011</p>
* Amendment to IFRS 7 – Financial Instruments: Disclosures	<ul style="list-style-type: none"> - Presentation of finance cost - Amendment dealing with improving disclosures of financial instruments - Amendments enhancing disclosures of fair value and liquidity risk. <p>This standard will not have an impact on the financial results or disclosure as it has been removed from the framework prescribed in Directive 5 for periods beginning on 1 April 2010.</p>	<p>Issued by the IASB in March 2009, but the effective date was back-dated to 1 January 2009. As per confirmation with the ASB, this standard is not effective for the year ended 31 March 2010.</p>
** Amendment to IFRS 7 – Financial Instruments: Disclosures	<p>Clarifications of disclosures</p> <p>The amendment to the Standard clarifies certain disclosures.</p> <p>This standard will not have an impact on the financial results or disclosure as it has been removed from the framework prescribed in Directive 5 for periods beginning on 1 April 2010.</p>	<p>1 January 2011</p>

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

1.1.1 STANDARDS AND AMENDMENTS TO STANDARDS ISSUED BUT NOT EFFECTIVE (CONTINUED)

Standard	Summary and impact	Effective date
IFRS 9 – Financial Instruments	<p>New standard issued relating to the classification and measurement of financial assets, which will replace the relevant portions of IAS 39.</p> <p>This standard will not have an impact on the financial results or disclosure as it has been removed from the framework prescribed in Directive 5 for periods beginning on 1 April 2010.</p>	1 January 2013
*Amendment to IAS 19 – Employee Benefits	<ul style="list-style-type: none"> - Curtailments and negative past service cost - Plan administration costs - Replacement of term “fall due” - Guidance on contingent liabilities. <p>The impact on the financial results and disclosure is considered to be minimal.</p>	Issued by the IASB in March 2009 but the effective date was back dated to 1 January 2009. As per confirmation with the ASB, this standard is not effective for the year ended 31 March 2010.
Amendment to IAS 32 – Financial Instruments: Presentation	<p>Certain financial instruments will be classified as equity whereas, prior to these amendments, they would have been classified as financial liabilities.</p> <p>This standard will not have an impact on the financial results or disclosure as it has been removed from the framework prescribed in Directive 5 for periods beginning on 1 April 2010.</p>	Issued by the IASB in March 2009 but the effective date was back dated to 1 January 2009. As per confirmation with the ASB, this standard is not effective for the year ended 31 March 2010.
*Amendment to IAS 39 – Financial Instruments: Recognition and Measurement	<ul style="list-style-type: none"> - Reclassification of derivatives into or out of the classification of at fair value through profit or loss - Designating and documenting hedges at the segment level - Applicable effective interest rate on cessation of fair value hedge accounting. <p>This standard will not have an impact on the financial results or disclosure as it has been removed from the framework prescribed in Directive 5 for periods beginning on 1 April 2010.</p>	Issued by the IASB in March 2009 but the effective date was back dated to 1 January 2009. As per confirmation with the ASB, this standard is not effective for the year ended 31 March 2010.

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

1.1.1 STANDARDS AND AMENDMENTS TO STANDARDS ISSUED BUT NOT EFFECTIVE (CONTINUED)

Standard	Summary and impact	Effective date
Amendment to IAS 39 – Financial Instruments: Recognition and Measurement	<p>Clarifies two hedge accounting issues:</p> <ul style="list-style-type: none"> - Inflation in a financial hedged item - A one-sided risk in a hedged item. <p>This standard will not have an impact on the financial results or disclosure as it has been removed from the framework prescribed in Directive 5 for periods beginning on 1 April 2010.</p>	1 July 2009
Amendment to IAS 39 – Financial Instruments: Recognition and Measurement	<p>Amendments for embedded derivatives when reclassifying financial instruments.</p> <p>This standard will not have an impact on the financial results or disclosure as it has been removed from the framework prescribed in Directive 5 for periods beginning on 1 April 2010.</p>	1 July 2009
* Amendment to IAS 39 – Financial Instruments: Recognition and Measurement	<ul style="list-style-type: none"> - Treating loan prepayment penalties as closely related embedded derivatives - Scope exemption for business combination contracts - Cash flow hedge accounting <p>This standard will not have an impact on the financial results or disclosure as it has been removed from the framework prescribed in Directive 5 for periods beginning on 1 April 2010.</p>	1 January 2010
<p>[* Standards and interpretations affected by the Improvements to IFRS]</p> <p>[** Standards and interpretations affected by the Improvements to IFRS issued in an exposure draft as ED 272 – Improvements to IFRSs: Proposed amendments to International Financial Reporting Standards]</p> <p>[*** Standards affected by the Improvements Project of the ASB issued in an exposure draft as ED 63 – Improvements to the Standards of GRAP]</p>		

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

1.2 FOREIGN CURRENCY TRANSLATION

These financial statements are presented in South African Rand since that is the currency in which the majority of the Public Protector, South Africa's transactions is denominated. Foreign currency transactions are translated into the functional currency using the exchange rates prevailing at the date of the transactions.

1.3 BORROWING COSTS

The Public Finance Management Act prohibits the Public Protector, South Africa from borrowing unless such borrowing has been effected through the Minister of Finance. Partial exemption to this prohibition has been granted through practice note 5 of 2006 which allows the Public Protector, South Africa to enter into certain finance leases.

Borrowing costs incurred other than on qualifying assets are recognised as an expense in surplus or deficit in the period to which they relate.

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.

1.4.1 REVENUE FROM NON-EXCHANGE TRANSACTIONS

Government transfers and local and foreign aid assistance

Revenue from non-exchange transactions constitutes transfer payments from the Department of Justice and Constitutional Development and the European Union through the CSAP Programme.

The Public Protector, South Africa recognises revenue from transfers in the period in which the transfer becomes binding, that is when the asset transferred meets the definition of an asset for the Public Protector, South Africa and the recognition criteria for an asset have been met. Assets and revenue recognised as a consequence of a transfer are measured at the fair value of the assets recognised as at the date of recognition. Monetary assets are measured at their nominal value unless the time value of money is material, in which case present value is used, calculated using a discount rate that reflects the risk inherent in holding the asset. Non-monetary assets are measured at their fair value, which is determined by reference to observable market values or by independent appraisal by a member

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

of the valuation profession. Receivables are recognised when a binding transfer arrangement is in place but cash or other assets have not been received. The Public Protector, South Africa analyses all stipulations contained in transfer agreements to determine if it incurs a liability when it accepts transferred resources.

