



PUBLIC PROTECTOR  
SOUTH AFRICA

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ANNUAL REPORT

1 APRIL 2008 - 31 MARCH 2009

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# ANNUAL REPORT

1 April 2008 - 31 March 2009



## **SPEAKER OF THE NATIONAL ASSEMBLY OF SOUTH AFRICA**

### **The Hon Mr Max Sisulu**

Speaker of the National Assembly of South Africa

Parliament Building  
Parliament Street  
P O Box 15  
CAPE TOWN

Dear Sir

I am pleased to submit my seventh and last Annual Report for the period 1 April 2008 to 31 March 2009.

This report is submitted in terms of section 181 (5) of the Constitution of the Republic of South Africa, 1996.

Significant achievements were made in the year under review. We constantly endeavour to improve the service we provide to protect those adversely affected inter alia by maladministration.

Yours faithfully



ADV ML MUSHWANA  
PUBLIC PROTECTOR OF THE REPUBLIC OF SOUTH AFRICA  
AUGUST 2009



# OPP MANAGEMENT



Adv Lawrence Mushwana  
Public Protector SA



Adv Mamiki Shai  
Deputy Public Protector

## NATIONAL OFFICE



Themba Mthethwa  
Chief Executive Officer



Adv Christoffel Fourie  
Executive Manager Special  
Investigations



Shirley Thoke-Executive  
Manager Provincial  
Investigations & Co-ordination



Reginald Ndou  
Executive Manager  
Outreach



Dr Tinus Schutte-Executive  
Manager National  
Investigations



Ponatshego Mogaladi-Senior  
Manager Executive Support



Zoleka Mntumtum-Snr Manager  
Facility Management and  
Auxillary Services



Elsabe De Waal-Chief  
Investigator-  
National Investigations



Sechele Keebine - Chief Investigator  
National Investigations



Humbelani Ndou  
Acting Chief Financial Officer



Kgalalelo Masibi- Senior  
Manager Communications



Charles Motau-Senior Man-  
ager Information Technology



Sebaba Lentsoane-Senior  
Manager Human Resource

## PROVINCIAL OFFICES



Adv Sibekuzo Dube-Provincial  
Representative Mpumalanga



Botromia Sithole-Provincial  
Representative Northern Cape



Johann Raubenheimer-Provincial  
Representative North West



Nomsa Thomas -Provincial  
Representative Eastern Cape



Lesedi Sekele-Provincial  
Representative Gauteng



Sune Griessel-Provincial  
Representative Free State



Ruthven Janse Van Rensburg-  
Provincial Representative  
Western Cape



Mlandeli Nkosi-Provincial  
Representative KwaZulu-Natal



Naledzani Mukwevho-Provincial  
Representative Limpopo



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## 1. VISION AND MISSION



### **VISION**

To strive for quality and fair service delivery  
by all organs of state.

### **MISSION**

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. CORE VALUES

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### **Impartiality**

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

### **Courtesy**

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

### **Empathy**

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

### **Integrity**

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

### **Accountability**

We always give an account of our actions and decisions.

### **Service Oriented**

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



### 3. FOREWORD

It is for me an honour and privilege to present to Parliament the 13th Annual Report for the Office of the Public Protector. As the current incumbent, it will be my final Annual Report encompassing the 2008/09 financial year.

My term of office comes to an end on the 23rd October 2009. In 2002 when I accepted the appointment as Public Protector of the Republic of South Africa, I was aware that it would be an enormous and daunting assignment to serve my people.

I saw myself as a humble servant of the people and therefore could not decline the appointment. It has been a winding and arduous road to traverse. It gives me an immense sense of joy, happiness and satisfaction that I have successfully navigated the journey.

When I assumed duty on the 1st November 2002, I joined an office that was receptive and functional. Although it was long after my predecessor left the office and could not formally hand over the office to me, I immediately discovered that there were still challenges facing the Office of the Public Protector (OPP).

The most significant were the following:

- a. To develop a strategic business plan to guide and direct its activities.
- b. To develop mechanisms to ensure compliance with the Employment Equity Act.
- c. To develop mechanisms to ensure compliance with the Skills Development Act.
- d. To review the organisational structure in order to align it with the strategic plan.
- e. Investigations on the consequences of complaints rather than the root causes thereof.
- f. Expedite the finalisation of high profile and complicated matters.
- g. To develop the Performance Management Systems which were not in place within the OPP.
- h. Work space was inadequate and not conducive to a good and favourable working environment.
- i. To develop an Outreach Programme in order to comply with the Constitutional imperative that the OPP must be accessible to all citizens and communities.
- j. Appointment of a Chief Executive Officer .
- k. To develop a communication strategy to promote working relationship with the media and stakeholders.
- l. To introduce employee pension scheme for all OPP staff.

It is indeed gratifying that, as I present this report, all challenges listed were successfully addressed and form part of this report.

Head Office of the OPP is now located at the Public Protector House, Hillcrest Office Park, Pretoria.

We pride ourselves with a functional Think Tank Committee that is underpinned by a professional Secretariat. This committee serves as a quality assurance mechanism of all reports that are issued on completion of investigations.



**FOREWORD CONTINUED...**

The OPP received a clean Audit Report for the past six years and in some cases without a single matter of emphasis. Although we have a qualification for the year being reported on, it relates to a narrative and valuation of our assets. On the whole, our financial and procurement systems are, according to the audit report, flawless.

This report bears evidence of our achievements, successes and challenges that lie ahead.

My sincerest thanks and gratitude go to the OPP staff, they are the reason behind all the successes highlighted in this report. May they continue to serve the people of South Africa with the dedication and devotion they have demonstrated during my term of office.

My heartfelt thanks and gratitude also go to Parliament and the OPP stakeholders, who throughout my term of office as Public Protector of the Republic of South Africa, have supported and guided me.

It was an honour to serve the people of South Africa and to complete the tasks assigned as I have!



**ADV. MABEDLE LAWRENCE MUSHWANA**

## 4. ABBREVIATIONS

AORC	African Ombudsman Resource Centre
CMS	Case Management System
CSAP	Civil Society Advocacy Programme
DOL	Department of Labour
DPW	Department of Public Works
EE	Employment Equity
EWP	Employee Wellness Programme
GEPF	Government Employees Pension Fund
HRD	Human Resource Development
HRMIS	Human Resource Management Information System
ICT	Information and Communication Technology
KM	Knowledge Management
MOPP	Mobile Office Pilot Project
NDPP	National Directorate of Public Prosecutions
NT	National Treasury
OHSA	Occupational Health and Safety Act
OPP	Office of the Public Protector
PAJA	Promotion of Administrative Justice Act
PFMA	Public Finance Management Act
PMS	Performance Management System
PP	Public Protector
PPA	Public Protector Act
PSETA	Public Service Sector Education and Training Authority
SAPS	South African Police Service
SDI	Service Delivery Indicator
UKZN	University of KwaZulu-Natal
WSP	Workplace Skills Plan



## 5. BACKGROUND TO THE OFFICE OF THE PUBLIC PRO- TECTOR

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### 5.1 Appointment mechanism and powers

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

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

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

The Public Protector is neither an advocate for the complainant nor for the public authority concerned. He/ she investigates complaints and makes a finding and where necessary recommends remedial action.

### 5.2 A brief history of OPP

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

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

With the dawn of democracy in South Africa, an institution similar to an Ombudsman namely; Office of the Public Protector was established.

### 5.3 Jurisdiction

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

### 5.4 Particular powers and duties

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

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

### 5.5 Reporting

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

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

## 6. PROFILE OF THE PUBLIC PROTECTOR ADV MABEDLE LAWRENCE MUSHWANA

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

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

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

Adv Mushwana had a distinguished career as a member of Parliament from 1994 -2002 and has led a number of delegations on international Parliamentary tours. He also served on several Parliamentary committees, amongst others, he co-chaired the joint Parliamentary Budget Committee and the Code of Conduct and Ethics Committee. He served as Chairperson of Committees and also on the Audit Commission and the Judicial Services Commission. He participated in the drafting of the South African Constitution and served as Deputy Chairperson of the National Council of Provinces. He resigned from this position to take up office as the second Public Protector of the Republic of South Africa.

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

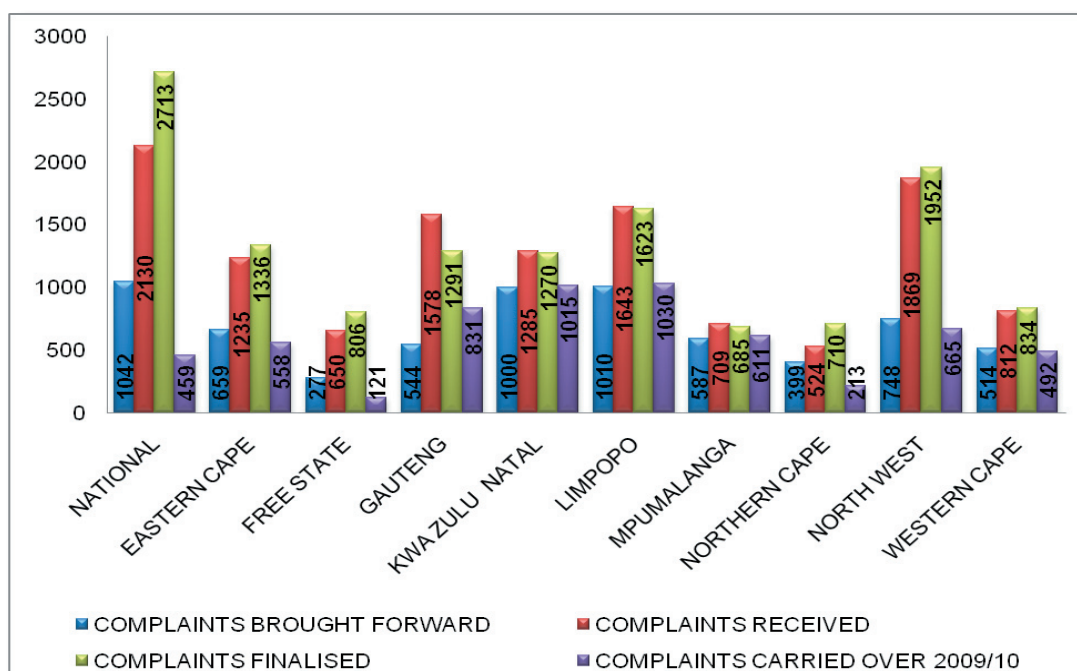


## 7. STATISTICAL OVERVIEW

**Table 1: Statistics of complaints brought forward, received, finalised and carried over to the 2009/10 financial year reflected as per National and Provincial Investigations.**

BRANCH	COMPLAINTS BROUGHT FORWARD = 6780	COMPLAINTS RECEIVED = 12435	COMPLAINTS FINALISED = 13220	COMPLAINTS CARRIED OVER 2009/10 = 5995
NATIONAL	1042	2130	2713	459
EASTERN CAPE	659	1235	1336	558
FREE STATE	277	650	806	121
GAUTENG	544	1578	1291	831
KWAZULU-NATAL	1000	1285	1270	1015
LIMPOPO	1010	1643	1623	1030
MPUMALANGA	587	709	685	611
NORTHERN CAPE	399	524	710	213
NORTH WEST	748	1869	1952	665
WESTERN CAPE	514	812	834	492
TOTAL	6780	12435	13220	5995

**Graph 1.1: Statistics of complaints brought forward, received, finalised and carried over to the 2009/10 financial year reflected as per National and Provincial Investigations**



Graph 1.2: Statistics of complaints brought forward, received, finalised and carried over to the 2009/10 financial year.

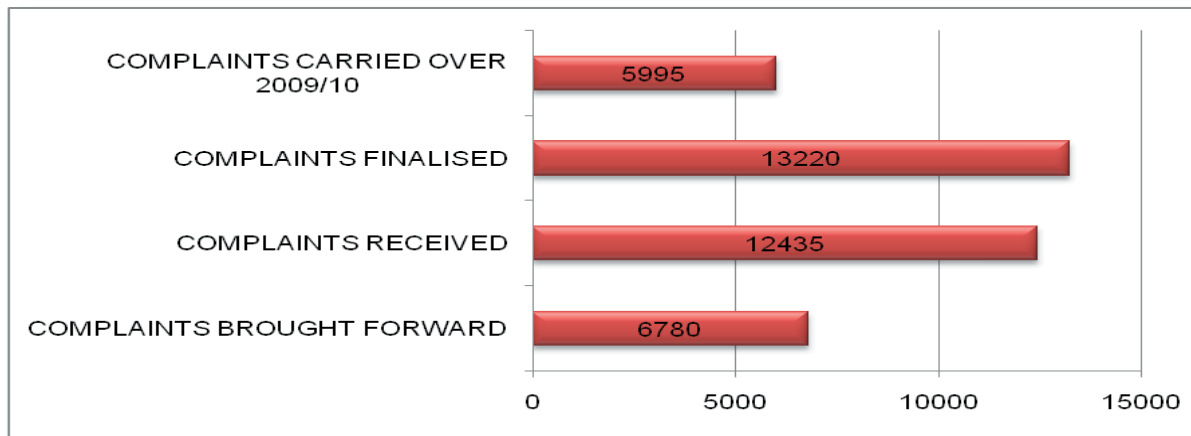
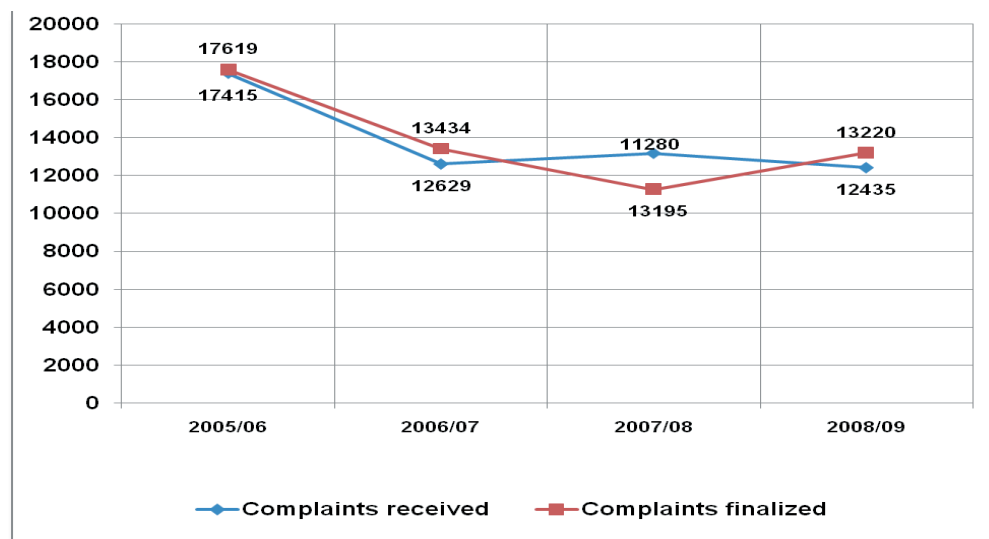


Table 2: Comparison of statistics received and finalised in the 2005/06 until the 2008/09 financial years

FINANCIAL YEAR	COMPLAINTS RECEIVED	COMPLAINTS FINALISED
2005/06	17415	17619
2006/07	12629	13434
2007/08	13195	11280
2008/09	12435	13220

Graph 2: Comparison of statistics received and finalised in the 2005/06 until the 2008/09 financial years.