This represents a change in accounting policy. Refer note 24.

1.4.2 REVENUE FROM EXCHANGE TRANSACTIONS

Interest income

Interest income is accrued on favourable balances with commercial banking institutions. Interest income 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.

Gains on disposal of assets

Gains or losses on disposal are included in surplus or deficit for the year and are determined by comparing sales proceeds to the carrying amounts.

Other income

Other income is recognised when it is probable that future economic benefits will flow to the Public Protector, South Africa and is measured at their fair value of the consideration received or receivable.

1.5 IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE

Fruitless and wasteful expenditure means expenditure which was made in vain and would have been avoided had reasonable care been exercised. Irregular expenditure means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation including the Public Finance Management Act. All irregular and fruitless and wasteful expenditures are charged against the surplus in the period in which they occur. These expenditures will be disclosed separately in the annual financial statements.

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

1.6 EMPLOYEE BENEFITS

Retirement benefit costs

The Public Protector, South Africa 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 may arise as a result of this plan. This implies that once contributions are paid, the Public Protector, South Africa 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 Public Protector, South Africa, but are 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. Accruals have 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 accruals 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 office. The gratuity calculation is based on the basic salary and period in office. The provision raised in the annual financial statements is the actual amount that is payable to the Public Protector on vacating the office.

1.7 PROPERTY, PLANT AND EQUIPMENT

Initial recognition

Property, plant and equipment comprise computer equipment, furniture and fittings, office equipment and motor vehicles and are stated at historical costs less accumulated depreciation. Where significant parts of an item of property, plant and equipment have different useful lives, they are accounted for as separate items. Subsequent costs are included in the asset's carrying amount only when it is probable that future economic benefits or service potential associated with the item will flow to the Public Protector, South Africa and the cost of the item can be measured reliably. Maintenance and repairs, which neither materially add to the value of assets nor appreciably prolong their useful lives, are expensed during the financial year in which they are incurred.

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

Depreciation

Depreciation is charged against the assets on a straight-line basis so as to fully depreciate the asset to its net realisable value at the end of its useful life, from the date available for use. Assets bought specifically for a project and intended for donation at the end of the project's life are depreciated over the life of the contract as the residual value at that point will be nil. The assets' residual values, useful lives and depreciation are reviewed and adjusted if appropriate, at each financial year-end.

Useful lives

The following are the estimated useful lives of the different categories of assets and which are depreciated on the straight-line over the following periods:

Computer equipment	4 – 8 years
Furniture and fittings	5 – 16 years
Office equipment	5 – 8 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.

Derecognition

The carrying amount of property, plant and equipment is derecognised on disposal or when no future economic benefits are expected from its use or disposal. Gains or losses on disposal are included in surplus or deficit for the year and are determined by comparing sales proceeds to the carrying amounts.

1.8 INTANGIBLE ASSETS

Initial recognition

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

Amortisation

Each item is amortised over its useful life once it is available for use. Amortisation is charged so as to write off the cost or valuation of assets over their estimated useful lives, using the straight-line. The estimated useful lives, residual values, and depreciation are reviewed at each year end, with the effect of any changes in estimate accounted for on a prospective basis.

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

Useful lives

Intangible assets other than goodwill are amortised over the following periods, considered to be their estimated useful lives:

Computer software	2 – 7 years
-------------------	-------------

Derecognition

The carrying amount of intangible assets is derecognised on disposal or when no future economic benefits are expected from its use or disposal. Gains and losses on disposal are included in surplus or deficit for the year and are determined by comparing sales proceeds with the carrying amounts.

1.9 INVENTORY

Inventory comprises consumables on hand at balance sheet date. Inventory is valued at the lower of cost and net realisable value, and impairment losses are recognised as expenditure immediately. Inventory costs are assigned using the First in First out (FIFO) costing.

1.10 IMPAIRMENT OF NON-MONETARY ASSETS

At each balance sheet date, the Public Protector, South Africa reviews the carrying amount of its tangible and intangible assets to determine whether there is any indication that those assets have suffered an impairment loss. 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.

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.

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

1.11 LEASES

Finance leases

Leases where substantially all the risks and rewards of ownership of the underlying asset are transferred to the Public Protector, South Africa are classified as finance leases. Assets held under finance leases are initially recognised as assets at their fair value at the inception of the lease or, if lower, at the present value of the minimum lease payments. The corresponding liability to the lessor is included in the Statement of Financial Position as a finance lease obligation. Lease payments are apportioned between finance charges and reduction of the lease obligation so as to achieve a constant rate of interest on the remaining balance of the liability. Finance charges are charged directly to the Statement of Financial Performance. Contingent rentals are recognised as expenses in the periods in which they are incurred.

Operating leases

Leases that the Public Protector, South Africa enters into as a lessee, and where the lessor retains substantially all the risks and rewards of ownership of the underlying asset, are classified as operating leases. Payments made under operating leases are charged against revenue on a straight-line basis over the term of the lease.

1.12 FINANCIAL INSTRUMENTS

Recognition

Financial assets and financial liabilities are recognised on the balance sheet when the Public Protector, South Africa 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 fair value, which includes transaction costs. Subsequent to initial recognition these instruments are measured as set out below.

Financial assets

The Public Protector, South Africa’s principle financial assets are accounts receivable and cash and cash equivalents, which are classified as “loans and receivables”.

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

Accounts receivables

Accounts receivables are stated at amortised cost using the effective interest rate reduced by appropriate allowances for impairment. Accounts receivables are financial assets that have fixed or determinable payments and are not quoted in an active market.

Cash and cash equivalents

Cash and cash equivalents comprise cash on hand and deposits held with banks, all of which are available for use by the Public Protector, South Africa unless otherwise stated.

Financial liabilities

The Public Protector, South Africa's principle financial liabilities are accounts payable.

All financial liabilities are measured at amortised cost, comprising original debt less principle payments and amortisations.

Accounts payables

Accounts and other payables are stated at their nominal value. Short-term payables with no interest rate are measured at the original invoice amount if the effect of discounting on individual transactions is immaterial. All payables are settled within 30 days. Where there is a delay in payment it is usually due to a dispute on the transaction. Under such circumstances the time delay is not regarded as being material.