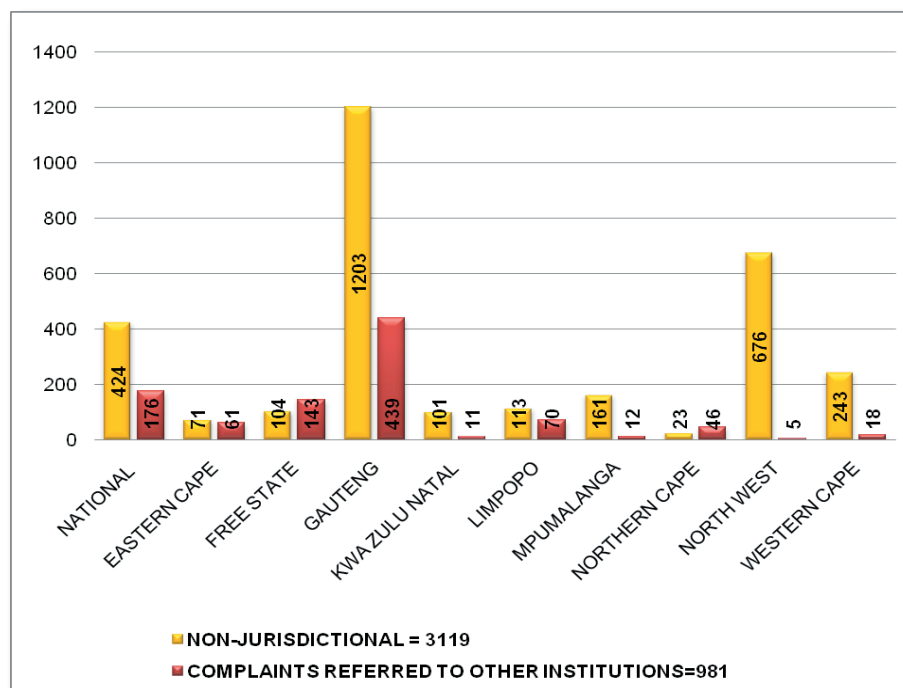




**Table 3: Statistics of non-jurisdictional matters dealt with and complaints referred to other institutions in 2008/09 reflected as per National and Provincial Investigations.**

BRANCH	NON-JURISDICTIONAL	COMPLAINTS REFERRED TO OTHER INSTITUTIONS
NATIONAL	424	176
EASTERN CAPE	71	61
FREE STATE	104	143
GAUTENG	1203	439
KWAZULU-NATAL	101	11
LIMPOPO	113	70
MPUMALANGA	161	12
NORTHERN CAPE	23	46
NORTH WEST	676	5
WESTERN CAPE	243	18
TOTAL	3119	981

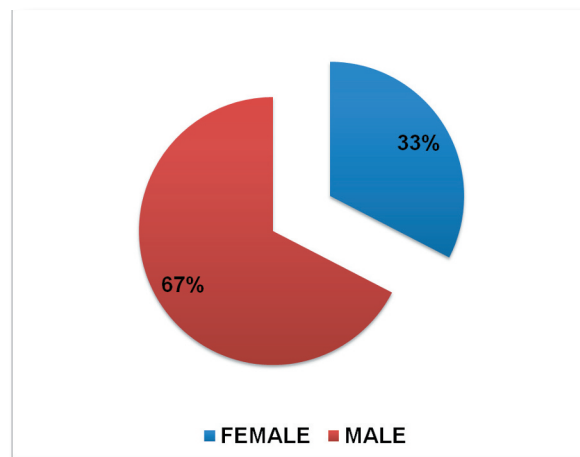
**Graph 3: Statistics of non-jurisdictional matters dealt with and complaints referred to other institutions in 2008/09 reflected as per National and Provincial Investigations**



**Table 4: Sample of gender breakdown of complaints taken from 4 897 of the investigations finalised in 2008/09 financial year.**

FEMALE	MALE
1595	3302

**Graph 4: Sample of gender breakdown of complaints taken from 4 897 of the investigations finalised in 2008/09 financial year**



**Table 5: Statistics of cases older than 1 year as at 31 March 2009 reflected as per National and Provincial Investigations.**

NATIONAL	17
EASTERN CAPE	23
FREE STATE	0
GAUTENG	103
KWAZULU-NATAL	39
LIMPOPO	136
MPUMALANGA	65
NORTHERN CAPE	11
NORTH WEST	71
WESTERN CAPE	0
<b>TOTAL</b>	<b>465</b>

Graph 5: Statistics of cases older than 1 year as at 31 March 2009 reflected as per National and Provincial Investigations.

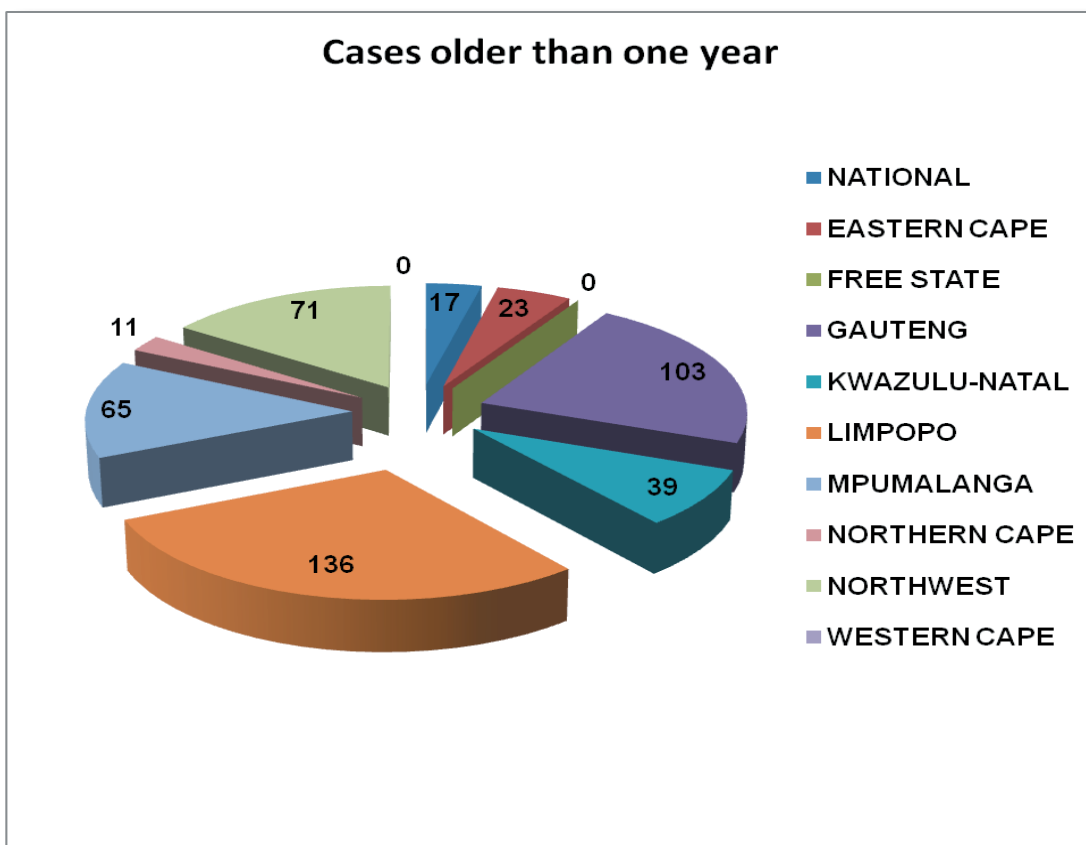
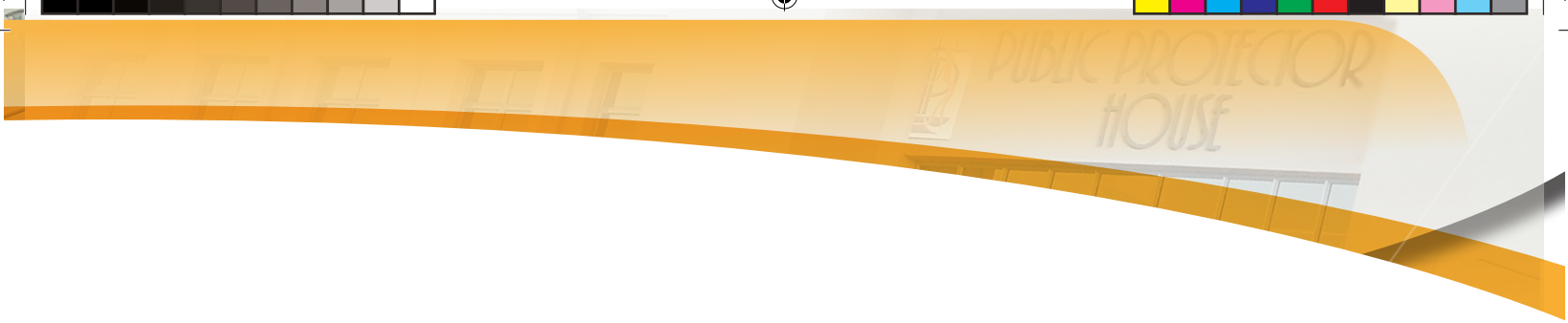
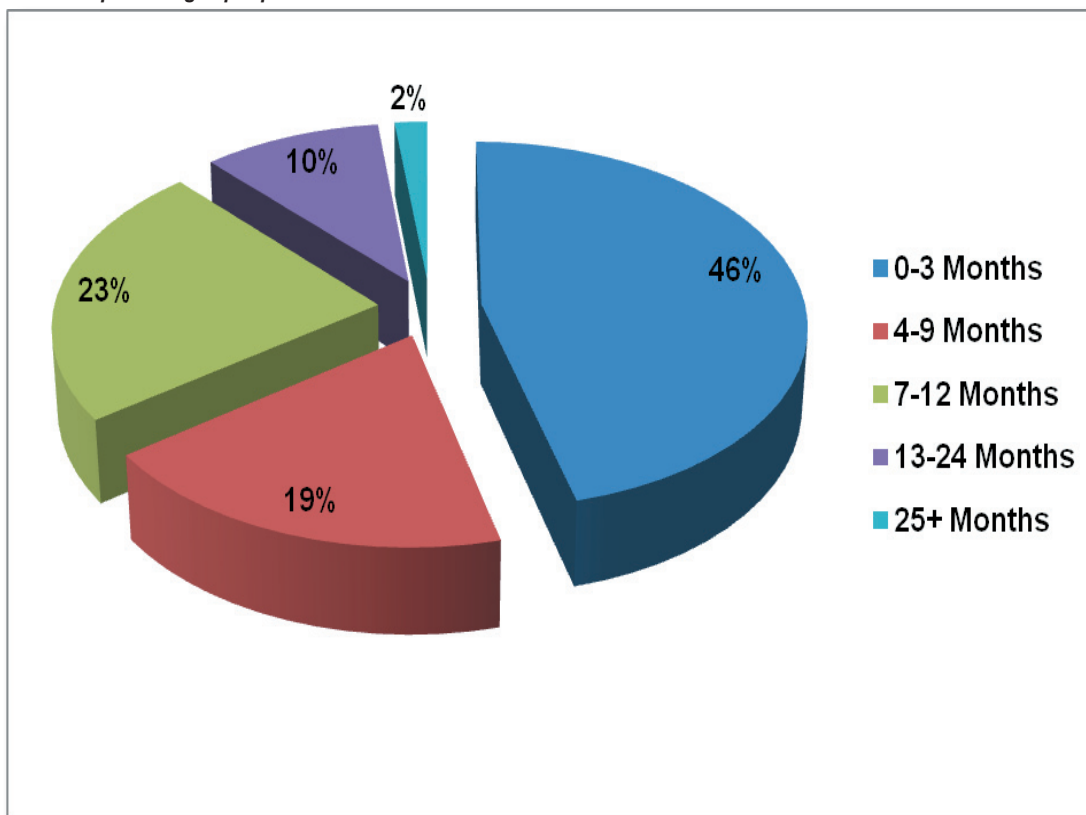


Table 6: Sample of average turnaround times in which investigations were finalised in 2008/9 financial year reflected in percentages per period.

PERIOD	
0-3 Months	5783
4-9 Months	2360
7-12 Months	2926
13-24 Months	1257
25+ Months	229



**Graph 6: Sample of average turnaround times in which investigations were finalised in 2008/9 financial year reflected in percentages per period.**



## 8. PERFORMANCE ON STRATEGIC OBJECTIVES FOR 2008/09 FINANCIAL YEAR

The OPP operates with four programmes which are as follows:

PROGRAMME	SUB PROGRAMME
Programme 1: Investigations and Reporting	1.1 National Investigations 1.2 Provincial Investigations 1.3 Special Investigations
Programme 2: Executive Management	2.1 Public Protector 2.2 Deputy Public Protector 2.3 Chief Executive Officer 2.4 Executive Support 2.5 Communications 2.6 Security and Risk Management
Programme 3: Outreach	3.1 National Outreach 3.2 Provincial Outreach
Programme 4: Corporate Support Services	4.1 Human Resource and Management Development 4.2 Finance and Supply Chain Management 4.3 Knowledge Management 4.4 Information Technology 4.5 Administration Support

### 8.1 Programme 1: Investigations and Reporting

#### 8.1.1 Objective of the programme:

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

#### 8.1.2 Outcome of the programme:

8.1.2.1 Improved service delivery to stakeholders.

#### 8.1.3 Strategic objectives for the programme:

SUB-PROGRAMMES: ALL		RESPONSIBILITIES
8.1.3.1	To conduct investigations in compliance with the constitutional mandate of the OPP.	<ol style="list-style-type: none"> <li>1. Control Investigator: National Investigations (8.1.3.4)</li> <li>2. Control Investigator: Special Investigations</li> <li>3. Executive Manager: Provincial Investigations</li> </ol>
8.1.3.2	To conduct systemic investigations.	
8.1.3.3	To conduct own-initiative investigations.	
8.1.3.4	To develop investigative techniques, processes and training.	
8.1.3.5	To reduce the turnaround time of investigations.	
8.1.3.6	To ensure effective, relevant reporting in all finalised investigations.	
8.1.3.7	To monitor and report on remedial actions recommended to organs of state.	

Sub-Programme: ALL (National , Special and Provincial Investigations)

STRATEGIC OBJECTIVE	OUTPUT	MEASURE	2008/9 TARGET	ACHIEVEMENT OF TARGETS FOR THE YEAR 2008/09
8.1.3.1 To conduct investigations in compliance with the constitutional mandate of the PP	Investigation plans for all investigations	% of investigation plans for all investigations	Investigation plans defined for 100% of all investigations	Achieved Investigation plans defined for all investigations.
	Approved project plans for appropriate investigations	% of project plans for appropriate complaints	Project plans defined for 100% of appropriate complaints	Achieved Project plans defined for all appropriate complaints.
	Jurisdictional complaints received	% of attendance to all complaints received	100% of attendance to all complaints received	Achieved 6780 complaints were brought forward to the 2008/09 financial year, 12 435 received, 19 215 attended to

STRATEGIC OBJECTIVE	OUTPUT	MEASURE	2008/9 TARGET	ACHIEVEMENT OF TARGETS FOR THE YEAR 2008/9
	Jurisdictions complaints investigated and finalised	% of complaints investigated and finalised	100% of complaints investigated and finalised	<b>Partially Achieved</b> Target not met partly due to capacity constraints and ambiguity of the target. 13 220 complaints finalised, and 5995 carried over to the 2009/10 financial year.
	Complaints where the Prosecuting Authority is notified due to facts disclosing the commission of an offence.	% of complaints finalised by notification to the Prosecuting Authority	100% of complaints finalised by notification to the Prosecuting Authority	<b>Achieved</b> 2 complaints were finalised by notification to the National Prosecuting Authority
	Complaints disposed of by way of referral to appropriate public bodies	% of complaints disposed of by way of referral to appropriate public bodies	100% of complaints disposed of by way of referral to appropriate public bodies	<b>Achieved</b> 981 complaints were disposed of by way of referral to appropriate public bodies
	Complaints not investigated because: <ul style="list-style-type: none"> <li>• Remedies not exhausted or</li> <li>• Reported after 2 years and no special circumstances exist</li> </ul>	% of complaints disposed of as no jurisdiction	100% of complaints disposed of as no jurisdiction	<b>Achieved</b> 3119 complaints were disposed of as no jurisdiction
	Jurisdictional complaints finalised by ADR (Alternative Dispute Resolution)	% of complaints finalised by ADR	100% of complaints finalised by ADR	<b>Achieved</b> All finalised complaints have closing reports. All 13 220 complaints were finalised by way of closing report where a matter has been negotiated and settled.