Derecognition

The Public Protector, South Africa derecognises a financial asset (or where applicable part thereof) only when:

- the right to receive cash flows from the asset have expired;
- the Public Protector, South Africa retains the right to receive cash flows from the asset, but has assumed an obligation to pay them in full without material delay to a third party under a "pass through" arrangement; or
- the Public Protector, South Africa has transferred its rights to receive cash flows from the asset and either (a) has transferred substantially all the risks and rewards of the asset or (b) has neither transferred nor retained substantially all the risks and rewards of the asset, but has transferred control of the asset.

A financial liability is derecognised when the obligation under the liability is discharged or cancelled or expires.

Where an existing financial liability is replaced by another from the same customer on substantially different terms, or the terms of an existing liability are substantially modified, such an exchange or modification is treated as a

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

derecognition of the original liability, and the difference in the respective carrying amounts is recognised in the surplus or deficit for the year.

Offset of financial assets and liabilities

Financial assets and liabilities are offset and the net amount reported in the Statement of Financial Position only when the Public Protector, South Africa has a legally enforceable right to set off recognised amounts and intends either to settle on a net basis or to realise the asset and settle the liability simultaneously.

1.13 PROVISIONS

Provisions are recognised when there is a present obligation (legal or constructive) as a result of a past event, it is probable that it will be required to settle the obligation, and a reliable estimate can be made of the amount of the obligation.

The amount recognised as a provision is the best estimate of the consideration required to settle the present obligation at the balance sheet date, taking into account the risks and uncertainties surrounding the obligation. Where a provision is measured using the cash flows estimated to settle the present obligation, its carrying amount is the present value of those cash flows.

When some or all of the economic benefits required to settle a provision are expected to be recovered from a third party, the receivable is recognised as an asset if it is virtually certain that reimbursement will be received and the amount of the receivable can be measured reliably.

1.14 COMPARATIVES

In order to conform to changes, comparative figures have been adjusted where necessary. 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 Public Protector may reasonably have available for reporting.

1.15 RELATED PARTIES

Parties are considered to be related if one party has the ability to control the other party or to exercise significant influence or join the party in making financial and operating decisions. A party is related to an entity if directly, or indirectly, through one or more intermediaries, the party controls, is controlled by, or is under common control with, the

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

entity (this includes parents, subsidiaries and fellow subsidiaries); has an interest in the entity that gives it significant influence over the entity; or has joint control over the entity; the party is an associate of the entity; the party is a joint venture in which the entity is a venture; the party is a member of the key management personnel of the entity or its parent; the party is a close member of the family of any individual referred to in the party; the party is an entity that is controlled, jointly controlled or significantly influenced by or for which significant voting power in such entity resides with, directly or indirectly, any individual referred to in the party is a post-employment benefit plan for the benefit of employees of the entity, or of any entity that is a related party of the entity.

1.16 CONTINGENT LIABILITIES

Contingent liability is a possible obligation that arises from past events and whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity; or a present obligation that arises from past events but is not recognised because it is not probable that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation; or the amount of the obligation cannot be measured with sufficient reliability.

The Public Protector, South Africa does not recognise contingent liability as liabilities because they are possible obligations, as it has yet to be confirmed whether the entity has a present obligation that could lead to an outflow of resources embodying economic benefits or service potential; or present obligations that do not meet the recognition criteria in this Standard (because either it is not probable that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation; or a sufficiently reliable estimate of the amount of the obligation cannot be made).

1.17 COMMITMENTS

Commitments are legal obligations to undertake activities in a given way at a given time in the future. Usually, commitments refer to the requirement for parties to a futures contract to make or receive delivery of the underlying commodities on the expiration date of the contract.

1.18 PRIOR PERIOD ERRORS

Prior period errors are omissions from, and misstatements in, an entity's financial statements for one or more prior periods arising from failure to use/misuse of reliable information that was available when the financial statements for that period were issued, and could have been reasonably expected to be taken into account in those financial statements.

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

Correct all errors retrospectively. Restate the comparative amounts for prior periods in which the error occurred or if the error occurred before that date, restate opening balance of assets, liabilities and net assets for earliest period presented. If it is impractical to determine the period-specific effects of the error, restate opening balances for earliest period practicable. If it is impractical to determine cumulative effects of the error, restate comparative information for earliest date practicable.

1.19 KEY MANAGEMENT PERSONNEL

The key management of the Public Protector, South Africa includes the Public Protector, the Deputy Public Protector, the CEO and the Chief Directors.

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

	2010	2009
2. GOVERNMENT TRANSFERS (Revenue from non-exchange transactions)		
Transfer from Department of Justice	108,860,000	86,475,000
3. LOCAL AND FOREIGN AID ASSISTANCE (Revenue from non-exchange transactions)		
European union (Civil Society Advocacy Program)	-	878,823
<p>During the 2006/7 financial year, the Public Protector concluded a Memorandum of Understanding with the European Union whereby the salaries for six Public Protector employees was funded by the European Union through the Civil Society Advocacy Program. This agreement ended 31 December 2008.</p>		
4. GAINS ON DISPOSAL OF ASSETS (Revenue from exchange transactions)		
Gains on disposal of assets	161,328	-
<p>During the year ended 31 March 2010, assets with a carrying amount of R217 717 were disposed of.</p>		
5. FINANCE INCOME (Revenue from exchange transactions)		
Interest on cash and bank deposits	530,027	1,832,811
<p>The average effective interest rate for the year was 10.8% (2009: 12.9%)</p>		
6. OTHER INCOME (Revenue from exchange transactions)		
Recoveries of bursaries	33,042	26,181
Parking	28,710	25,110
Other income	18,821	20,131
Assets Recovered	-	236,253

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

	2010	2009
	80,573	307,675
7. ADMINISTRATIVE EXPENSES		
General administrative expenses	21,141,682	16,816,735
Audit fees	1,002,144	698,038
Impairment of other debtors	141,895	-
	22,285,721	17,514,773

8. STAFF COSTS

Basic salaries	55,212,423	47,366,294
Performance awards	1,723,278	2,599,514
Service bonus	3,497,139	2,519,556
Defined contribution pension expense	5,282,904	4,049,430
Medical aid contributions	2,697,065	1,870,280
Housing allowance	1,952,738	1,826,031
Pension allowance	2,120,220	1,811,513
Travel allowance	3,040,538	2,794,320
Other allowances	4,379,741	4,187,390
	79,906,046	69,024,328