STRATEGIC OBJECTIVE	OUTPUT	MEASURE	2008/9 TARGET	ACHIEVEMENT OF TARGETS FOR THE YEAR 2008/09
8.1.3.2 To conduct systemic investigations	Systemic investigation Reports	Number of systemic investigations reports submitted	Submission of Report on the number of systemic investigations	<b>Achieved</b> 16 systemic investigations conducted, 4 finalised, two finalised by way of closing report and 10 still under investigation and will be finalised in the 2009/10 financial year. All systemic investigations have reports.
8.1.3.3 To conduct own-initiative investigations	Own-initiative investigations Report	Number of own initiative investigations finalised per annum	Minimum of 1 own initiative investigation finalised per province  Minimum of 1 own initiative investigation finalised per Investigative Unit	<b>Not Achieved</b> Target not met due to high staff turnover of investigative staff in Provincial offices, capacity constraints and high workload. The target was 9, however, 5 own initiative investigations were conducted 2 finalised, 3 still under investigation. <b>Achieved</b> 11 own initiative investigations conducted 3 finalised by a closing report, 4 signed by the Public Protector and 4 still under investigations and will be finalised in the 2009/10 financial year.
8.1.3.4 To develop investigative techniques, processes and training	Investigators trained on process manual	% of investigators trained	100% of investigators trained.	<b>Achieved</b> The investigative techniques process manual has been developed and all the investigators trained





STRATEGIC OBJECTIVE	OUTPUT	MEASURE	2008/9 TARGET	ACHIEVEMENT OF TARGETS FOR THE YEAR 2008/09
8.1.3.5 To reduce the turnaround time of complaints	Regular statistical report on relevant complaints Comparative statistical report on complaints older than one year to be included in quarterly report	% compliance  Reduced turnaround time for finalisation of complaints	100% compliance  Finalise all complaints within one year	<b>Achieved</b> Statistical report compiled on a monthly basis  <b>Not Achieved</b> Target not met due to complexity of some of the complaints, high workload and high staff turnover. 6780 complaints were brought forward to the 2008/09 financial year, 12 435 received, 19 215 attended to and only 465 complaints were older than 1 year as at 31 March 2009.
8.1.3.6 To ensure effective, relevant reporting on all finalised investigations	Report for every finalised investigation	% of reports produced	100% of reporting on all finalised investigations	<b>Achieved</b> Reports (formal or closing) were compiled for all finalised investigations
8.1.3.7 To monitor and report on remedial action recommended to organs of State.	Remedial action Monitoring Report	Quarterly Reporting	100% compliance	<b>Achieved</b> 100% of all complaints where recommendations were made were accepted and in the process of being implemented

## 8.2 Programme 2: Executive Management

### 8.2.1 Objective of the programme:

8.2.1.1 To provide strategic direction and improve internal and external communication to inculcate a common vision and improved profile for the OPP.

### 8.2.2 Outcome of the programme:

8.2.2.1 Improved service delivery to stakeholders.

8.2.2.2 Smooth, timeous flow of accurate information to all OPP staff.

8.2.2.3 Increased awareness and knowledge of the constitutional mandate of the OPP

### 8.2.3 Strategic objectives for the programme:

SUB-PROGRAMMES: CEO	RESPONSIBILITY
<p>8.2.3.1 Manage the definition and review of organisational strategic performance assessment and reporting.</p> <p>8.2.3.2 To ensure the consolidation and continuous update of the policies into an integrated Staff Corporate Manual.</p> <p>8.2.3.3 To ensure the improvement of efficiency and effectiveness of the investigation process</p> <p>8.2.3.4 Definition of business processes linked to the organisational structure</p> <p>8.2.3.5 Ensure that staff strategic involvement process is outlined</p> <p>8.2.3.6 Ensure the development of strategy on skills diversification for investigators</p> <p>8.2.3.7 Consolidate Organisational Risk Management Plan</p> <p>8.2.3.8 Facilitate and monitor change management and transformation processes</p> <p>8.2.3.9 Ensure attainment of unqualified audit reports</p> <p>8.2.3.10 Quality Internal Audit Reports</p>	CEO
SUB-PROGRAMME: EXECUTIVE SUPPORT	RESPONSIBILITY
<p>8.2.4.1 To conduct file inspections.</p> <p>8.2.4.2 To implement and review Think Tank committee procedures and processes</p> <p>8.2.4.3 Enhance collaboration with stakeholders.</p> <p>8.2.4.4 To co-ordinate the OPP Management, EXCO and Think Tank meetings</p> <p>8.2.4.5 Establish, migrate and launch AORC.</p> <p>8.2.4.6 Development of the Exchange Programme Strategy.</p> <p>8.2.4.7 Implement and monitor the Service Delivery Charter.</p>	Senior Manager : Executive Support
SUB-PROGRAMME: SECURITY AND RISK MANAGEMENT	

8.2.5.1 To implement and monitor processes for the protection of OPP information and assets, including staff	Security Manager
8.2.5.2 Monitor the implementation of the Risk Management Plan	
<b>SUB-PROGRAMME: MARKETING AND COMMUNICATIONS</b>	<b>RESPONSIBILITY</b>
8.2.6.1 Improve communication and routing of information to stakeholders	Senior Manager: Communications
8.2.6.2 Effective internal communication	
8.2.6.3 Manage media relations	
8.2.6.4 To enhance corporate brand of the OPP	
8.2.6.5 Establish events co-ordination function and manage events, including the annual theme conference	
8.2.6.6 Ensure staff of OPP adhere to protocol procedures	
8.2.6.7 Effective co-ordination of International Visits	

**Sub-Programme: CEO**

STRATEGIC OBJECTIVE	OUTPUT	MEASURE	2008/9 TARGET	ACHIEVEMENT OF TARGETS FOR THE YEAR 2008/09
8.2.3.1 Manage the definition and review of Organisational Strategic Performance Assessment and Reporting.	Organisational Strategy Performance and Statistical Reports	Frequency of Strategy Performance meetings and Statistical reports	Quarterly Strategy performance meetings and Statistical reporting	<b>Achieved</b> Quarterly strategic performance meetings held and quarterly statistical reports submitted.
		Number of meetings and reports	Annual strategy review meeting and reporting	<b>Achieved</b> Annual strategy review meeting held.
		Number of meetings and reports	Annual reporting to Parliament	<b>Achieved</b> Annual report tabled in Parliament as prescribed.
	Strategic Performance Assessment Framework and Templates	% completion of assessment framework	Approved and Finalised Assessment Framework and Templates.	<b>Achieved</b> Assessment framework and templates approved and implemented.



STRATEGIC OBJECTIVE	OUTPUT	MEASURE	2008/9 TARGET	ACHIEVEMENT OF TARGETS FOR THE YEAR 2008/09
8.2.3.2 To ensure the consolidation and continuously update of the policies into an integrated Staff Corporate Manual.	Integrated Corporate Staff Manual	% Completion of Staff Manual	Review and Update	<b>Achieved</b> Integrated Corporate Staff Manual reviewed, updated and implemented.
	Policy Formulation Review Procedure	% Completion of Procedure	Review and Update	<b>Partially Achieved</b> Target not met due to budgetary constraints which resulted in re-negotiating terms of reference and deliverables with the service provider. However, policy formulation review procedure drafted and tabled at EXCO for approval and will be finalised in 2009/10 financial year.



STRATEGIC OBJECTIVE	OUTPUT	MEASURE	2008/9 TARGET	ACHIEVEMENT OF TARGETS FOR THE YEAR 2008/09
8.2.3.3 To ensure the improvement of efficiency and effectiveness of the Investigation Process	Project Charter template	Complete and approved Project Charter Improved Statistical Reporting	100% completion of Project Charter	<b>Achieved</b> Project Charter template approved and has been implemented Monthly and quarterly statistics analysed and verified.
	Indices defined for management of investigations and Complaints against institutions	Approval of Index variables	100% Utilisation of Indices	<b>Achieved</b> Indices for management of investigations and complaints against top institutions defined.
	Monitoring and Evaluation Function	Quality of Terms of Reference and Monitoring and Evaluation report	Monitoring and Evaluation report as part of Annual Report	<b>Not Achieved</b> N.B The target, measure and output were not aligned and a decision was taken by EXCO to remove the objective.
8.2.3.4 Definition of Business Processes linked to the organisational structure	Business Process Report and Organisational Structure	% completion of Organisational Structure	Approved Re-Alignment of Business Process and Approved Organisational Structure.	<b>Partially Achieved</b> Target not met due to the delay caused by the consultative processes with relevant stakeholders e.g. Minister of Finance and Department of Public Service and Administration.



STRATEGIC OBJECTIVE	OUTPUT	MEASURE	2008/9 TARGET	ACHIEVEMENT OF TARGETS FOR THE YEAR 2008/09
8.2.3.5 Ensure that Staff strategic involvement process is outlined	Adopted Policy Document and Policy Process Flow Chart	% completion of policy document and process flow chart	100% completion of policy document and process flow chart	<b>Partially Achieved</b> Target not met due to capacity constraints. Policy document and process flow chart not achieved, however questionnaire on the involvement of staff on the strategic process was outlined.
8.2.3.6 Ensure the Development of strategy on skills diversification for all OPP staff	Adopted Policy on skills diversification for all OPP staff	% completion of policy on skills diversification for all OPP staff	100% completion of policy on skills diversification for all OPP staff	<b>Not Achieved</b> Target not met due to capacity constraints. Policy on skills diversification for all OPP staff not achieved as it was dependent on research. The objective will be incorporated in the intergrated Human Resource Manual
8.2.3.7 Consolidate Organisational Risk Management Plan	Annual Plan	% completion of Annual Risk management plan	100% completion of Annual Risk Management Plan	<b>Achieved</b> The Annual Risk Management Plan has been implemented and monitored.
8.2.3.8 Facilitate and monitor Change Management and Transformation processes	Change Management Strategy & Policy Developed	% Development & implementation	100% development and approval of change management Policy & Strategy	<b>Not Achieved</b> Change Management Strategy and Policy development not achieved and has been deferred to the 2009/10 financial year due to budgetary constraints



STRATEGIC OBJECTIVE	OUTPUT	MEASURE	2008/9 TARGET	ACHIEVEMENT OF TARGETS FOR THE YEAR 2008/09
8.2.3.9 Ensure attainment of unqualified audit reports	Unqualified audit reports	% compliance	100% compliance	<b>Achieved</b> Unqualified audit report obtained in the 2007/08 financial year.
8.2.3.10 Quality Internal Audit Reports	% Implementation of recommendations	100% Implementation of recommendations	100% Implementation of recommendations	<b>Achieved</b> Internal Audit recommendations have been implemented.

**Sub – Programme: EXECUTIVE SUPPORT**

STRATEGIC OBJECTIVE	OUTPUT	MEASURE	2008/9 TARGET	ACHIEVEMENT OF TARGETS FOR THE YEAR 2008/09
8.2.4.1 To conduct file inspections	File inspection report	Number of file inspection	1 per national and provincial office	<b>Achieved</b> File inspections conducted at national and provincial offices.



STRATEGIC OBJECTIVE	OUTPUT	MEASURE	2008/9 TARGET	ACHIEVEMENT OF TARGETS FOR THE YEAR 2008/09
8.2.4.2 To implement and review Think Tank Committee procedures and processes	Implemented Think Tank Operational Process Manual	Implementation of Think Operational Process Manual	Implement, Review and Improve	<b>Achieved</b> Think Tank Operational Process Manual has been reviewed, improved and implemented.
	Think Tank reports submitted	Number of certified reports submitted to Think Tank	On average, 1 certified report per investigator per year	<b>Partially Achieved</b> Target not met due to high turnover of investigative staff and training of newly appointed investigators. At the beginning of 2008/09 financial year 96 investigator posts were filled, nine resigned, 88 remained and only 40 certified reports were signed and issued by the Public Protector.
8.2.4.3 Enhance collaboration with stakeholders	Stakeholders Collaboration Framework in relation to Chapter 9 and related institutions	% Completion of Stakeholders Plan	100% Completion of Stakeholders Plan	<b>Achieved</b> Stakeholders plan drafted and adopted. (Collaboration Framework).
	OPP Participation	Minutes of OPP Participation Chapter 9 and related structures forums	Record minutes for all necessary participations	<b>Achieved</b> Recording of minutes for all OPP Chapter 9 participation at necessary meetings in place.





STRATEGIC OBJECTIVE	OUTPUT	MEASURE	2008/9 TARGET	ACHIEVEMENT OF TARGETS FOR THE YEAR 2008/09
8.2.4.4 To co-ordinate the OPP management EXCO and Think Tank meetings	Approved Structure of meetings	Number of meetings in terms of the structure	Meetings as per Meetings structure	<b>Achieved</b> 5 Management and 12 Executive committee meetings held.
8.2.4.5 Establish, migrate and launch AORC	AORC established, migrated and launched	% of AORC established and migrated	100% functional	<b>Achieved</b> The AORC has been established, migrated and is functional but not launched due to budgetary constraints.
8.2.4.6 Development of the Exchange Programme Strategy	Exchange Programme Strategy	Development and implementation	100% implementation of strategy	<b>Achieved</b> The Exchange Programme Strategy has been adopted and implemented.
8.2.4.7 To implement and monitor the Service Delivery Charter.	Service Delivery Charter	Report on implementation (Quarterly and annual Report)	Approval of Charter	<b>Achieved</b> The Service Delivery Charter has been approved and has been implemented.

**Sub – Programme: Security and Risk Management**

STRATEGIC OBJECTIVE	OUTPUTS	MEASURE	2008/9 TARGET	ACHIEVEMENT OF TARGETS FOR THE YEAR 2008/09
8.2.5.1 To establish and implement processes for the protection of OPP information and assets, including staff	Security management Policy	% development and implementation	100% Implementation of policies	<b>Achieved</b> Security Management policy has been implemented
	Security management Strategy	% development and implementation	100% development of strategy	<b>Achieved</b> The Security Management Strategy has been developed and implemented
	Security procedure manual	% development and implementation	100% development of Procedure manual	<b>Partially Achieved</b> Target not met due to budgetary constraints. However the Security Procedure Manual has been drafted and will be finalised in the 2009/10 financial year.
8.2.5.2 Develop and implement Risk Management Strategy	Risk Management Strategy	% development of the Strategy	100 % development of the Strategy	<b>Achieved</b> The Risk Management Strategy has been developed
	Compliance report on the implementation of Risk Management Strategy	% implementation of Risk Management Strategy	100% implementation of Risk Management Strategy	<b>Achieved</b> The Risk Management Strategy has been implemented

*Sub – Programme: Communications*

STRATEGIC OBJECTIVE	OUTPUTS	MEASURE	2008/9 TARGET	ACHIEVEMENT OF TARGETS FOR THE YEAR 2008/09
8.2.6.1 Manage communication and routing of information to stakeholders	Communication strategy that includes external and internal communications	Submission of approved Communication strategy that includes external and internal communications to PP	Implementation and monitoring of Communication strategy	<b>Not Achieved</b> Target not met due to capacity constraints. However, the Communication Strategy approved in 2007/08 financial year was implemented and will be reviewed in the 2009/10 financial year.
	External Newsletter to increase awareness of OPP and highlighting success stories	Number of newsletters printed and distributed according to the approved Communications Plan	Print and distribute the approved number of external newsletters	<b>Achieved</b> Two external newsletters printed and distributed.
	Information brochures, posters, display stands and banners	Production of brochures in different languages	Print and distribute the approved number of material	<b>Achieved</b> Information brochures, posters, display stands and banners have been printed and distributed.
	Editing & Translation	When required	100% compliance with the requirements	<b>Achieved</b> Editing and translation done as and when required.



STRATEGIC OBJECTIVE	OUTPUT	MEASURE	2008/09 TARGET	ACHIEVEMENT OF TARGETS FOR THE YEAR 2008/09
8.2.6.1. Manage communication and routing of information to stakeholders	Communication strategy that includes external and internal communications	Submission of approved Communication strategy that includes external and internal communications to PP	Implementation and monitoring of Communication strategy	<b>Not Achieved</b> Target not met due to capacity constraints. However, the Communication Strategy approved in 2007/08 financial year was implemented and will be reviewed in the 2009/10 financial year.
	External Newsletter to increase awareness of OPP and highlighting success stories	Number of newsletters printed and distributed according to the approved Communications Plan	Print and distribute the approved number of external newsletters	<b>Achieved</b> Two external newsletters printed and distributed.
	Information brochures, posters, display stands and banners	Production of brochures in different languages	Print and distribute the approved number of material	<b>Achieved</b> Information brochures, posters, display stands and banners have been printed and distributed.
	Editing & Translation	When required	100% compliance with the requirements	<b>Achieved</b> Editing and translation done as and when required.
	One on one Radio Interviews	Use electronic media as a lobby tool to enhance positive publicity. Current affairs and talk shows will be targeted	One on one interviews as initiated and approved	<b>Achieved</b> One on one interviews conducted.



STRATEGIC OBJECTIVE	OUTPUT	MEASURE	2008/09 TARGET	ACHIEVEMENT OF TARGETS FOR THE YEAR 2008/09
	PP's Road Show	4. Number of visits to targeted editors and senior journalists 5. Increased awareness and utilisation of OPP Services	Visits as approved	<b>Achieved</b> Approved PP's Road Shows conducted.
	Speeches and speakers / briefing notes	When required	100 % compliance with the received request for speeches / briefing notes from the PP	<b>Achieved</b> Speeches and briefing notes from the PP compiled as requested.
	Website content management	Update within 48 hours after approval of information	100% compliance with approved information for updating the website	<b>Achieved</b> Approved information for updating the website complied with.
8.2.6.2 Ensure effective internal communication	Electronic Newsletter	Produce and issue monthly newsletter	Produce and issue monthly newsletter	<b>Not Achieved</b> Target not met due to capacity constraints. One electronic newsletter produced.
	Intranet	Relevant content: <ul style="list-style-type: none"> <li>• Organisational info</li> <li>• E-newsletter</li> <li>• Classified ads</li> </ul>	Introduce the Intranet by April 2008	<b>Not Achieved</b> Intranet not introduced in the financial year as it was dependent on the provision of share point and budgetary constraints.