9. DEPRECIATION AND AMORTISATION

		(Restated)
Computer equipment	868,719	1,155,982
Furniture and fittings	518,607	578,871
Office equipment - Owned	254,840	248,561
Office equipment - Leased	300,130	276,877
Motor vehicles - Owned	99,808	99,808
Motor vehicles - Leased	200,295	378,103
Intangible assets	1,176,044	439,161
	3,418,443	3,177,363

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

	2010	2009
10. OTHER OPERATING EXPENSES		(Restated)
Staff training and development	1,023,426	1,219,069
Operating leases – buildings	3,011,836	1,480,177
Maintenance on photocopiers	47,587	33,921
Fuel and maintenance on motor vehicles	2,316,744	2,340,913
Printing and publications	1,344,115	1,053,158
Stationary	806,555	794,412
Communication costs	599,672	1,035,448
Assets written off	8,460	794,800
Other operating costs	486,950	373,611
	9,645,345	9,125,509

The 2009 total operating expenses was previously stated as R8 657 838 and has increased as a result of a restatement of operating lease building. The operating leases have been split between the operating leases on buildings, fuel and maintenance on motor vehicles and maintenance on photocopiers. The photocopiers and motor vehicles are on finance leases. The disclosure prior to the split would have been as follows:

Operating leases – buildings	2,684,134	1,480,177
Maintenance on photocopiers	47,587	33,921
Fuel and maintenance on motor vehicles	2,319,569	2,340,913
Operating leases	5,051,290	3,855,011

Future operating lease commitments

Building and security	2,747,770	2,323,771
Payable within one year	2,848,018	2,588,957
Payable within two to five years	5,595,788	4,912,728

The comparative has been restated to reflect the actual commitments which were previously disclosed as a contingent liability under note 27.3 in the 2008/09 annual financial statements

The 2009 operating leases were previously stated at R 4 182 712 and have been increased as a result of a restatement of operating lease buildings

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

	2010	2009
<p>The consultants, contractors and special services and maintenance, repairs and running costs amount has been disclosed differently to show the expenses by nature instead of accumulative amounts. The reconciliation is as follows:</p>		
Printing and publications	1,344,115	1,053,158
Stationary	806,555	794,412
Communication costs	599,672	1,035,448
	2,750,342	2,883,018
 As disclosed in the prior year		
Consultants, contractors and special services	3,494,403	2,317,506
Maintenance, repairs and running costs	241,763	280,193
	3,736,166	2,597,699
 11. FINANCE COSTS		
Obligations under finance leases	743,260	570,187

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

12. PROPERTY, PLANT AND EQUIPMENT

2010	Note	Computer Equipment	Furniture & Fittings	Office Equipment Owned	Office Equipment Leased	Motor Vehicle Owned	Motor Vehicle Leased	Total
Cost								
Balance at 1 April 2009		7,421,733	4,861,438	1,748,172	841,593	1,039,825	2,082,398	17,995,159
Write offs	12.1	-	(29,241)	-	-	-	-	(29,241)
Additions		358,131	574,829	177,873	130,036	-	72,923	1,313,792
Disposals		(1,292,430)	-	-	-	-	(616,274)	(1,908,704)
Balance at 31 March 2010		6,487,434	5,407,026	1,926,045	971,629	1,039,825	1,539,047	17,371,006
Accumulated depreciation								
Balance at 1 April 2009		2,683,756	1,599,837	605,464	420,560	286,662	653,216	6,249,495
Write offs	12.1	-	(20,781)	-	-	-	-	(20,781)
Depreciation		868,719	518,607	254,840	300,130	99,808	200,295	2,242,399
Disposals		(1,269,866)	-	-	-	-	(421,121)	(1,690,987)
Balance at 31 March 2010		2,282,609	2,097,663	860,304	720,690	386,470	432,390	6,780,126
Carrying amount at 31 March 2010		4,204,825	3,309,363	1,065,741	250,939	653,355	1,106,657	10,590,880
Cost								
Balance at 1 April 2008 as previously reported		7,571,293	4,500,249	2,067,327	738,941	1,039,825	2,022,148	17,939,783
Prior period error	24	(612,632)	151,165	87,725	-	-	-	(373,742)
Restated balance		6,958,661	4,651,414	2,155,052	738,941	1,039,825	2,022,148	17,566,041
Additions		1,478,392	844,592	203,509	102,652	0	60,250	2,689,395
Prior period error	24	(1,015,170)	(539,892)	(574,966)	-	-	-	(2,130,029)
Change in accounting policy	25	(150)	(94,676)	(35,423)	-	-	-	(130,249)
Balance at 31 March 2009		7,421,733	4,861,438	1,748,172	841,593	1,039,825	2,082,398	17,995,158
Accumulated depreciation								
Balance at 1 April 2008 as previously reported		3,885,359	1,508,801	1,056,227	143,683	169,305	428,059	7,191,434
Prior period error	24	(1,252,725)	(150,330)	(710,565)	-	(101,045)	-	(2,214,665)
Restated balance		2,632,634	1,358,471	345,662	143,683	68,260	428,059	4,976,769
Prior period error	24	(1,106,806)	(251,785)	31,131	-	118,594	(152,946)	(1,361,812)
Change in accounting policy	25	1,946	(85,721)	(19,889)	-	-	-	(103,664)
Depreciation restated		1,155,982	578,871	248,561	276,877	99,808	378,103	2,738,202
Depreciation as previously reported		1,302,538	614,794	418,360	276,877	207,965	225,157	3,045,691
Prior period error	24	(146,556)	(35,923)	(169,799)	-	(108,157)	152,946	(307,489)
Balance at 31 March 2009		2,683,756	1,599,837	605,464	420,560	286,662	653,216	6,249,495
Carrying amount at 31 March 2009		4,737,977	3,261,601	1,142,707	421,033	753,163	1,429,182	11,745,664

12.1 These assets have been written off and are reflected under note 10 and it was approved accordingly.

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

13. INTANGIBLES ASSETS

COMPUTER SOFTWARE

2010 Cost

Balance at 1 April 2009	7,124,148
Additions	1,292,270
Balance at 31 March 2010	8,416,418

Accumulated amortisation

Balance at 1 April 2009	439,161
Amortisation	1,176,045
Balance at 31 March 2010	1,615,206

Carrying amount

As at 31 March 2010	6,801,212
----------------------------	------------------

2009 Cost

Balance at 1 April 2008	3,038,810
Additions	4,085,338
Balance at 31 March 2009	7,124,148

Accumulated amortisation

Balance at 1 April 2008	
Amortisation	439,161
Balance at 31 March 2009	439,161

Carrying amount

As at 31 March 2009	6,684,987
----------------------------	------------------

14. TRADE AND OTHER RECEIVABLES

	2010	2009
Trade receivables	38,732	139,003
Other receivables	-	152,728
	38,732	291,731

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

Trade receivables consists of one month accrued interest on positive bank balance and therefore the amounts are not discounted. At the balance sheet date no debts are past due and are not considered impaired. Other receivables for 2010 have been impaired by R 141,894 as it relates to amounts owing by the former Public Protector.

15. INVENTORY

	2010	2009
Consumables	146,682	238,873

16. CASH AND CASH EQUIVALENTS

Cash at bank	2,321,205	7,386,604
Cash on hand	49,500	49,500
	2,370,705	7,436,104

17. FINANCE LEASE OBLIGATIONS

Opening balance	2,145,950	2,461,038
Repayments	(624,578)	(315,088)
Closing balance	1,521,372	2,145,950
Non-current obligation	1,035,593	1,572,315
Current obligation	485,779	573,635

RECONCILIATION OF FUTURE MINIMUM PAYMENTS

Photo copiers 2010	Up to 1 year	2 to 5 years	More than 5 years	Total
Future minimum lease payments	360,759	90,360	-	451,119
Finance cost	29,183	7,076	-	36,259
Present value	331,576	83,284	-	414,860
Photo copiers 2009	Up to 1 year	2 to 5 years	More than 5 years	Total
Future minimum lease payments	335,435	321,819	-	657,255
Finance cost	54,827	19,698	-	74,525
Present value	280,608	302,121	-	582,730
Vehicles 2010	Up to 1 year	2 to 5 years	More than 5 years	Total
Future minimum lease payments	283,772	1,083,180	-	1,366,952
Finance cost	129,570	130,871	-	260,441
Present value	154,202	952,309	-	1,106,511

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

Vehicles 2009	Up to 1 year	2 to 5 years	More than 5 years	Total
Future minimum lease payments	506,080	1,498,727	-	2,004,807
Finance cost	213,054	228,534	-	441,588
Present value	293,026	1,270,194	-	1,563,220

The Public Protector is leasing motor vehicles in terms of a service level agreement between the Department of Transport and Phakisaworld. The agreement is managed by National Treasury and the Department of Transport. The average lease term is five years or 150 000 km. The rate of interest varies between 10% and 12.5%. The vehicles are returned after the lease period of five years. The carrying value of these assets is R1,106,657 (2009: R1,429,182).

18. PROVISIONS

	2010	2009
Current provisions		
Provision - Gratuity Public Protector	-	6,803,581
Salary-related provisions	4,493,821	3,402,435
Levies provision	236,979	122,470
	4,730,800	10,328,486

Non current provisions

Provision - Gratuity Public Protector	1,039,621	-
---------------------------------------	-----------	---

2010	Salary related provision	Levies provision	Public Protector gratuity	Total
Opening balance	3,402,435	122,470	6,803,581	10,328,486
Increase/(decrease) in provision	1,091,386	114,509	(5,763,960)	(4,558,065)
Closing balance	4,493,821	236,979	1,039,621	5,770,421

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

2009	Salary related provision	Levies provision	Public Protector gratuity	Total
Opening balance	3,270,081	197,727	3,406,041	6,873,848
Increase/(decrease) in provision	132,354	(75,257)	3,397,540	3,454,637
Closing balance	3,402,435	122,470	6,803,581	10,328,485

19. TRADE AND OTHER PAYABLES

	2010	2009
Trade payables	4,614,259	911,208
Deferred operating lease	343,868	438,882
Accruals	9,566,228	8,073,883
	14,524,355	9,423,973

19.1 ACCRUALS

Leased buildings- accrual	6,233,018	3,745,881
Creditors accrued	1,001,236	1,107,277
Overtime	16,297	-
Temporary Staff	37,388	-
Salaries related	34,919	1,423,173
Audit committee members	25,062	-
Garnishee	-	8,651
Gratuity PP - former	411,176	-
Service bonus	1,767,048	1,746,448
Pension - Sanlam	2,883	-
Donation refund	-	15,000
Medical Aid	37,201	27,453
	9,566,228	8,073,883

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

20. CASH UTILISED IN OPERATIONS

Deficit for the year	(6,366,887)	(9,917,851)
Adjustment for non-cash flow items:		
Depreciation and amortisation	3,418,443	3,177,363
Finance income	(530,027)	(1,832,811)
Finance costs	743,260	570,187
Assets written-off	8,460	794,800
Gain on disposal of assets	(161,328)	-
Operating lease accrual	-	(578,648)
Operating cash flows before working capital changes	(2,888,079)	(7,786,960)
Changes in working capital	887,507	141,416
	(2,000,572)	(7,645,544)

20.1. CHANGES IN WORKING CAPITAL

	2010	2009
Decrease in accounts receivable	252,999	1,020,340
Increase/(Decrease) in accounts payable	5,100,382	(4,325,828)
Decrease/(Increase) in inventory	92,191	(7,734)
Decrease/(Increase) in provisions	(4,558,065)	3,454,638
	887,507	141,416

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

21. KEY MANAGEMENT PERSONNEL

	Basic Salary	Pension-able allowance	Travelling allowance	Medical aid allowance	Non-pension-able allowance	Other allowances	Gratuity	Bonuses	Severance package	Total
Public Protector	551,445	-	-	-	202,012	35,907	1,039,621	-	-	1,828,985
Public Protector (Former)	834,136	-	-	5,461	1,883	42,335	411,176	-	-	1,294,991
Deputy Public Protector	699,819	-	-	1,840	359,719	18,216	-	35,989	-	1,115,583
Chief Executive Officer	687,488	97,657	301,441	31,864	-	3,067	-	-	-	1,121,517
Chief Financial Officer	383,691	-	150,000	2,102	38,987	-	-	-	-	574,780
Chief Director - Special investigations	503,228	71,019	165,467	39,700	-	6,700	-	81,507	-	867,621
Outreach executive manager	465,435	-	80,400	31,072	30,705	52,800	-	37,309	-	697,721
Chief Director - National Investigations	519,853	71,554	48,000	-	204,825	9,040	-	31,625	-	884,897
Executive manager PICU	447,013	63,000	44,000	12,584	125,415	6,360	-	68,973	234,786	1,002,131
Total	5,092,108	303,230	789,308	124,623	963,546	174,425	1,450,797	255,403	234,786	9,388,226

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

22. RECONCILIATION OF BUDGET SURPLUS WITH DEFICIT FOR THE YEAR

	2010
Net deficit per the Statement of Financial Performance	(6,366,887)
Adjusted for:	
Gains on disposal of assets	(161,328)
Assets written-off	8,460
Other income	(80,573)
Finance income	(530,027)
Finance cost	743,260
Depreciation and amortisation	3,418,443
Overspent on expenditure	4,503,945
Impairment of other debtors	141,894
Budgeted surplus	1,677,187

23. FINANCIAL RISK MANAGEMENT

23.1 INTRODUCTION AND OVERVIEW

This note represents information about the exposure to financial risks, the objectives, policies and processes for measuring and managing financial risk, and the management of capital. Further quantitative disclosures are included throughout these financial statements.