STRATEGIC OBJECTIVE	OUTPUT	MEASURE	2008/09 TARGET	ACHIEVEMENT OF TARGETS FOR THE YEAR 2008/09
8.2.6.3 Manage media relations	Media relations programme, including: Media Briefings, Media visits, Opinion Pieces, Editorials Advertorials, etc	Increase in the publication of OPP positive news stories Developed Media Relations Programme	Implement the Plan	<b>Achieved</b> The approved Communication Strategy included the implementation plan.
	Media Monitoring Report	Frequency of Monitoring	<ul style="list-style-type: none"> <li>Daily media clippings</li> <li>Weekly media summaries</li> <li>Monthly Media Impact Analyses</li> </ul>	<b>Achieved</b> <ul style="list-style-type: none"> <li>Report on the daily media clippings, weekly media summaries circulated to all relevant OPP staff on a monthly basis.</li> </ul>
8.2.6.4 To enhance the Corporate brand of the OPP	Corporate Branding Enhancement Strategy and Plan	Approval of Corporate Brand Enhancement Strategy and Plan	Implementation of the enhanced Corporate Brand Strategy and Plan Compliance with approved Strategy and Plan	<b>Not Achieved</b> Target not met due to budgetary constraints however, guidelines on corporate branding have been approved and implemented.
8.2.6.5 Establish Events Co-ordinations function and manage events, including the Annual Theme conference	Events Management Strategy and Plan	Accurate Management of OPP Events	Appointment of Events Co-coordinator Events Calendar Development Events Management Strategy and Plan	<b>Achieved</b> <ul style="list-style-type: none"> <li>-Events Co-ordinator appointed</li> <li>Achieved</li> <li>-Calendar for all OPP events Management Strategy and plan developed.</li> </ul>

STRATEGIC OBJECTIVE	OUTPUT	MEASURE	2008/09 TARGET	ACHIEVEMENT OF TARGETS FOR THE YEAR 2008/09
8.2.6.6 Effective co-ordination of International Visits	Management of international visits through the Host Plan	Implement Host Plan	100% success (compliance with the Host Plan)	<b>Achieved</b> The host plan has been implemented.
8.2.6.7 Ensure staff of OPP adhere to Protocol procedures	Protocol Procedures / Requirements	Compliance to protocol procedures and requirements	100% compliance to procedures	<b>Achieved</b> Protocol procedures have been implemented and complied with.

### 8.3 Programme 3: Outreach Programme

8.3.1 Objective of the programme:

8.3.1.1 To empower the people through knowledge, and ensure accessibility of the services of the OPP.

8.3.2 Outcome of the programme:

8.3.2.1 Improved stakeholder perception, co-operation and accessibility of OPP services.

8.3.3 Strategic objectives for the programme:

SUB-PROGRAMME: OUTREACH PROGRAMME	RESPONSIBILITY
8.3.3.1 Increase accessibility to OPP services 8.3.3.2 Increase public awareness 8.3.3.3 Manage Outreach Activities at National Office 8.3.3.4 Liaise with Civil Society Organisations to facilitate access 8.3.3.5 Develop Training and Process Manuals on Outreach 8.3.3.6 Assess the impact of the Outreach Programme	<ul style="list-style-type: none"> <li>• Executive Manager</li> <li>• Outreach</li> </ul>

**Programme: Outreach Programme**

STRATEGIC OBJECTIVE	OUTPUT	MEASURE	2008/9 TARGET	ACHIEVEMENT OF TARGETS FOR THE YEAR 2008/09
8.3.3.1 Increase accessibility to OPP services	Reviewed Outreach strategy	% Outreach strategy reviewed and implemented	100% implementation of the reviewed Outreach Strategy	<b>Not Achieved</b> Target not met due to capacity constraints however, the adopted Outreach Strategy is being implemented.
	Clinics conducted	Clinics conducted per month	6 clinics per province 2 clinics per regional office 4 clinics per national office	<b>Partially Achieved</b> Target not met due to budgetary constraints and a decision was taken by EXCO to reduce the number of clinics to be conducted. Out of the 852 planned 763 clinics were conducted.
	Review report outlining sustainability and relevance of the clinics and input to reviewed strategy	Number of clinics reviewed per annum	Six clinics per province	<b>Achieved</b> Six clinics per province were reviewed and report compiled.
	Mobile Office of the Public Protector (MOPP) established	Number of areas covered	Roll out MOPP in the 3 additional provinces	<b>Not Achieved</b> Target not met due to budgetary constraints.
	MOPP Pilot Project Report	Frequency of Report	Annually before Sept 2008	<b>Achieved</b> Monthly report on MOPP Pilot project compiled.



STRATEGIC OBJECTIVE	OUTPUT	MEASURE	2008/9 TARGET	ACHIEVEMENT OF TARGETS FOR THE YEAR 2008/09
8.3.3.2 Increase Public Awareness	Information sessions and Advocacy workshops with stakeholders	Number of Information Sessions and Advocacy Workshops per annum	2 Advocacy workshops and six information sessions per province	<b>Achieved</b> 45 Advocacy workshops and 193 Information sessions per province conducted.
	Road shows on theme conducted	Number of road shows conducted per annum	2 road shows per province	<b>Achieved</b> 22 road shows were conducted throughout the country.
	Coordination of national Outreach events	Number of events co-ordinated	1 event per province	<b>Achieved</b> 6 events co-ordinated.
8.3.3.3 Manage Outreach Activities at National Office	National Office Work plans and Implementation	% completion of National Office Work plans and Implementation according to Plan	100% completion of National Office Work plans and Implementation according to Plan	<b>Achieved</b> National office work plans implemented according to plan.
8.3.3.4 Liaise with Civil Society Organisations to facilitate access	MOU's and Forums developed	Number of MOU's and Forums established	One Forum per Province	<b>Achieved</b> One forum per province developed.
	Database of CSOs	% of completion of database	1 complete and accurate database	<b>Achieved</b> Accurate database of CSO's completed.



STRATEGIC OBJECTIVE	OUTPUT	MEASURE	2008/9 TARGET	ACHIEVEMENT OF TARGETS FOR THE YEAR 2008/09
8.3.3.5 Develop Training and Process Manuals on Outreach	Outreach Facilitator Training manual	% of completion of manual	100% completion of manual	<b>Partially Achieved</b> Target not met due to budgetary constraints however, draft Outreach facilitator training manual submitted to EXCO for approval.
	Outreach Facilitators trained	Number of training session per annum	1 training session	<b>Not Achieved</b> Target not met due to capacity and budgetary constraints. Training deferred to the 2009/10 financial year.
	Guidelines on Outreach events and activities	% of completion of guidelines	100% completion	<b>Partially Achieved</b> Target not met due to capacity constraints however, Guidelines on Outreach Events and Activities submitted to EXCO for approval.
	Cooperation manual	% of completion of manual	100% completion	<b>Partially Achieved</b> Target not met due to capacity constraints. The Co-operation Manual is the codification of collaboration of the Outreach branch with other branches. Although the Co-operation Manual was not adopted, collaboration with other branches took place.



## 8.4 Programme 4: Corporate Support Services

### 8.4.1 Objective of the programme:

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

### 8.4.2 Outcome of the programme:

8.4.2.1 Improved service delivery.

### 8.4.3 Strategic objectives for the programme:

SUB-PROGRAMME: HUMAN RESOURCES MANAGEMENT AND DEVELOPMENT	RESPONSIBILITY
8.4.3.1 Ensure attraction, maintenance and retention of high quality staff for OPP.	Human Resources Manager
8.4.3.2 Continuous monitoring and evaluation of OPP Personnel Performance Management and Development System (PPMDS) to ensure an improved and sustained PPMDS).	
8.4.3.3 Training and development of staff according to OPP needs	
8.4.3.4 Implementation and monitoring of EWP for the OPP.	
8.4.3.5 Facilitate and monitor Employment equity and diversity	
8.4.3.6 Define the requirements for Human Resources Management Information System (HRMIS)	
8.4.3.7 To improve, monitor and advise on Labour Relations.	
SUB-PROGRAMME: FINANCE AND SUPPLY CHAIN MANAGEMENT	RESPONSIBILITY
8.4.4.1 To develop a costing model for investigations	Accounting Officer Chief Financial Officer Supply Chain Manager
8.4.4.2 Improve OPP financial management and reporting	
8.4.4.3 Ensure compliance of OPP with financial prescripts	
8.4.4.4 Develop and implement cost-effective procurement processes	
SUB-PROGRAMME: ADMINISTRATION SUPPORT	RESPONSIBILITY
8.4.5.1 To enable the optimum application and utilisation of resources	Accounting Officer Administration and facilitation Manager
8.4.5.2 To promote the effective and efficient functioning of the registry	
8.4.5.3 To establish and maintain suitable office accommodation	
SUB-PROGRAMME: KNOWLEDGE MANAGEMENT	RESPONSIBILITY
8.4.6.1 Create Knowledge Management Institution of the OPP	Manager: Knowledge Management

SUB-PROGRAMME: INFORMATION AND COMMUNICATIONS TECHNOLOGY	RESPONSIBILITY
8.4.7.1 Implement Master Systems Plan (MSP).	ICT Manager
8.4.7.2 Develop Master Systems Plan (MSP).	

**Sub – Programme: Human Resources Management And Development**

STRATEGIC OBJECTIVE	OUTPUT	MEASURE	2008/9 TARGET	ACHIEVEMENT OF TARGETS FOR THE YEAR 2008/09
8.4.2.1 Ensure Attraction, maintenance and retention of high quality staff for OPP.	Sourcing and Retention Strategy finalised/ approved and Implemented	% of Strategy implemented (Approved Strategy)	50% of Strategy implemented according to approved strategy.	<b>Achieved</b> Sourcing and Retention Strategy has been approved implemented.
	Approved HR Policy Staff Manual	% of HR Policy Manual completed	HR Policy Manual completed and implemented	<b>Achieved</b> HR Policy Manual and has been completed and implemented.
	Reward Incentive Scheme developed	% of Incentive Scheme Developed	Approved Reward Incentive Scheme Developed	<b>Achieved</b> Reward Incentive Scheme has been developed and approved.
	Career Progression Framework developed	% of Framework Developed	Approved Career Progression Framework Developed.	<b>Achieved</b> Career Progression Framework has been developed and approved.
	Organisational Design and Job Evaluation Report	% Report approved and implemented	50% implementation of approved Report	<b>Achieved</b> Organisational Design and Job Evaluation Report has been approved and implemented.

STRATEGIC OBJECTIVE	OUTPUT	MEASURE	2008/9 TARGET	ACHIEVEMENT OF TARGETS FOR THE YEAR 2008/09
8.4.3.2 Administration, co-ordination and continuous monitoring and evaluation of OPP PPMDS to ensure an improved and sustained PPMDS	An improved and sustained OPP Performance management system.	Moderation Committee and HR Report detailing issues that need to be dealt with in order to improve system	Review and Improve	<b>Achieved</b> PPMDS has been reviewed, improved and has been implemented.
	All OPP Staff Trained on Revised PPMDS	% of OPP staff trained	Review, update and training of all OPP staff	<b>Not Achieved</b> Target not met due to budgetary constraints and training deferred to the 2009/10 financial year.
8.4.3.3 Training and development of staff according to OPP needs	<ul style="list-style-type: none"> <li>Human Resources Development (HRD) Strategic Plan</li> <li>Skills Audit Report</li> <li>Workplace Skills Plan</li> <li>Training Plan</li> </ul>	<ul style="list-style-type: none"> <li>% HRD Strategic Plan development and implementation</li> <li>Submission of WSP by 30 June 2008</li> <li>% Training conducted per training plan</li> </ul>	<ul style="list-style-type: none"> <li>Implementation of the programmes according to the plan contained in the HRD Strategy</li> <li>Submission of WSP by 30 June 2008</li> <li>100% training according to the Training Plan</li> </ul>	<p><b>Achieved</b> Programmes contained in the HRD Strategy have been implemented. Achieved WSP was submitted to Department of Labour by 30 June 2008</p> <p><b>Not Achieved</b> Target not met due to budgetary constraints. Training deferred to 2009/10 financial year.</p>

STRATEGIC OBJECTIVE	OUTPUT	MEASURE	2008/9 TARGET	ACHIEVEMENT OF TARGETS FOR THE YEAR 2008/09
8.4.3.4 Implementation and monitoring of EWP for the OPP	<ul style="list-style-type: none"> <li>EWP and HIV AIDS policies developed and approved</li> <li>EWP and HIV AIDS programme implemented</li> </ul>	<ul style="list-style-type: none"> <li>% of policies developed</li> <li>% of programme implemented</li> </ul>	<ul style="list-style-type: none"> <li>100% of EWP and HIV policies implemented</li> <li>New EWP Service Provider appointed</li> </ul>	<p><b>Achieved</b> EWP and HIV / AIDS policies have been implemented. Achieved The new EWP Service Provider has been appointed.</p>
	Disease management programme developed and approved	% of Disease Management Programme developed	100% implementation according to Disease Management programme plan	<p><b>Achieved</b> Disease Management Programme Plan has been implemented.</p>
8.4.3.5 Facilitate and monitor employment equity and diversity	Approved Employment Equity Plan	% of Employment Equity plan implemented	100% of Employment Equity Plan Implemented	<p><b>Achieved</b> Employment Equity Plan has been implemented.</p>

STRATEGIC OBJECTIVE	OUTPUT	MEASURE	2008/9 TARGET	ACHIEVEMENT OF TARGETS FOR THE YEAR 2008/09
8.4.3.6 Define the requirements for Human Resources Management Information System (HRMIS)	Specifications for improved HRMIS developed (Employee Self Service, automated workflow, Crystal report Writer, New System)	% of Specifications developed	100% of Specifications developed	<b>Achieved</b> Specifications for HRMIS have been developed.
8.4.3.7 To improve, monitor and advise on Labour Relations	Approved Industrial Relations Policy  Managers and staff Trained on Labour Relations policies	% Industrial Relations Policy implemented  % of employees trained on Labour Relations policies	100% implementation according to Plan  100% of employees trained	<b>Achieved</b> Industrial Relations policy has been implemented. Not Achieved Target not met due to budgetary constraints. Labour Relations training deferred to the 2009/10 financial year.

**Sub – Programme: Finance And Supply Chain Management**

STRATEGIC OBJECTIVE	OUTPUT	MEASURE	2008/9 TARGET	ACHIEVEMENT OF TARGETS FOR THE YEAR 2008/09
8.4.4.1 To develop a costing model based on the Specifications from Investigations	Costing model	% of costing model developed and implemented	100% implementation as per costing model plan	<b>Not Achieved</b> Target not met due to budgetary constraints. However, research conducted indicated a need for the appointment of a cost accountant. This project is deferred to the 2009/10 financial year.
8.4.4.2 Improve financial management and reporting	Financial management policies developed and implemented	% of financial policies developed and implemented	100% implementation (training and accessibility of policy)	<b>Achieved</b> Financial management policies have been developed and implemented.
	Divisional budgets	% of divisional budget implemented	100% implementation as per Divisional Budget Plan	<b>Achieved</b> Divisional Budget Plan has been implemented.
8.4.4.3 Ensure compliance with financial prescripts	Unqualified audit reports	% compliance	100% compliance	<b>Achieved</b> Unqualified audit report obtained for the 2007/08 financial year.
8.4.4.4 Develop and implement cost-effective procurement policies and processes	Cost-effective procurement processes implemented	% implemented	100% implementation	<b>Achieved</b> Cost effective procurement processes have been implemented.
8.4.4.5 Compliance with Legislative requirements	Reporting on Compliance to Legislation	% Compliance	100% Compliance	<b>Achieved</b> Legislative requirements complied with.
	Training on Legislative requirements	% appropriate staff trained	100% appropriate staff trained	<b>Achieved</b> Appropriate staff trained.



**Sub – Programme: Administration Support**

STRATEGIC OBJECTIVE	OUTPUT	MEASURE	2008/9 TARGET	ACHIEVEMENT OF TARGETS FOR THE YEAR 2008/09
8.4.5.1 To enable the optimum application and utilization resources	Vehicle monitoring system	% implementation of vehicle monitoring system	Review and Improve	<b>Achieved</b> Vehicle monitoring system has been reviewed and improved.
8.4.5.2 To promote the effective and efficient functioning of the registry	Records management system that complies with National Archives Act and Guidelines	% implementation of Manual & electronic records management system	100% electronic Records management operational	<b>Partially Achieved</b> Target not met due to budgetary constraints and dependence on the provision of share point. However manual records management system is operational.



STRATEGIC OBJECTIVE	OUTPUT	MEASURE	2008/9 TARGET	ACHIEVEMENT OF TARGETS FOR THE YEAR 2008/09
8.4.5.3 To establish and maintain suitable office accommodation	Additional regional office established	Number of additional regional offices established	Limpopo Eastern Cape - Graaf Reinet	<b>Partially Achieved</b> Target not met as it was dependant on the assistance of the DPW in the identification of suitable premises. However, establishment of regional offices in the Eastern Cape (Mthatha), Free State (Qwaqwa) and KZN (Newcastle) is at an advanced stage and will be finalised in the 2009/10 financial year.
	Office relocated	Number of offices relocated	Kuruman	<b>Achieved</b> Kuruman office space increased and Rustenburg relocated.
	Establish Facilities management function	Facilities Management Plan	Develop and implement Facilities Management Strategy	<b>Not Achieved</b> Target not met due to capacity constraints.
8.4.5.4 Ensure compliance with Health and Safety regulations	Compliance with OHSA Develop Occupational Health & Safety Strategy and plan	% Compliance	Implementation of the Strategy according to the Strategy / Plan  100% compliance	<b>Not Achieved</b> Target not met due to capacity constraints. However, draft strategy completed and consultation with the DPW underway to ensure compliance with OHSA.



**Sub-Programme: Knowledge Management**

STRATEGIC OBJECTIVE	OUTPUTS	MEASURE	2008/9 TARGET	ACHIEVEMENT OF TARGETS FOR THE YEAR 2008/09
8.4.6.1 Create a knowledge management institution for the OPP	Knowledge and Research Manager appointed	Appointment of Knowledge and Research Manager	Appointment of Knowledge and Research Manager	<b>Achieved</b> Knowledge and Research Manager appointed.
	Knowledge audit conducted – Create a Grid (Matrix)	% of audit conducted	100% of audit conducted	<b>Achieved</b> Knowledge audit conducted.
	Knowledge management strategy developed and implemented	% of KM strategy developed and implemented	100% of strategy developed	<b>Achieved</b> KM strategy developed, approved and has been implemented.
	Research conducted	Continuous research	Continuous research performed	<b>Achieved</b> Continuous research performed.
	Precedent System implemented	% Precedent System developed and implemented	100% of Precedent System developed	<b>Not Achieved</b> Target not met as it was dependent on the finalisation of the case management system. However, OPP portal was developed and has been implemented.
	List of documents that are available for Public Access	Compliance with PAIA	100% Compliance	<b>Achieved</b> The Access to Information Manual has been compiled in compliance with PAIA.

**Sub-Programme: Information And Communications Technology**

STRATEGIC OBJECTIVE	OUTPUT	MEASURE	TARGET 2008/09	ACHIEVEMENT OF TARGETS FOR THE YEAR 2008/09
8.4.7.1 Implement Master Systems Plan (MSP).	Projects delivery Roadmap. An approved Master Systems Plan detailing projects that will be undertaken by the IT division to provide automated solutions for the effective operation of the OPP business.	Numbers of listed projects, delivery on time and within the allocated budget.	<ul style="list-style-type: none"> <li>• 100% implementation of the Complaint Management System.</li> <li>• Implementation of the Share Point technology.</li> <li>• Development of the Intranet.</li> <li>• 2 Rehearsals for the Disaster Recovery plan.</li> <li>• Feasibility Analysis and Assessment Report of the Human Resources and Finance Management and Procurement Integrated System.</li> <li>• Setup an IT Training Centre</li> <li>• Automation of Leave Application System</li> </ul>	<p><b>Achieved</b> The CMS development was completed notwithstanding teething challenges.</p> <p><b>Not Achieved</b> Target not met as it was dependent on the provision of share point and also due to budgetary constraints.</p> <p><b>Achieved</b> A backup and recovery plan was documented.</p> <p><b>Achieved</b> Feasibility analysis and assessment report completed but implementation will be deferred to the 2010/11 financial year due to budgetary constraints.</p>
			<ul style="list-style-type: none"> <li>• Creation of electronic database for Supply Chain management</li> <li>• Analysis of Feasibility of Video Conferencing</li> </ul>	<b>Achieved</b>

STRATEGIC OBJECTIVE	OUTPUT	MEASURE	TARGET 2008/09	ACHIEVEMENT OF TARGETS FOR THE YEAR 2008/09
8.4.7.2 Technical support to Staff	Incidents and problems Management system	<ul style="list-style-type: none"> <li>• Reduced downtime.</li> <li>• 48 hours turn-around time to resolve reported incidents and problems.</li> </ul>	<ul style="list-style-type: none"> <li>• Call Centre setup.</li> <li>• Automated Incidents and problems management system.</li> </ul>	<p><b>Achieved</b> Call centre has been setup.</p> <p><b>Achieved</b> Automated incidents and problems management system in place.</p>
8.4.7.3 Ensure Compliance to IT Governance	Access logs and log-sheets.	Reduced incidents of "logical" security violations.	Automated mechanism for Management to review users' access logs and log-sheets.	<p><b>Achieved</b> Access logs and log sheets in place.</p>

## 9. SPECIFIC INVESTIGATIONS

### 9.1 MINISTERS

#### 9.1.1 Minister of Public Service and Administration Report No 6 of 2008/09

##### Allegations of impropriety against Minister unfounded but Ministers must comply with Executive Ethics Code

9.1.1.1 OPP investigated a complaint regarding Ms G Fraser-Moleketi, former Minister of Public Service and Administration, in connection with an allegation of impropriety allegedly made against her by the former Chairperson of the Media, Advertising, Publishing, Printing and Packaging Sector Training Authority (MAPPP-Seta) relating to a gift that she received in August 2006.

9.1.1.2 It was alleged that the Chairperson of MAPPP-Seta informed the Director-General of the Department of Labour that the former Chief Executive Officer (CEO) of MAPPP-Seta presented Ms Fraser-Moleketi with an expensive gift, paid for by MAPPP-Seta, in return for the "favour" of Ms Fraser-Moleketi forwarding certain documents relating to fraud and corruption to the Minister of Labour.

9.1.1.3 From the investigation it appeared that Ms Fraser-Moleketi received documents relating to allegations of impropriety in connection with the affairs of MAPPP-Seta from the former CEO, whom she worked with previously, on 15 August 2006. On 24 August 2006, Ms Fraser-Moleketi received a birthday gift, valued at approximately R2 500 from MAPPP-Seta, authorised by the former CEO. She accepted the gift without obtaining permission of the President and disclosing it to the Secretary of the Cabinet at the time, as required by the Executive Ethics Code.

9.1.1.4 On 12 September 2006, Ms Fraser-Moleketi forwarded the documents that she received from the former CEO to the National Director of Public Prosecutions and the Minister of Labour.

9.1.1.5 The suggestion that Ms Fraser-Moleketi had to be prompted by means of a gift to merely refer documents relating to allegations of impropriety in connection with the affairs of a public entity to the responsible member of the Cabinet and to the prosecuting authorities, appeared to be nonsensical and without foundation.

9.1.1.6 The key findings made from the investigation are that the allegation that the Minister was presented with a gift by the former CEO in return for the "favour" of forwarding documents relating to allegations of impropriety in connection with the affairs of MAPPP-Seta, to the Minister of Labour, was unfounded. By accepting the gift without the permission of the President and only disclosing it to the Secretary of the Cabinet a year later,

Ms Fraser-Moleketi violated the provisions of paragraphs 4.2 and 6.3 of the Executive Ethics Code.

9.1.1.7 The Public Protector recommended that the President attends to the violation of the Executive Ethics Code by Ms Fraser-Moleketi in the appropriate manner. Further, the Secretary of Cabinet takes appropriate steps to ensure that Members of the Cabinet and Deputy Ministers are sensitised in respect of the provisions of the Code relating to gifts and the Minister of Labour ensures that the gift is appropriately disposed of.

## **9.2 MEMBERS OF EXECUTIVE COUNCIL (MECs)**

### **9.2.1 MEC for Health (Gauteng Provincial Government) Report No 3 of 2008/09**

#### **MEC cleared of any wrong doing**

9.2.1.1 OPP investigated a complaint lodged by a Member of the Gauteng Provincial Legislature in terms of the Executive Members' Ethics Act, 1998 against the Member responsible for Health of the Executive Council of the Gauteng Provincial Government (MEC), Mr B Hlongwa.

9.2.1.2 It was alleged that Mr Hlongwa violated the Executive Ethics Code by receiving remuneration for services rendered to a private company whilst he was serving as MEC.

9.2.1.3 From the investigation it was found that Mr Hlongwa received remuneration from the said private company for services that he rendered prior to his appointment as MEC. It was also found that he does not receive any remuneration for the services that he currently renders as the non-executive Chairman of the company.

9.2.1.4 The complaint of a breach of the Executive Ethics Code was therefore unfounded.

### **9.2.2 MEC for Education (Limpopo Provincial Department) Report No 33 of 2008/09**

#### **Allegations of impropriety against MEC and officials unfounded but department must comply with PFMA**

9.2.2.1 OPP investigated allegations of improper conduct made against the Member of the Executive Council (MEC) responsible for Education of the Limpopo Provincial Government and officials of the Limpopo Provincial Department of Education.

9.2.2.2 The anonymous complaint alleged that Dr P A Motsoaledi, the MEC, had abused his powers and breached the trust commanded by his office, in that he favoured certain suppliers of school furniture and mobile classrooms that were contracted at his request to supply goods to the Department. The allegations stated that the said suppliers were friends of the MEC and that he received an expensive gift in the form of a car from one of them.

9.2.2.3 The investigation revealed that the department does not have a procurement policy in place, as is required by the PFMA.

9.2.2.4 It was found that the allegations of improper conduct made against the MEC and officials of the department are unfounded and the failure of the department to develop and implement an effective and efficient supply chain management system, as required by the PFMA is a matter of grave concern.

9.2.2.5 The Public Protector recommended that the Head of the Department complies with section 38(1) (a) (iii) of the PFMA by ensuring that the department develops and maintains an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective.

### **9.2.3. Department of Social Development (Gauteng) Report No 32 of 2008/09**

#### **Department innocent of alleged party political propaganda**

9.2.3.1 OPP investigated a complaint lodged by a Member of Parliament, in connection with an advertisement placed in a newspaper by the Gauteng Department of Social Development (the Department). The advertisement contained an edited version of the 2008 Budget Vote Speech of the Member responsible for Social Development of the Provincial Executive Committee (MEC), presented to the Gauteng Provincial Legislature.

9.2.3.2. It was alleged that a reference to the African National Congress (ANC) in the said speech, as published in the advertisement, was improper and unlawful as it amounted to party political propaganda paid for by public funds.

9.2.3.3 It was found that:

9.2.3.3.1 The Department is constitutionally obliged to inform the public that it serves, of the performance of its functions and how the public funds allocated to it would be spent;



9.2.3.3.2 The expenditure incurred in placing the advertisement in question in a newspaper to inform the public of the contents of the MEC's speech, cannot be regarded as unauthorised or irregular;

9.2.3.3.3 It is not unusual or improper for political heads of departments to refer to their perceptions of the achievements of the political party that they represent, when they address legislatures on matters of public interest;

9.2.3.3.4 The expenditure incurred could only be regarded as fruitless and wasteful in terms of the PFMA, 1999, if it could be found that it was made in vain and could have been avoided had reasonable care been taken;

9.2.3.3.5 The main context of the speech, as advertised, was to inform the public of the achievements, programmes and plans of the Department;

9.2.3.3.6 The two references to the ANC in the advertisement did not impact on the purpose of the speech, as the reasonable overall impression of the ordinary reader would be of information relating to the operations and core business of the Department, rather than of political propaganda;

9.2.3.3.7 The expenditure incurred in respect of the advertisement was not made in vain and cannot be regarded as fruitless and wasteful; and

9.2.3.3.8 The allegation of misappropriation of public funds by the Gauteng Department of Social Development was unfounded.

## 9.3 NATIONAL DEPARTMENTS

### 9.3.1 Department of Health Report No 7 of 2008/09

#### *Allegations of unauthorised, fruitless expenditure found to be without substance*

9.3.1.1 OPP investigated a complaint lodged by a Member of Parliament in connection with advertisements placed by the Department of Health in several newspapers, in September 2007. The advert related to the judgment of the High Court in an application brought by the Minister of Health against the Sunday Times. The application related to certain provisions of the National Health Act, 2003 in respect of the medical records of the Minister, which were in the unauthorised possession of the Sunday Times.

9.2.1.2. It was alleged that the placing of the said advertisements could be considered to be unauthorised or fruitless and wasteful expenditure in terms of the provisions of the Public Finance Management Act, 1999 (PFMA).

9.3.1.3 From the investigation it was found that the administration of the National Health Act, 2003 forms part of the core business of the Department of Health and it therefore had the responsibility to inform the public of any incident that might have a significant impact on their rights and the other matters regulated by the Act. The Director-General of the Department was of the view that part of the interpretation afforded to the relevant sections of the Act by the Court, could be questioned and that the public should be informed accordingly. The purpose that the Department sought to achieve with the placing of the advertisements was within the authority of the Director-General to approve and his decision was rationally related to the core business of the Department.

9.3.1.4 The complaint of misappropriation of public funds by the Department was therefore held to be without substance.

9.3.1.5 During the investigation it was noted, with concern, that the contents of one of the advertisements were severely critical of the judgment of the High Court. In the Constitutional Court decision relating to the crime of contempt of court in the current constitutional dispensation, it can be concluded that:

9.3.1.5.1 Organs of state, have a constitutional obligation to protect the courts to ensure its effectiveness and to uphold its dignity;

9.3.1.5.2 Any conduct by an official of the State that is offensive and likely to damage the administration of justice is therefore unlawful;

9.3.1.5.3 Such conduct could be found to constitute the common law crime of contempt of court, which is punishable by law; and

9.3.1.5.4 The publication of statements accusing a Judge of having delivered a judgment that poses a threat to the rule of law and referring to his reasoning as being incoherent and contradictory, might be regarded as having the potential to negatively impact on the reputation of the Court and the Judge concerned. It may also affect public confidence in the compliance of our courts with its constitutional imperatives relating to the administration of justice. It is however, a matter that should be attended to by the authority charged with prosecutions.

9.3.1.5.6 The Public Protector therefore notified the Acting National Director of Public Prosecutions that the facts of the matter referred to in this report may disclose the commission of the offence of contempt of court.

### **9.3.2 Department of Housing Report No 42 of 2008/09**

#### **Pensioner's housing subsidy approved after OPP intervention**

9.3.2.1 A complaint was received from a 70 year-old pensioner (the Complainant) alleging that she had applied for a RDP house in August 1996 in Mamelodi and ten years later her application had not been approved. However, the applications of others who had allegedly applied at the same time as herself had been approved and they had been allocated houses.

9.3.2.2 It was found that the Complainant's application was never attended to and her subsidy was approved after the Department received a letter from the OPP.

9.3.2.3 It was recommended that the Head of the Department, as well as the General Manager for Housing, City of Tshwane, should take steps to ensure that officials of the Department and of the City of Tshwane provide reasons for unsuccessful applications. In addition, they should apologise in writing to the Complainant for the discourteous manner in which she was treated.

### **9.3.3 Department of Justice and Constitutional Development Report No 39 of 2008/09**

#### **Clerk of court's conduct was unprofessional and grossly improper**

9.3.3.1 The Complainant alleged, during October 2006, that the Cullinan Magistrates' court had ordered him to pay a monthly amount of R200 in respect of maintenance arrears amounting to R3 250, commencing 31 December 2006. He further alleged that the clerk of the Cullinan Magistrates' court unlawfully altered the amount to R300 per month and a balance of R8 250 in respect of arrears.

9.3.3.2 The Public Protector found that the conduct of improperly altering the court order was highly unprofessional and grossly improper and the referral of the matter to the police was appropriate. Furthermore the failure or delay by the Office Manager of the Cullinan Magistrates' Court to ensure that the matter was brought to the attention of the Department of Education and the correct court order forwarded, constituted an omission and caused prejudice to the Complainant and was therefore improper.

9.3.3.3 The Public Protector recommended that the Office Manager should urgently ensure that the matter is referred to the Magistrate to issue a corrected order and the amended order

is sent to the Gauteng Department of Education. Further the Office Manager should take urgent steps to ensure that reconciliation is done in order to establish whether any overpayment occurred and appropriate action be taken to address the irregularity.