23.2 FINANCIAL RISKS

The Public Protector has exposure to the following risks from its use of financial instruments:

Credit risk

Liquidity risk

Market risk

The Chief Executive Officer has the overall responsibility for managing and monitoring the financial risks to which the Public Protector is exposed.

23.2.1 CREDIT RISK:

Credit risk represents the potential loss to the Public Protector, South Africa as a result of unexpected defaults or unexpected deterioration in the credit-worthiness of counterparties. The Public Protector, South Africa's credit risk is primarily attributable to its receivables. However, this risk is minimal as the Public Protector's receivables (excluding amounts held with banks) are limited to advances to employees and interest receivable. The carrying amount included in the Statement of Financial Position represents the Public Protector, South Africa's maximum exposure to credit risk in relation to this asset. The Public Protector, South Africa does not consider there to be any significant concentration of credit risk.

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

With regard to credit risk arising from the other financial assets, which comprise cash and cash equivalents, the Public Protector, South Africa's exposure arises from a potential default of the counterparty where credit rating is constantly monitored, with a maximum exposure to the carrying amount of these instruments. Cash and cash equivalents are only placed with banking institutions with an AA credit rating.

23.2.2 LIQUIDITY RISK:

The Public Protector, South Africa is exposed to liquidity risk as it is dependent on the transfers and grants received from the Department of Justice. Timely receipts of Transfers and Grant amounts are necessary for the Public Protector, South Africa to be able to make payments as and when required in terms of its financial liabilities.

Due to the nature of its business, the Public Protector, South Africa manages liquidity risks by maintaining adequate cash reserves.

The table below analyses the Public Protector, South Africa's financial liabilities into relevant maturity groupings based on the remaining period at the Statement of Financial Position to the contractual maturity date. The amounts disclosed in the table are the contractual undiscounted cash flows.

Contractual undiscounted liabilities	Payable in less than 3 months R	Payable in 3-12 months R	Payable after 1 year R	Total carrying value R
31 March 2010				
Trade and other payables	4,614,259	9,568,213		14,182,472
Finance lease liabilities		485,779	1,035,593	1,521,372
Total contractual liabilities	4,614,259	10,053,992	1,035,593	15,703,844
31 March 2009				
Trade and other payables	911,208	8,512,765	-	9,423,973
Finance lease liabilities		573,635	1,572,315	2,145,950
Total contractual liabilities	911,208	9,086,400	1,572,315	11,569,923

23.2.3 MARKET RISK:

i) Foreign exchange risk:

The Public Protector, South Africa is exposed to limited foreign exchange risk as the Public Protector, South Africa does not have international operations, and the majority of its transactions are performed locally. The Public Protector, South Africa has therefore not implemented any specific risk management strategies related to the mitigation of this risk.

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

ii) Cash-flow interest rate risk:

The Public Protector, South Africa is exposed to cash-flow interest rate risk arising from cash on hand at commercial banks, which earns interest at floating rates based on daily bank deposit rates. The Public Protector, South Africa is also exposed to fair value interest rate risk arising from fixed interest rates in the finance lease contracts entered into for the acquisition of motor vehicles and photocopiers. The Public Protector, South Africa's ability to mitigate this risk is limited by the fact that these finance lease contracts are transversal contracts managed by National Treasury, and prohibitions contained in the Public Finance Management Act.

The Public Protector, South Africa's exposure to market risk (in the form of interest rates risk) arises as a result of the following:

- a) Possible interest on late payment by the Public Protector, South Africa.
- b) Interest income linked to rates prescribed by National Treasury.
- c) Interest on accounts held at banking institutions.

The Public Protector, South Africa is mainly exposed to interest rate fluctuations. The Public Protector, South Africa's financial assets and financial liabilities are managed in such a way that the fluctuations in variable rates do not have material impact on the surplus/(deficit) as the Public Protector, South Africa settles its outstanding obligations within 30 days and interest on outstanding debts is charged monthly using the applicable interest rates.

A change of 50 basis points in interest rates at the reporting date would have increased (decreased) surplus or deficit by the amounts shown below. This analysis assumes that all other variables remain constant

50 basis point increase/ decrease	50 basis point increase/ decrease
2010	2009
(25,032)/25,032	7,474/(7,474)

	2010	2009 (Restated)
Variable rate instruments		
Cash at bank	2,321,205	7,386,604
Accounts payables	4,614,259	955,308
Total	(2,293,054)	6,431,296
Fixed rate instruments		
Accounts receivable	179,637	291,731
Total	179,637	291,731

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

23.2.4 FAIR VALUES

The Public Protector, South Africa's financial instruments consist mainly of cash and cash equivalents, trade and other receivables and trade and other payables.

No financial asset was carried at an amount in excess of its fair value. The following assumptions are used to determine the fair value of each class of financial instruments:

Cash and cash equivalents

The carrying amount of cash and cash equivalents approximates fair value due to the relatively short-term maturity of these financial assets and financial liabilities.

Trade receivables

The carrying amount of trade receivables approximates fair value due to the relatively short-term maturity of this financial asset.