#### **9.3.4 South African National Defence Force Report No 40 of 2008/09**

##### **Complainant should be reimbursed for improper deduction from his pension benefits**

9.3.4.1 The Complainant alleged that an improper deduction was made from his pension benefits by the South African National Defence Force (the Defence Force). He was sentenced to be discharged in terms of a Military Court order issued on 3 April 2002 and appealed against his conviction and discharge.

9.3.4.2 The Complainant was instructed by the Human Resource Department of the Defence Force to report for duty until the outcome of the appeal/review procedure was known. The appeal was heard by the Court of Military Appeals on 15 July 2005 and he was informed on 13 September 2005, whilst he was on sick leave, that his dismissal was confirmed by the Court of Military Appeals. In December 2006, the Complainant was informed by letter that due to a salary overpayment, his pension and other benefits were paid to the Defence Force and a further amount still owed.

9.3.4.3 It was found that the pension benefits of the Complainant were incorrectly claimed from the Government Employees Pension Fund (GEPF) by the Defence Force as the alleged salary overpayment did not occur, thereby causing him to suffer improper prejudice.

9.3.4.4 The Public Protector recommended that the Secretary for Defence take steps to ensure that a revised withdrawal form be submitted to GEPF. Further, the Complainant should be repaid the amount received from GEPF and any leave or other gratuity benefits that he is entitled to include interest as prescribed by the Prescribed Rate of Interest Act.

#### **9.3.5 South African Police Services Report No 29 of 2008/09**

##### **Police informer should get his reward as promised**

9.3.5.1 OPP investigated a complaint against the South African Police Service (SAPS) relating to the payment of a reward. The Complainant alleged that SAPS failed to pay him a R75 000 reward, which was offered to him for successfully assisting SAPS and the National

Prosecuting Authority (NPA) in securing arrest and convictions. The said R75 000 was allegedly paid to SAPS by Khulani Security, even though the offer was made by SAPS on their behalf.

9.3.5.2 It was found that the Complainant's allegations were justified and the reward should be paid.

9.3.5.3 It was therefore recommended that SAPS should desist from renegeing in its undertaking as this conduct brings its image into disrepute.

## 9.4 PROVINCIAL DEPARTMENTS

### 9.4.1 Premier of the Free State Report No 5 of 2008/09

**Public Protector found that Premier failed to comply with Free State Youth Commission Act provisions**

9.4.1.1 The Public Protector investigated allegations of non-compliance by the Premier of the Free State Provincial Government in the appointment of the Caretaker Commissioner with the provisions of the Free State Youth Commission Act, 1996. A Report was submitted to the Free State Provincial Legislature on 20 June 2006 where it was found, inter alia, that the decisions of the Premier to appoint a "caretaker Commissioner" for and the new members of the Free State Youth Commission were invalid and therefore improper.

9.4.1.2 In this regard, the Public Protector recommended that the Premier should obtain legal advice regarding the appropriate legal remedy to rectify the invalidity of her decision to appoint the new members of the Youth Commission.

9.4.1.3 The Premier's legal counsel advised her of their view that the interpretation of the relevant provisions of the Free State Youth Commission Act, 1996, as relied upon in the Youth Commission Report, was incorrect.

She was further advised to resolve the difference of opinion in respect of her appointment of the Youth Commissioners by interacting with the Public Protector, the Speaker of the Legislature, the Committee concerned, the Youth Commission and the Executive Council.

9.4.1.4 In the event of a common understanding on the matter not being reached, the Premier was advised to consider seeking a declaratory order from the High Court.

9.4.1.5 After having been informed that the Public Protector stands by the findings and recommendations contained in the Youth Commission Report, the Premier decided not to take any further steps. The impact of the decision of the Premier is that neither the said recommendation of the Public Protector, nor the legal advice given to her in relation thereto, has been properly implemented.

9.4.1.6 The Premier is accountable to the Legislature for the implementation of the recommendations made in the Youth Commission Report and the advice provided to her by her legal advisors, at state expense.

9.4.1.7 As the Commissioners of the Youth Commission have been in office for more than 2 years, it would probably not be in the interest of the Commission and the public that it serves, to approach a court of law in regard to the difference of opinion between the Premier and the Public Protector at this stage, as it might lead to their appointments being declared invalid on the basis of procedural deficiency. It would also lead to substantial legal costs, which will have to be paid from much needed public funds.

9.4.1.8 The Public Protector recommended that the Free State Provincial Legislature:

9.4.1.8.1 Consider ratifying the appointment of the Youth Commissioners referred to in the Youth Commission Report for as far as it did not comply with the provisions of the Free State Youth Commission Act, 1996; alternatively;

9.4.1.8.2 Ensure that the relevant recommendations made in the Youth Commission Report or the legal advice provided to the Premier in relation thereto, are properly implemented;

#### **9.4.2 Public Transport, Roads and Works (Gauteng) Report No 15 of 2008/09**

##### **Learner driver finally gets her driver's licence**

9.4.2.1 The complainant alleged that her learner driver's licence expired on 20 May 2007, which was a Sunday. She approached the Randburg Licensing Centre and obtained an appointment for Monday 21 May 2007 to undergo her driver's licence test, which she duly passed. However, when she applied for her temporary driver's licence she was informed that she was not entitled to the license as her learner's licence had expired the day before she took the test.

9.4.2.2. The National Road Traffic Act, 1996 and Road Traffic Regulations were perused and no prescripts on the calculations of time-limits could be found. The general rule in the interpretation of statutes is that the *dies ad quem* (day of conclusion) is to be taken into account

and not the *dies a quo* (day of commencement). Where the *dies ad quem* is a Saturday, a Sunday or a public holiday the time limit is extended to include the first working day thereafter. Her learner driver's licence therefore only expired on Monday 21 May 2007, and her driving test on that day was found to have been valid.

9.4.2.3 Subsequent to the OPP's intervention in the matter, the Complainant was issued with a temporary driver's licence and her application for a permanent driver's licence was accepted.

#### **9.4.3 Department of Education (KZN) Report No 18 of 2008/09**

##### **Department must pay salary arrears including interest to former employee**

9.4.3.1 OPP investigated to allegations of undue delay by the KwaZulu-Natal Provincial Department of Education (the Department) in the payment of salary arrears to a former employee, (the Complainant). Allegations of 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 were also investigated.

9.4.3.2 It was found that both the Office of the MEC and the Department were responsible for the delay in processing the payment of salary arrears of the Complainant. The Complainant was prejudiced by the delay in attending to the matter and was entitled to interest on the salary arrears paid to her.

9.4.3.3 The Public Protector recommended that the Department, pay interest on the amount within a period of three months from the date of this report.

#### **9.4.4 Department of Local Government and Housing (Mpumalanga) Report No 25 of 2008/09**

##### **Department prioritises reconstruction of complainant's RDP house after OPP intervention**

9.4.4.1 OPP investigated a complaint against the Mpumalanga Provincial Department of Local Government and Housing (the Department) regarding the alleged failure by the Department to complete her RDP house.

9.4.4.2 The investigation revealed that the Complainant's house was partially built in 2002 and abandoned unfinished at window level. The structure was unstable.



9.4.4.3 During the investigation of this and other complaints of the same nature, it was found that the problem with low cost housing projects abandoned by developers before completion was prevalent in the Mpumalanga Province. The Department reported that measures were taken to prevent recurrence of similar incidents.

9.4.4.4. The intervention by the OPP resulted in the Department prioritising the reconstruction of the Complainant's house. However, a systemic investigation is being conducted to establish the extent of the problem and whether there are systemic deficiencies in the Department's procedures regarding the provision of low cost housing.

#### **9.4.5 Department of Local Government and Housing (Limpopo) Report No 28 of 2008/09**

##### **Department should build RDP houses for Lebowakgomo residents**

9.4.5.1 OPP investigated a complaint by Councilor F J Letwaba, acting on behalf of the residents of Units R and S Lebowakgomo (the Complainants), in connection with their applications for Reconstruction and Development Programme (RDP) housing subsidies.

9.4.5.2 The Complainants applied for housing subsidies during 1996 to 2006. Their applications were approved by the Department of Local Government and Housing (the Department) at amounts ranging between R9 500 and R16 000. The subsidy programme under which the applications were approved was called Project Linked Subsidy.

9.4.5.3 The Department allegedly failed to build the houses or to supply building material to the Complainants so that they could build their houses.

9.4.5.4 It was found that:

9.4.5.4.1 The Complainants' applications for housing subsidies were approved from 1997 to 2006 in the subsidy programme called Project Linked Subsidy and the project was allocated to a company called COMDEV, which failed to build houses or provide building material to Complainants;

9.4.5.4.2 Some houses were partially built and only half the building material was delivered to some beneficiaries;

9.4.5.4.3 Some Complainants decided to put up shelters at their own expense, whereas others completed the partially built houses using their own resources;





9.4.5.4.4 Some of the Complainants' houses are still incomplete or not built at all; and

9.4.5.4.5 One complainant is now employed and has built a house.

9.4.5.5 The Public Protector recommended that the Department should:

9.4.5.5.1 Build houses for all beneficiaries of Unit Rand S in Lebowakgomo whose applications were approved on or before 2006;

9.4.5.5.2 Complete the houses which were abandoned;

9.4.5.5.3 Supply building material to all approved beneficiaries;

9.4.5.5.4 Assist the Complainants in the completion of partially built houses;

9.4.5.5.5 Use the current applicable subsidy amounts to assist Complainants; and

9.4.5.5.6 Compensate Complainants who were approved as beneficiaries but have built their houses without the assistance of the department.

## 9.5 Other Organs of State

### 9.5.1 Office of the Compensation Commissioner Report No 1 of 2008/09

#### Compensation Commissioner should accept claimants' affidavits

9.5.1.1 Prof J C A Davies (the Complainant) approached OPP alleging that the Compensation Commissioner for Occupational Diseases at the Department of Health (the Compensation Commissioner) improperly insisted on documentary proof of service in the mines, notwithstanding many claimants were unable to furnish said documentary proof.

9.5.1.2 The Complainant believed that the Compensation Commissioner's insistence on documentary proof of service was not legally tenable, in light of the fact that in civil matters, the onus rested upon a claimant to prove his/her claim on a balance of probabilities.

9.5.1.3 It was found that the Compensation Commissioner is entitled to stipulate the type of information and documents required in order to consider an application for benefits based on the discretion afforded in terms of section 78(2) of the Mines and Works Act. However, the Complainant's argument was found to be valid and the Compensation Commissioner's

insistence on documentary proof of service in the mines is improper where this information is unavailable.

9.5.1.4 The Public Protector recommended that the Compensation Commissioner should accept the claimants' affidavits/affirmations together with corroborating affidavits/ affirmations from other sources, to include corroborating affidavits/affirmations from previous co-workers, shift supervisors or mine managers, mine doctors, other doctors and hospitals who examined or treated claimants for occupational diseases and respected members of the community.

9.5.1.5 Further, the Department of Health should establish an Adjudicating Panel to resolve disputes regarding claims for benefits (including any outstanding claims) where no mining service histories are available. Alternatively the Department should utilise the Advisory Committee established in terms of section 59 of the Mines and Works Act.

## **9.5.2 Government Employee Pension Fund Report No 45 of 2008/09**

### **Complainant improperly prejudiced by GEPF decisions**

9.5.2.1 The Complainant alleged that GEPF stopped paying her spouse' pension after they received a competing claim for payment. GEPF's investigations into the matter revealed that the Complainant's late husband had been married twice by way of civil rites to different spouses, on 24 May 1968 and 10 February 1989 respectively. They could not find proof that the first spouse was divorced from the Deceased. The marriage was therefore regarded as valid and GEPF was therefore unable to accede to the Complainant's request to have her spouse's pension reinstated.

9.5.2.2 OPP found that the Complainant was legally married to the Deceased after the parties entered into a civil marriage on 10 February 1989. At the time of the Deceased's marriage to the Complainant, he was divorced from his first wife.

9.5.2.3 The Complainant was improperly prejudiced by the decision taken by GEPF to suspend and subsequently stop payment of the spouse's pension in favour of the first wife without giving the Complainant prior notice. This action was unfair and did not comply with the constitutional imperative of just administrative action.

9.5.2.4 The Public Protector recommended the following:

9.5.2.4.1 GEPF should ensure that in future, it conducts extensive investigations relating to the payment of pension benefits, including the spouse's pension, with due care and diligence, in order to ensure that correct beneficiaries receive payment and in order to prevent the GEPF from sustaining losses arising as a result of incorrect payments;

9.5.2.4.2 GEPF should obtain legal opinion on the means of recovering the payments that were made to the first wife;

9.5.2.4.3 GEPF should in future ensure that it complies with the provisions of the Promotion of Administrative Justice Act, 2000, by allowing members, pensioners and beneficiaries to make representations before taking adverse decisions against them;

9.5.2.4.4 GEPF should amend the Government Employees Pension Law and the Rules to provide for the granting of a right of appeal or review to aggrieved persons when adverse decisions are taken regarding the payment of benefits; and

9.5.2.4.5 GEPF should amend Rule 14.6.2 to make provision for the procedure and method of payments in customary and certain religious marriages.

### **9.5.3 South African Social Security Agency Report No 22 of 2008/09**

#### **Pensioner's grant reinstated, two-year arrears also paid**

9.5.3.1 OPP was alerted by a neighbour of the Beneficiary that the pensioner's old age grant was terminated by the South African Social Security Agency (SASSA) for over two years without any explanation. He further indicated that the Beneficiary and his family were suffering as there was no other means of income to sustain them.

9.5.3.2 OPP investigated the matter and found that the Beneficiary's old age grant was suspended because he was said to be sharing his identity number with a certain Mthimunye of Gauteng Province. The Beneficiary was not informed of the suspension of his social security grant.

9.5.3.3 It was further found that there was no basis for the suspension of the beneficiary's grant, and therefore the conduct by SASSA was irregular. It took SASSA more than two years to reinstate the grant, and no alternative means of subsistence was put in place to sustain the Beneficiary and his family while the grant was suspended.

9.5.3.4 The Beneficiary's grant was reinstated in March 2008 after the intervention by OPP and he received arrear payment.

9.5.3.5 As a result of the above findings, the following recommendations were made:

9.5.3.5.1 In future SASSA should inform all recipients of social security grants of the suspension of such grants and the reasons for such adverse administrative action;

9.5.3.5.2 When a grant is suspended, SASSA should arrange with the Limpopo Department of Health and Social Development to provide the recipient with food parcels in order to sustain his/her while it resolves the problem that led to the suspension of the grant;

9.5.3.5.3 SASSA should devise means to finalise its investigations within three months after the suspension of a grant; and

9.5.3.5.4 SASSA should pay interest on the arrear amount, using applicable rates.

#### **9.5.4 South African Social Security Agency Report No 23 of 2008/09**

##### **SASSA failed to act against grant-abusing foster parent**

9.5.4.1 OPP investigated a complaint that the South African Social Security Agency (SASSA) in Limpopo failed to take the necessary steps to address the plight of minor children, whose foster parent, was misusing their foster child grants.

9.5.4.2 It was found that the foster parent of the minor children was misusing their foster care grant and SASSA was aware of the abuse of the grant, as is contained in its report and failed to act against the foster parent for more than a year after its investigation into the matter was completed.

9.5.4.3 It was recommended that SASSA take urgent steps to address the plight of the minor children occasioned by the abuse of the foster care grant by their foster parent.

## 9.5.4 LOCAL GOVERNMENT

### 9.6.1 Kungwini Local Municipality Report No 12 of 2008/09

#### Municipality donation to ANC Parliamentary Constituency Office improper and unlawful

9.6.1.1 OPP investigated a complaint lodged by a Member of Parliament relating to a donation of funds made by the Kungwini Local Municipality (the Municipality) in May 2006 for the launching by the African National Congress (ANC) of a Parliamentary Constituency Office (PCO). It was not disputed that the donation was requested from the Municipality by a Member of Parliament, was approved by the Executive Mayor and Acting Municipal Manager of the Municipality, that it amounted to R25 856, which was paid into the bank account of the ANC Parliamentary Constituency Office.