Trade payables

The carrying amount of trade payables approximates fair value due to the relatively short-term maturity of this financial liability

23.2.5 FINANCIAL INSTRUMENTS BY CLASSIFICATION

Line item	Loans and receivables	Financial liabilities at amortised cost	Total carrying amount
	R	R	R
31 March 2010			
Trade and other receivables	37,743		37,743
Cash and cash equivalent	2,370,705		2,370,705
Trade and other payables		14,182,471	14,182,471
Total	2,408,448	14,182,471	16,590,919
31 March 2009			
Trade and other receivables	291,731	-	291,731
Cash and cash equivalent	7,436,104	-	7,436,104
Trade and other payables		9,423,973	9,423,973
Total	7,727,835	9,423,973	17,151,808

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

24. PRIOR PERIOD ERRORS

The following prior period errors have been adjusted:

- 24.1 Assets were donated by the Department of Justice in 2006/2007. These assets were not recorded. The assets' fair value at 1 April 2007 was determined as R180,785. Accumulated depreciation of R82,412 has been provided for. Assets were recorded as disposed in 2007/2008. These assets were found to be still in use. The assets' fair value at 1 April 2009 was determined as R16,487. Accumulated depreciation of R5,496 has been provided for.
- 24.2 A posting error in the accounts payables subledger during 2008/2009 resulted in an overstatement of the accounts payables and administrative expenses by the amount of R14 692. The error has been corrected.
- 24.3 The rental of buildings leased by the Public Protector was disclosed as a contingent liability in 2008/2009. The Public Protector has received a confirmation of liability in the 2009/2010 financial year for five buildings. In addition to the five buildings, three building leases were entered into by the Public Protector. The straight-lined amount for the eight buildings has been adjusted as a prior year error.
- 24.4 The Public Protector, South Africa performed full asset verification during the financial year. As a result of the verification the useful lives and residual values of equipment, furniture and motor vehicles have been reassessed for the current year. This reassessment was also done for the prior periods as no adjustment had been made in those years.
- 24.5 Further to the full asset verification noted in 24.4 above, the Public Protector, South Africa identified certain assets which could not be located due to theft and earlier disposal. These assets were written off. The details were as follows:

Asset category	Cost	Accumulated depreciation	Carrying amount
Computer equipment	1,748,503	(1,583,587)	164,916
Furniture and fittings	568,258	(268,453)	299,805
Office equipment	575,038	(437,123)	137,915
Total	2,891,799	(2,289,163)	602,636

Furthermore, assets were identified which were on the floor but not in the assets register for the net book value of R236 253; the assets were recorded in the asset register.

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

24.6 The Public Protector, South Africa reviewed the leases schedule during the financial year, an error for the amount of R2,825 was identified relating to the previous financial year. It has been corrected as a prior year error.

Effects of the above items are reflected as follows:

Effect on account balance	Related item	2009
Increase in accumulated surplus – Opening balance	24.1	(236,251)
	24.4	(1,521,226)
Decrease in accumulated surplus – Opening balance	24.3	4,287,085
	24.5	50,488
Increase in depreciation	24.1	94,990
Decrease in depreciation	24.4	(402,478)
Increase in property, plant and equipment – Cost	24.1	299,795
Decrease in property, plant and equipment – Cost	24.5	(2,922,351)
Increase in property, plant and equipment – Accumulated depreciation	24.1	(158,518)
Decrease in property, plant and equipment – Accumulated depreciation	24.4	1,866,301
	24.5	2,268,383
Decrease in trade payables	24.2	14,692
Decrease in administrative expenses	24.2	(15,252)
Increase in operating lease expense (included in other operating expenses)	24.3	148,586
Increase in deferred operating lease	24.3	(438,882)
Increase in accrual in respect of operating lease	24.3	(3,418,179)
Increase in assets written off	24.5	319,069
Increase in other income	24.5	(236,253)
Decrease in finance costs	24.6	2,825
Increase in finance lease obligation	24.6	(2,825)

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

25. CHANGE IN ACCOUNTING POLICY

25.1 The Public Protector, South Africa now recognises non-exchange revenue from transfers in accordance with its accounting policy adopted in 2010. This resulted in the retrospective application, which required the recognition of deferred transfers in the period prior to the comparative period. The effect of this change in accounting policy is as follows:

Decrease in Government transfers (previously "Government grants")	(5,000,000)
Increase in Accumulated surplus – Opening balance at 1 April 2008	<u>5,000,000</u>

25.2 The Public Protector, South Africa adopted a new asset management policy to write off minor assets.

Increase in Assets written off	<u>26,585</u>
Decrease in Property, plant and equipment	<u>(26,585)</u>

26. COMMITMENT

	2010	2009
Lease buildings	5,595,789	4,912,727
Orders raised	391,039	6,195
Procurement of goods and services	1,492,209	2,753,230
	<u>7,479,037</u>	<u>7,672,152</u>

The Public Protector, South Africa discloses commitments if it has raised an order for goods and services, but the goods and services have not yet been delivered.

27. RELATED PARTIES

There are no related party transactions during the period under review. For the comparative the period the Public Protector, South Africa was active in the Civil Society Advocacy Programme funded by the European Union, The programme ended on 31 December 2008. Refer notes 21 (Key management personnel); Note 2 (Government transfers) and Note 3 (Local and foreign aid assistance) for further information.

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2010

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2010

28. GOING CONCERN

The accumulated losses for the current and the previous year have resulted in the net liabilities exceeding the net assets of the current financial year. This is a technically insolvent financial position. These accumulated losses result from amounts due to the department of Public Works for office leases entered into on behalf of the Public Protector. The Public Protector is currently negotiating a write off of this liability and simultaneously negotiating as an alternative solution, additional budget allocation from the National Treasury. As a result of this corrective action we are confident that this does not pose a threat to the going concern of the Public Protector.

29. FRUITLESS AND WASTEFUL EXPENDITURES

The Office of the Public Protector did not incur fruitless and wasteful expenditure during the financial year 2009/10.

30. IRREGULAR EXPENDITURE

	2010 R	2009 R
Reconciliation of irregular expenditure		
Opening balance	7,280,104	41,707
Add: Irregular expenditure current year.	832,729	7,589,370
Total	8,112,832	7,631,077
Less: Amounts condoned	641,381	350,973
Administrative expenses	2,721	4,450
Staff costs	-	-
Other operating expenses	14,082	31,435
Property, plant and equipment - Finance lease	624,578	315,088
Balance	7,471,451	7,280,104
Not condoned	-	-
Administrative expenses	-	-
Staff costs	-	-
Other operating expenses	-	-
Property, plant and equipment	-	-
Awaiting condonement	1,313,351	7,171,582
Administrative expenses	-	-
Staff costs	-	-
Other operating expenses	21,081	47,434
Property, plant and equipment	1,292,270	7,124,148
Disciplinary steps	-	3,965
None as these are transversal contracts approved by National Treasury and condoned by the Accountant General.	-	3,965
Incident	37,885	39,850
Procurement process not followed	37,885	39,850

31. CONTINGENT LIABILITY

- 31.1 Judgement is awaited since 2007 in an application by the Mail and Guardian in connection with the so-called “Oilgate” report. The only cost implication could relate to legal costs, which is dependent on the ruling of the judge.
- 31.2 Mr Mataboge is aggrieved by the fact that during the 2005 organogram review there was a proposed post of Senior Manager at Mabopane Regional Office; the said post was never funded and as result was never filled. In the 2009 organogram review the said post was abolished without being filled and Mr Mataboge started with his grievance procedure around December 2008. The main crux of his dispute is that the Public Protector, South Africa had created a legitimate expectation in him that he would be promoted to the then vacant post of Senior Manager at Mabopane Regional Office.