9.6.1.2 From the evidence, applicable legislation and legal prescripts considered during the investigation it appeared that:

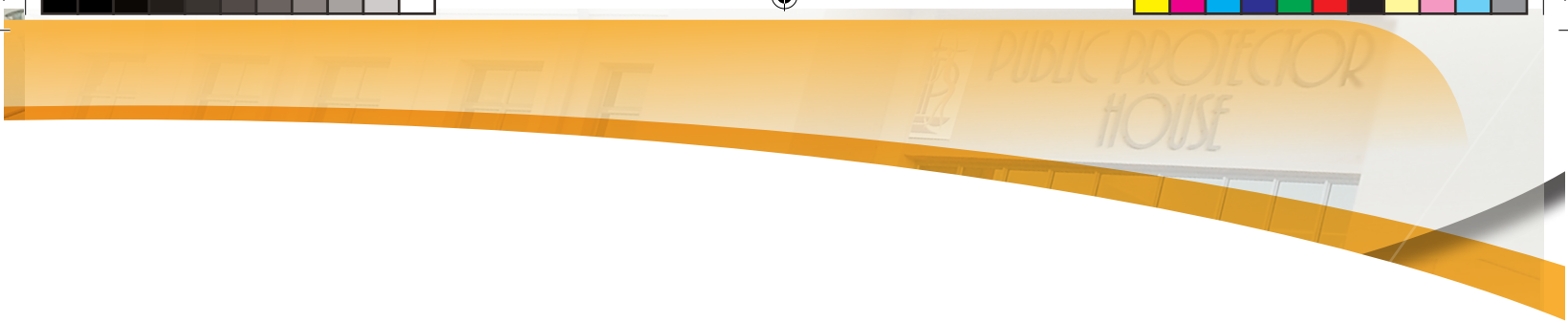
9.6.1.2.1 Parliamentary Constituency Offices are established by political parties with the assistance of funds allocated to them by Parliament;

9.6.1.2.2 The location, structure, functions and operations of a PCO are determined only by the political party involved;

9.6.1.2.3 Political parties are accountable to the Electoral Commission and Parliament for the expenditure of funds allocated to enable them to perform their political functions effectively;

9.6.1.2.4 A PCO is a political party structure. Even though it might be performing a public function to a certain extent, it does not do so in terms of "any legislation" but in terms of the decisions, policies and prescripts of the political party by which it was established. Constituency offices are therefore not organs of state or part of any sphere of government. The fact that Parliament provides financial assistance for the establishment of PCO's does not change its character and status to that of being a political structure;

9.6.1.2.5 The mere fact that members of a community can approach a PCO for assistance relating to service delivery issues, does not change its status from being a structure established by a political party and not by Parliament;



9.6.1.2.6 A PCO therefore, cannot be regarded as an extension of Parliament;

9.6.1.2.7 There is no obligation on any sphere of government or any organ of state, except the National Assembly, to assist political parties in the establishment and maintaining of PCO's;

9.6.1.2.8 The establishment and launching of a PCO is not a matter that falls within the objectives of local government. The fact that some of the objectives of a PCO, in terms of the monitoring of public service delivery, might overlap with that of a municipality, does not change the position;

9.6.1.2.9 Neither the Constitution nor the Municipal Finance Management Act permits a municipality to donate public funds to political parties for any purpose. Such a donation would therefore constitute irregular expenditure;

9.6.1.2.10 It would also amount to fruitless and wasteful expenditure as it was made in vain and could have been avoided if the municipal manager properly applied his/her mind to the matter;

9.6.1.2.11 The fact that the Mayor has approved certain expenditure does not oblige the accounting officer to approve it as well. He/she has to apply his/her mind to the matter concerned and take an informed decision as to whether the expenditure complies with the law. Should a request by a Mayor for expenditure not comply, the accounting officer is obliged to advise him/her accordingly;

9.6.1.2.12 It is expected of a Mayor to act in the best interests of the municipality and to ensure that its integrity and reputation is maintained;

9.6.1.2.13 A decision to donate public funds to a political party, apart from being unlawful, creates a perception of bias and political favouritism on the part of the municipality. It also disadvantages other political parties that have to cope with the allowances allocated to them by Parliament;

9.6.1.2.14 A Mayor and a municipal manager, who are responsible for irregular, unauthorised and fruitless and wasteful expenditure, have to be held liable for the expense. Disciplinary steps could also be taken against them; and

9.6.1.2.15 It is expected of Members of Parliament to act and to be seen to be acting responsibly in respect of the expenditure of public money. Members are also expected to comply with the laws regulating the management of public funds and to set an example for others to follow in this regard. Failure to do so would be improper and inconsistent



with the responsibilities and integrity of a Member of Parliament.

9.6.1.3 The following key findings were made from the investigation:

9.6.1.3.1 The request by Mr Sibanyoni MP to the Executive Mayor of the Municipality for the donation of public funds for the launching of a PCO was improper;

9.6.1.3.2 The donation by the Municipality on 22 May 2006 of R25 856 to the ANC Parliamentary Constituency Office was improper and unlawful.

9.6.1.3.3 It resulted in irregular and fruitless and wasteful expenditure, and could be regarded as financial misconduct by the then Accounting Officer, Mr Matjila, in terms of the Municipal Finance Management Act; and

9.6.1.4 The Public Protector recommended that:

9.6.1.4.1 The Speaker of the National Assembly take the appropriate steps to deal with the improper conduct of Mr Sibanyoni, and ensure that it is brought to the attention of all Members of Parliament that no reliance can be placed on public funds, other than that allocated by Parliament, for the establishment, launching and maintaining of Parliamentary Constituency Offices.

9.6.1.4.2 The Municipal Council of the Kungwini Local Municipality establish a special committee to investigate and report to the Council on:

- a. The accountability of Mr Maila (the Executive Mayor) and Mr Matjila (the Acting Municipal Manager at the time when the donation was approved) for the irregular and fruitless and wasteful expenditure of the amount of R25 856, referred to in this report and the taking of disciplinary steps in relation to the said expenditure against Mr Matjila;
- b. Whether the approval of the donation by Mr Maila constituted a breach of the Code of Conduct for Councilors, and if so, what steps should be taken against him; and
- c. The recovery by the Municipality of the amount of R25 856 in terms of the Municipal Finance Management Act.

9.6.1.4.3 The Municipal Manager :

- a. Inform the Member responsible for Local Government of the Gauteng Provincial Government and the Auditor General of the irregular and fruitless and wasteful

expenditure the investigation that will be conducted and the steps that will be taken to recover the amount concerned; and

- b. Take steps to ensure that the documentation recording the authorisation of the donation is properly filed in the financial records of the Municipality.

#### **9.6.2 Thaba Chweu Municipality Report No 21 of 2008/09**

##### **'Improper' levying of municipal rates unfounded**

9.6.2.1 OPP investigated an allegation of improper levying of rates by the Thaba Chweu Municipality (the Municipality) in the Mpumalanga Province. The Complainant objected to the rates levied as he was of the view that they were excessive.

9.6.2.2 From the investigation it was found that the allegation of improper levying of rates by the Municipality for the Sabie Area during the 2004/05 financial year was unfounded.

9.6.2.3 It was recommended that the Municipal Manager take urgent steps to ensure that:

9.6.2.3.1 The Chief Financial Officer and the staff of the Municipality dealing with rates and taxes are trained on the provisions of the Ordinance and matters incidental to the calculation of rates and taxes to avoid misinterpretations and misunderstandings in the future;

9.6.2.3.2 Notices issued by the Municipality relating to rates are properly studied and edited before they are published; and

9.6.2.3.3 Copies of all the notices issued by the Municipality are properly filed and indexed.



#### **9.6.3 Makhado Municipality Report No 24 of 2008/09**

##### **Zimbabwean national finally laid to rest**

9.6.3.1 OPP received a complaint from the owner of LTT Funeral Supplies (the Complainant), against Makhado Municipality (the Municipality).

9.6.3.2 The complaint was that the Municipality refused the complainant permission to conduct a pauper's burial for a Zimbabwean national who passed away in the area during February 2007.





9.6.3.3 The Municipality, contended that allowing such a burial would be contrary to their policy, which stipulated that such services could only be accorded to deceased persons whose families or next of kin could not be traced. It argued that although the deceased was a foreign national, his family could be traced to Zimbabwe, and it was alleged that they could not collect the corpse due to financial constraints.

9.6.3.4 The OPP decided to bring the two parties together in order to facilitate a mutually acceptable settlement.

9.6.3.5 A meeting was held with the parties, and it was agreed that once the SAPS could confirm that the deceased family or the next of kin could not be traced, the Municipality would reconsider the Complainant's application.

9.6.3.6 The OPP also facilitated the submission of a statement by the SAPS confirming that they tried to trace the family of the deceased in Zimbabwe without success.

9.6.3.7 Upon receipt of the statement from the SAPS, the Municipality approved the Complainant's application, and the deceased was buried on 08 February 2008.

## 10. SYSTEMIC AND OWN INITIATIVE INVESTIGATIONS

### 10.1 OWN INITIATIVE INVESTIGATIONS

#### 10.1.1 Eskom

##### Report No 30 of 2008/09

#### Conflict of interest in awarding Eskom tender

10.1.1.1 OPP conducted an own initiative investigation into an allegation made by a newspaper of improper conduct by the former Chairperson of the Eskom Holdings Limited (Eskom) Board of Directors, relating to the awarding of a contract.

10.1.1.2 It was alleged that a contract for the construction of boiler works for a new coal fired power station to be built in the Lephalale area, known as the Medupi Power Station, was awarded by Eskom to a company in which the African National Congress (ANC) has an interest. At the time of awarding of the contract, Mr Moosa was the Chairperson of the Eskom Board of Directors, and as a member of the National Executive Committee of the ANC, therefore, it was alleged there was a conflict of interest.

10.1.1.3 Ms H Zille of the Democratic Alliance also lodged a complaint, based solely on a newspaper report, in connection with the said matter. She further requested an investigation of several other allegations relating to private business dealings and the affairs of the ANC.

10.1.1.4 Eskom is a public entity that falls under the jurisdiction of the Public Protector. Since, the Public Protector does not have the powers to investigate the affairs and relationships of private entities, such as political parties, private institutions and businesses, the other allegations referred to by Ms Zille could not be investigated.

10.1.1.5 From the investigation it was found that:

10.1.1.5.1 There was a conflict between the personal interest of Mr Moosa in the ANC and his duty towards Eskom at the time when the Board resolved to award the Medupi Boiler Contract to the Hitachi Consortium, in which the ANC has an interest;

10.1.1.5.2 Mr Moosa failed to manage his said conflict of interests in compliance with the Conflict of Interest Policy of Eskom and therefore acted improperly;

10.1.1.5.3 The contract that was awarded to the Hitachi Consortium was not in any way affected by Mr Moosa's improper conduct;

10.1.1.5.4 The awarding of the contract by Eskom to an entity in which the ruling party has an interest was not unlawful; and

10.1.1.5.5 It is desirable that the conducting of business between government institutions or public entities and political parties should be regulated by legislation.

10.1.1.6 The Public Protector recommended that:

10.1.1.6.1 Eskom's Company Secretary take urgent steps to ensure that all the members of the Board of Directors are provided with a copy of Eskom's Conflict of Interest Policy and the Guidelines for Directors, and are briefed on its application and on the law applicable to conflict of interests; and

10.1.1.6.2 The Minister of Public Enterprises consider developing legislation for submission to Parliament to regulate the conducting of business between government entities and political parties.

#### **10.1.2 Department of Social Development & KZN Provincial Department of Social Services and Population Development Report No 4 of 2008/09**

##### **Dispute over re-advertising of tender for distribution of food parcels did not cause 'hardship to thousands of people'**

10.1.2.1 OPP conducted an own initiative investigation into an allegation published by a newspaper that a dispute between the national Department of Social Development and the KwaZulu-Natal Provincial Department of Social Services and Population Development in connection with the re-advertising of a tender for the distribution of food parcels, was causing further hardship to thousands of impoverished people in KwaZulu-Natal.

10.1.2.2 From the investigation it appeared that the decision of the Department of Social Development to award the said tender was set aside by the High Court and re-advertising of the tender was ordered.

10.1.2.3 The court application and subsequent appeal by the Department caused substantial delay in the delivery of much needed assistance to a large group of impoverished people in the KwaZulu-Natal province.

10.1.2.4 From the judgments of the court a quo and the Supreme Court of Appeal it is clear that the delay could have been avoided had the Department taken reasonable care to comply with the relevant provisions of the Constitution and the legislation regulating the tender process in the public service.

10.1.2.5 Subsequent to the court judgment, the National Food Emergency Programme to which the tender was related was terminated by the Cabinet and its funding redirected to broader welfare objectives.

10.1.2.6 Currently, the Department of Social Development is running a social relief programme in terms of which it provides temporary relief to those in need, in the form of food parcels, vouchers or cash payments to buy food. This programme forms part of the Government's commitment towards poverty relief.

10.1.2.7 There was no dispute about re-advertising the tender between the National Department of Social Development and the KwaZulu-Natal provincial Department of Social Services and Population Development after judgment in regard to the review application was delivered.

10.1.2.8 It was consequently found that the allegation that a dispute between the Department of Social Development and the Kwazulu-Natal Department of Social Services and Population Development in connection with re-advertising a tender relating to the National Food Emergency Programme caused hardship to thousands of people in the province, was unfounded.

10.1.2.9 The Public Protector recommended that the Director-General of the Department of Social Development take urgent steps to ensure that the shortcomings in the Department's tender referred to by the Supreme Court of Appeal have been adequately addressed to prevent a recurrence of similar deficiencies.

### **10.1.3 Moses Kotane Municipality Report No 13 of 2008/09**

#### **Conduct of municipality in advertising position of chef for mayoral house not improper**

10.1.3.1 OPP, on own initiative, decided to investigate the propriety of an advertisement for a permanent position of a chef for the mayoral house, placed by the Moses Kotane Local Municipality (Municipality). The advert, which appeared in the Sowetan newspaper of 29 October 2007, raised public concerns.

10.1.3.2 From the investigation into the matter, it appeared that the council of the Municipality took a resolution in August 2007 to appoint a chef for the mayoral house at a salary of R65 561 per annum, and to appoint other staff for cleaning, gardening and security services.

10.1.3.3 It further appeared that the Municipality at a later stage decided not to proceed with the said appointment, as the municipal canteen was under construction and the idea was to rather appoint a chef in the canteen.

10.1.3.4 The Public Protector found that:

10.1.3.4.1 The advert for the position of chef in the mayoral residence was open to an interpretation that the position was created for the mayor's personal benefit - this would have been improper;

10.1.3.4.2 The supporting information indicated that the creation of the position was intended to save on expenditure relating to catering services for the mayor's official functions and was not intended for the Mayor's personal benefit;

10.1.3.4.3 As the Municipality did not appoint a chef in terms of the advert, any potential misunderstanding about the intention with the post, becomes academic;

10.1.3.4.4 Except for the wording of the advert, no evidence could be found to justify the conclusion that the position was a personal benefit to the Mayor.

10.1.3.4.5 However, to appoint a chef in the mayoral residence would always lead to the perception that it is for the private benefit of the Mayor, unless explicitly stated otherwise in the job description;

10.1.3.4.6 The new development, namely to appoint a chef in the municipal canteen, who would also cater for official functions of the mayor, removed any misunderstanding of the intention with the post. In view thereof, the conduct of the Municipality could not be found to be improper or to result in an impropriety.

#### **10.1.4 Department of Education (Mpumalanga) Report No 16 of 2008/09**

##### **Temporary Educator improperly prejudiced by non-payment of salaries**

10.1.4.1 OPP conducted an own initiative investigation into an allegation of undue delay in the payment of salary benefits by the Mpumalanga Provincial Department of Education.

10.1.4.2 In June 2007, it came to the attention of OPP through media reports that the complainant, an educator employed by the Mpumalanga Provincial Department of Education, had not received salary benefits since April 2007. The complainant was a temporary employee at a school in Middelburg, Mpumalanga Province.

10.1.4.3 The following key findings were made:

7.1.4.3.1 The complainant was improperly prejudiced as a result of the undue delay in the processing of her salary benefits;

10.1.4.3.2 The primary cause of the undue delay can be attributed to the failure by the Provincial Department to activate the salary payment on the Persal system in time.

10.1.4.3.3 All temporary educators have since been paid in full.

10.1.4.3.4 The delay only occurs when a temporary educator is appointed for the first time. The temporary educator, for all subsequent appointments, keeps the Persal number awarded and the Department only activates the Persal number on subsequent appointments. The school Principal is aware of the difficulties with first time temporary appointees, and will attempt to prevent such future recurrence

#### **10.1.5 South African Social Security Agency Report No 27 of 2008/09**

##### **Pensioner's grant reinstated, three-year arrears also paid**

10.1.5.1 OPP investigated on an own initiative the plight of the Beneficiary, whose old age grant was suspended by the South African Social Security Agency (SASSA) for almost three years because she allegedly shared an identity number with someone in the Free State Province. The Beneficiary's plight was reported by the Capricorn Voice newspaper.

10.1.5.2 It was found that the Beneficiary's old age grant was suspended because it was alleged that she shared an identity number with someone in the Free State Province. She was provided with food parcels for three months when SASSA indicated that it was sorting out the problem.