This matter has exhausted all internal dispute resolution mechanisms and is currently scheduled for arbitration hearing at the CCMA. Should the worst-case scenario occur, if the Arbitrator rules in favour of Mr Mataboge, then the Public Protector, South Africa will have to pay him the difference between his current salary and that of a Senior Manager, and possibly the said amount may have to include interest.

(Footnotes)

- 1 Corrected from 459 that was reported in 2008/09
- 2 The Early Resolution Unit was created in November 2009 and staff were transferred with 244 existing files from National Investigations
- 3 Corrected from 558 that was reported in 2008/09
- 4 Corrected from 1015 that was reported in 2008/09
- 5 Corrected from 1030 that was reported in 2008/09
- 6 Corrected from 5 995 that was reported in 2008/09
- 7 In the 2008/09 Annual Report, complaints carried over were reported as 5 995, the files have been verified and 5 795 complaints were carried over to the 2009/10 financial year
- 8 *The variation between the 2008/9 financial year and the 2009/10 financial year in the number of posts in each level is due to the fact that investigators’ salaries were adjusted from level 8 to level 9, hence the discrepancy between levels 6-8 and 9-12.*

4. ADDRESSES

HEAD OFFICE

Public Protector
Private Bag X677
Pretoria
0083

175 Lunnon Street
Hillcrest Office Park
0001

Tel: (012) 366 7000
Fax: (012) 362 3473
TOLL FREE NO: 0800 11 20 40
www.publicprotector.org

PROVINCIAL OFFICES

EASTERN CAPE

P O Box 1400
Bisho
5605

Unathi House
Independent Avenue, Bisho
Behind Pick 'n Pay

Tel: (040) 635 1286/7/1145/1126
Fax: (040) 6351291

FREE STATE

P O Box 383
Bloemfontein
9300
Suite office, 2nd Floor
Standard Bank House
15 West Burger Street
Bloemfontein

Tel: (051) 4486172/6185
Fax: (051) 4486070

GAUTENG

P O Box 32738
Braamfontein
2017

Constitutional Hill
Women's Jail
2 Kotze Street
C/o Kotze & Joubert Streets
Johannesburg

Tel: (011) 3393737/2047
Fax: (011) 3392858

KWAZULU-NATAL

P O Box 4267
Durban
4000

22nd Floor
Suite 2114
Commercial City Building

Durban

Tel: (031) 3075300/5250/5251
Fax (031) 307 2424

LIMPOPO

P O Box 4533
Polokwane
0700

Unit 2301, Wyndom Park
23 Rabe Street
Polokwane

Tel: (015) 2956984
Fax: 015) 2952870

MPUMALANGA

P O Box 3373
Nelspruit
1200

Pinnacle Building
Suite 101
1 Parkin Street
Nelspruit

Tel: (013) 7528543
Fax: (013) 7527883

NORTHERN CAPE

P O Box 1505
Kimberley
8300

4 Sydney Street
Pretmax Building
2nd & 3rd Floor
Kimberley
8300

Tel: (053) 8317766 / 8325381/2
Fax: (053) 8323404

NORTH WEST

P O Box 512
Mafikeng
2745

Public Protector's Chambers
Cnr Martin & Robinson Streets
Mafikeng

Tel: (018) 381 1060/1/2
Fax: (018) 381 2066

WESTERN CAPE

P O Box 712
Cape Town
8000

4th Floor
51 Wale Str/Bree Str
Cape Town

Tel: (021) 4238644
Fax: (021) 4238708

REGIONAL OFFICES

GEORGE

P O Box 9481
George
6530

1st Floor South Wing
Bataleur Park
Cnr Cathedral & Cradock Street
George
6259

Tele: (044) 8742887/904
Fax: (044) 8745922

KURUMAN

P O Box 79
Mothibstad
8474

1 Rose Avenue
Shop 1
Kuruman
8460

Tel: (053) 712 1762 / 2347
Fax: (053) 712 2417

MABOPANE

P O Box 3165
Rosslyn
0200
Central House
2nd Floor, Room 334

Tel: 012-702 5458/4330

Fax: 012-7028127

MTHATA

P O Box 720
Mthata
5099

No 6 Knorf Street
Fortgale

NEWCASTLE

P O Box 1169
Newcastle
2940

No 58 Corner Allen & Scott Street
Newcastle
2940

Tel: 034-3263450

Fax: 034-3263470

PHUTHADITJHABA

P O Box 5677
PHUTHADITJHABA
9866

Mampoi Street
Shop No 1
Naledi Mall
Phuthaditjhaba
9866

Tel: 058 – 713 2974

058 – 713 2975

Fax: 058 – 713 2976

RUSTENBURG

P O Box 371
Tlhabane
0309
Suite No 12
Old SARS Building
135 Klopper Street
Rustenburg

Tel: 014-592 9023/6

Fax: 014-592 9031

SIYABUSWA

P O Box 2391
Siyabuswa
0472

Old Parliament Building
Job Skosana Street
Siyabuswa
0472

Tel: 013-9730033/6

Fax: 013-9730029

UPINGTON

PO Box 15

Upington

8800

Umbra Building

55-59 Mark Street

Upington

8800

Tel: (054) 338 5740

Fax: (054) 331 0036

VRYBURG

P O Box 891

Vryburg

8000

Old Mutual Building

55 Market Street

Vryburg

8600

Tel: 053-927 2221

Fax: 053-927 2509

Published by Public Protector South Africa

Private Bag X677, Pretoria 0001

Tel: 012 366 7000

Toll Free: 0800 11 20 40

www.publicprotector.org

175 Lunnon Street

Hillcrest Office Park

Hillcrest, Pretoria

ISBN:978-0-621-39631-7

RP212/2010