10.1.5.3 The Beneficiary was re-issued a new identity document, bearing the same identity number and there was no valid reason for the suspension of the Beneficiary's grant therefore the conduct by SASSA was irregular.

10.1.5.4 It took SASSA almost three years to reinstate the grant, and no alternative means of subsistence was put in place to sustain the Beneficiary and her family while the grant was suspended as is the practice in cases of this nature.

10.1.5.5 The Beneficiary's grant was reinstated in September 2008, after the intervention by the OPP and she received the arrears for a period of three years.

10.1.5.6 The Public Protector recommended that the Regional Executive Manager of SASSA Limpopo must appoint a task team, as undertaken, to investigate the issue of suspended grants due to the sharing of identity numbers, with immediate effect. Further when a grant is suspended, SASSA should provide the recipient with food parcels for the entire period of the investigation in order to sustain him/her while it resolves the problem that led to the suspension of the grant. It was also recommended that SASSA should pay interest on the arrear amount at the prescribed rates.

#### **10.1.6 Department of Home Affairs Report No 34 of 2008/09**

##### **Expenditure on flowers for Deputy Minister's wife was irregular, fruitless and wasteful**

10.1.6.1 OPP conducted an investigation on own initiative into allegations that the Deputy Minister of Home Affairs, Mr M K N Gigaba MP, misappropriated public funds. It was alleged that Mr Gigaba sent flowers to his wife at the expense of the Department of Home Affairs (the Department), and that the Office of the Deputy Minister paid for flight tickets and car rental for several private individuals, on numerous occasions.

10.1.6.2 The investigation revealed that the allegations of misappropriation of public funds by Mr Gigaba were investigated by the Accounting Officer of the Department, as he was required to do in terms of the PFMA, 1999. It was noted that the error in respect of the flowers sent to his wife was admitted and that the expenditure concerned had been reimbursed by Mr Gigaba.

10.1.6.3 From the investigations and deliberations of the Portfolio Committee, it appeared that the financial control mechanisms of the Office of the Deputy Minister need to be improved.

10.1.6.4 No further evidence of irregular, unauthorised or fruitless and wasteful expenditure by the Office of the Deputy Minister could be found. Mr Gigaba's failure, without any just cause, to cooperate properly, diligently and without delay with the investigation was improper and unnecessarily delayed the conclusion thereof, which was in the public interest.

10.1.6.5 The key findings made from the investigation were that:

10.1.6.5.1 The expenditure incurred by the Office of the Deputy Minister in respect of flowers sent to Mr Gigaba's wife was irregular and fruitless and wasteful; and

10.1.6.5.2 The allegations relating to travelling expenses incurred by the Office of the Deputy Minister were unfounded.

10.1.6.6 The Public Protector recommended that:

10.1.6.6.1 The Speaker of the National Assembly take appropriate steps to ensure that Mr Gigaba's failure to comply with his constitutional obligation to co-operate properly with OPP is addressed; and

10.1.6.6.2 The Director-General of the Department improves the financial control mechanisms of the Office of the Deputy Minister of Home Affairs.

#### **10.1.7 Government Employee Pension Fund and Compensation Fund Report No 35 of 2008/09**

##### **Delay in payment of benefits as Deceased was not a registered taxpayer**

10.1.7.1 OPP conducted an investigation, on own initiative, into an allegation of undue delay in the payment of pension and other benefits to the widow and children of a Deceased public servant.

10.1.7.2 It came to the attention of the OPP that the Complainant had not received any pension benefits due to her. The Complainant indicated that she had completed and submitted all the required documents and copies of documents as prescribed by the Government Employees Pension Law and Rules.

10.1.7.3 She indicated that the Human Resource Department at the Compensation Fund informed her that the necessary documents were submitted to the Department of Labour (the Department). However when she enquired, the Department denied receipt of documents. When contacted by the OPP, the Complainant had not received the funeral benefit or other benefits payable to her by the Government Employees Pension Fund (GEPF) and the Department.

10.1.7.4 It was found that the delay in the payment of benefits to the Complainant was as a result of the fact that the deceased was not registered as a taxpayer as required by the Income Tax Act, 1962. Further the Department did not follow the prescripts of the Public Service Coordinating Bargaining Council (PSCBC) Resolution 7 of 2000 by not paying the leave gratuity to the widow of the deceased but demanding a letter of executorship and making payment to the estate late account.

10.1.7.5 The Public Protector recommended that the Department of Labour must ensure that the prescripts of PSCBC Resolution 7 of 2000 in respect of the payment of the leave gratuity of a deceased employee be adhered to. Where tax directives are declined by South African



Revenue Service (SARS), GEPF must ensure that the beneficiaries are immediately informed to enable them to contact SARS to rectify any problems.

## 10.2 SYSTEMIC INVESTIGATIONS

### 10.2.1 Government Employees Pension Fund Report No 20 of 2008/09

**GEPF must pay, with interest, the amount deducted from Complainant's pension benefits**

10.2.1.1 OPP investigated a complaint relating to the alleged improper deduction of pension benefits of a former member of the South African Police Service (SAPS);

10.2.1.2 It was found that the procedure prescribed by Government Employees Pension Fund (GEPF) in its Procedure Manual for the recovery of a departmental debt in terms of section 21(3) of the Government Employees Pension Law, 1996 (GEP Law) from the pension benefits of the Complainant was not complied with, as the following mandatory documentation was not received by GEPF;

10.2.1.2.1 Proof that the Complainant had been informed of the total financial liabilities and debt that was claimed against her pension benefits; and

10.2.1.2.2 An unequivocal admission of liability for the purposes of paragraphs 3.4.3.2 and 3.4.4.3 of the Procedure Manual; or

10.2.1.2.3 A copy of a Court order or the member's approval in writing.

10.2.1.3 It was furthermore found that the decision to recover the departmental debt from the Complainant's pension benefits did not comply with the requirements of section 3 of the Promotion of Administrative Justice Act, 2000 (PAJA) and was therefore procedurally unfair.

10.2.1.4 The Public Protector therefore recommended that GEPF take urgent steps to ensure that the amount deducted from the pension benefit of the Complainant, is paid to her, together with interest thereon at the rate prescribed in the GEP Law, calculated from the date of the deduction to date of payment.

10.2.1.5 OPP received a number of similar complaints from other ex-public servants. Further enquiries revealed that while GEPF rely on employer departments to comply with the required prescripts when submitting claims to GEPF for outstanding departmental debt from pension benefits, the employer departments generally fail to advise the members

in advance of their financial liabilities towards the employer and the intention to claim the departmental debt from the employee's pension benefits. In many instances the deduction of the debt occurred without the knowledge or consent of the employee or without an order of a court of law, depending on the applicable provision of the GEP Law. The GEPF further confirmed that employer departments have in the past been allowed to claim deduction of any debt, including contractual debt, such as overpaid salaries.

10.2.1.6 It is widely acknowledged that "the legislature regards pension assets as special assets deserving of enhanced protection." It is therefore a source of concern that the conduct of the government agencies involved might adversely affect the pension interest of other members of the GEPF (about 1, 1 million employees) when they exit the GEPF in future.

10.2.1.7 It was found that employer departments generally fail to furnish the GEPF with sufficient information and documentation to enable it to exercise its discretion properly and independently, to determine the members' liability either in terms of the relevant provisions of the GEP Law in respect of the amount claimed from the pension benefits by the employer department. It was however, reiterated that it remained the GEPF's responsibility to ensure that the decision is taken in compliance with the requirements of the GEP Law, the GEPF Rules, the Procedure Manual, and PAJA in particular.

10.2.1.8 The current internal procedures and practices of the GEPF are falling short of some of the mandatory requirements for good administrative practice (including recognition of the right of employees to make representations directly to the GEPF before a decision is made on the deduction of the debt from their pension benefits), and that these shortcomings may amount to system-wide procedural deficiencies in the decision-making process by GEPF in respect of claims in terms of the relevant provisions of the GEP Law.

10.2.1.9 The view is held that the policy of GEPF as recorded in the Procedure Manual or other communications to employer departments in terms of section 7 of the GEP Law, do not provide sufficient protection of the pension interests of members of the GEPF in terms of the set-off of debt claimed by employer departments.

10.2.1.10 It is recommended that:

10.2.1.10.1 The GEPF take urgent steps to ensure that the amount deducted from the pension benefits of the Complainant, is paid to her with interest;

10.2.1.10.2 Measures are implemented to ensure compliance by GEPF as well as contributing employer departments with the relevant provisions of the GEP Law and the mandatory requirements for the recovery of departmental debt in terms of the Procedure Manual;

10.2.1.10.3 The GEPF review the policy documents, including the Procedure Manual and

the GEPF Rules that determine the nature, form and manner in which the employer departments are entitled to claim departmental debt from pension benefits to ensure that it meets the mandatory requirements and legal guidelines for the protection of the pension interests of members of GEPF and the set-off of debt payable to employer departments; and

10.2.10.4 The GEPF formally and adequately record its decisions in terms of the relevant provisions of GEP Law and the reasons for allowing or refusing a claim to indicate diligent compliance with its legal obligations.

10.2.10.5 The GEPF has already indicated that it would urgently review its policy and practices in respect of the deduction of departmental debt.

## 10.2.2 Department of Justice and Constitutional Development Report No 10 of 2008/09

### Undue delays in the processing of criminal appeals involving prisoners

10.2.2.1 OPP receives numerous complaints on a regular basis from prisoners around the country regarding criminal appeals. These complaints mainly relate to alleged:

10.2.2.1.1 Lack of communication from the courts;

10.2.2.1.2 Long and undue delays in determining hearing dates; and

10.2.2.1.3 Insufficient support to prisoners with the prosecution of their appeals.

10.2.2.2 As complaints from prisoners regarding their appeals account for a significant number of matters dealt with by the OPP, it was resolved to conduct a systemic investigation into the matter in terms of section 6 of the Public Protector Act, 1994. The aim was to determine whether the complaints relating to appeals could be attributed to systemic deficiencies in the appeal process.

10.2.2.3 The investigation team from the OPP consulted with various stakeholders in this process, including prisoners, court officials, officials of the Legal Aid Board and Justice Centres, officials from the Department of Correctional Services, the National and Deputy National Directors of the National Prosecuting Authority, and senior officials of the Department of Justice and Constitutional Development.

10.2.2.4 In the process it was noted that the National Prosecuting Authority and Offices of the Directors of Public Prosecution (DPP) have initiated a number of strategies, together with other stakeholders, to address the backlog of appeals in their offices and to reduce the

turnaround time for the finalisation of appeals.

10.2.2.5 The main findings from the investigation were that:

10.2.2.5.1 There were inordinate delays of up to several years in the processing of criminal appeals involving prisoners;

10.2.2.5.2 These delays constitute a serious infringement of the rights of the appellants to speedy and fair administration of justice as contemplated in section 35(3) of the Constitution; place an unnecessary burden on the administration of the correctional facilities by the Department of Correctional Services, as well as the capacity of these facilities, and impact negatively on the administration of justice in the courts;

10.2.2.5.3 This situation is not compatible with the Constitutional dispensation of this country and it is indeed of grave concern that the concerns raised by different Judges and Courts of Appeal have not been taken seriously by the Department of Justice and Constitutional Development and the officials concerned;

10.2.2.5.4 The communication between officials of the courts and the DPP offices on the one hand and the Department of Correctional Services and the prisoners on the other hand, is appalling to say the least. It is unacceptable that the appellants (and the Department of Correctional Services as go-between) are expected to wait for the years that it sometimes takes for the applications and appeals to be processed, without any information on the status, process, or outcome of their appeals; and.

10.2.2.5.4 There are various areas of administration of appeals in the lower courts that are defective and are contributing to the undue delays. These areas include:

- a. Logistical problems and the insufficient level of performance by some of the service providers responsible for the transcription of the recordings;
- b. The need to reconstruct records because of lost and damaged recordings as a result of inadequate record keeping and security arrangements;

10.2.2.5.5 A lack of - and outdated - task directives and rules on the duties and obligations of the different court officials involved in the administration of appeals, including the presiding officer, the Public Prosecutor and the Clerk of the Court;

10.2.2.5.6 The lack of capacity to deal with the assigned workload;

10.2.2.5.7 The ineffective management and supervision of the leave-to-appeal process and the subsequent preparation and submission of the court records to the DPP/ Registrar; and

10.2.2.5.8 The failure by the Department of Correctional Services to keep the clerks



- informed of the transfer and movement of prisoners,
- 10.2.2.6 In the Divisions of the High Court the allocation of hearing dates is affected by:–
- a. Delays in the submission of the court records by the court officials of the trial courts;
  - b. Incorrect or incomplete court records;
  - c. The failure by the appellant or Legal Aid Board representative to timeously file proper heads of argument and/ or power of attorney;
  - d. A lack of judicial capacity to deal with the number of pending appeals;
- 10.2.2.7 Delays were also caused by the time that it took the Legal Aid Board and Justice Centres to trace unrepresented appellants for the purposes of legal representation;
- 10.2.2.8 The situation is aggravated by the fact that neither the Prosecuting Authority who is tasked with the set down of the matters, nor the trial court officials, who are responsible for the preparation of the court records, is taking responsibility for the monitoring and expeditious administration of the appeals process subsequent to the granting of leave to appeal; and
- 10.2.2.9 The available resources and structures within the prisons to assist prisoners with appeals were insufficient. A lack of knowledge and information on the part of prisoner appellants, who represent themselves, is resulting in deficient, incomplete or misdirected applications or petitions that do not reach the correct forum, or cannot be registered or enrolled for adjudication.
- 10.2.2.9 The Public Protector recommended that:
- 10.2.2.9.1 The Department of Justice and Constitutional Development must:
- a. Consider extending the current initiative by the NPA to determine and deal with the backlog of appeals, to the Magistrates Offices. It is imperative that this exercise include an audit of lower court appeals that have not yet reached the Offices of the DPP
  - b. Prioritise the administration of criminal appeals in the lower and the High Courts in the strategic and operational plans of the Department;
  - c. Develop a clear strategy to deal with the current situation to address the causes for delays identified in this report and in terms of the Department's own assessment;
  - d. Review the Rules of Court to ensure that the duties of the Clerks and the Regi-



stars in respect of the administration of criminal appeals are aligned to the current law;

- e. Consider a policy or directive or manual to guide, inform and supplement the duties of the relevant court officials with regard to the processing of appeals;
- f. Address capacity limitations and human resource problems in the courts;
- g. Take steps to ensure compliance with the constitutional requirements of fair administration and the principles of Batho Pele in the processing of appeals, in particular communicating the progress, status and outcome of appeals to the relevant parties;
- h. Ensure compliance with the agreed standards and timeframes by external service providers responsible for the transcription of court records and investigate the appointment of specific and dedicated transcribers to deal exclusively with appeals from prisoners, in particular those who are not represented;
- i. Improve control over the storage, movement and safekeeping of the recordings and records of criminal trials;
- j. Address the lack of filing and storage systems and facilities at some courts;
- k. Extend the current initiatives for the electronic tracking and management of cases in the courts to include post-trial proceedings, to enable the appeals process to be managed and monitored electronically;
- l. Consult with the National Prosecuting Authority on its role in the monitoring of the appeal process in the Magistrates' and High Courts from the time that leave to appeal was granted;
- m. Establish and implement a proper complaints management system and procedure to deal with prisoner complaints in respect of the administration of their appeals; and
- n. Consider the establishment of a forum consisting of representatives (including judicial officers) from the lower courts, High Courts, the Offices PPs of the Directors of Public Prosecutions, as well as representatives from the Department of Correctional Services and Legal Aid Board, to deal with the issue of delays in the processing of criminal appeals.

10.2.2.9.2 The Department of Correctional Services must:

7.2.2.9.1 Determine what is required to provide prisoners adequate, effective and meaningful assistance in all matters dealing with access to the courts, including:

- a. Assigning specific duties in this regard to designated officials in the records or administration offices;
- b. Ensuring that such designated officials have the necessary skills and training to provide prisoners with information and assistance to facilitate proper access to the courts (excluding the providing of legal advice); and
- c. Developing minimum operational and performance standards in respect of these duties in line with international standards and best practice to ensure:
  - i. Access to his/her lawyer or the Legal Aid Board if required by the prisoner;
  - ii. Access to any prescribed forms and legal documents necessary to lodge an application for leave to appeal; and
  - iii. The assistance of a trained and dedicated person within the prison to provide the prisoners with legal, procedural information (not legal advice) required to lodge an application for leave to appeal to the correct forum.
  - iv. Provide prisoners with an education brochure or booklet on the appeal process and the administrative procedures and steps that are taken to prosecute an appeal; and
  - v. Set up a complaints mechanism together with the Department of Justice and Constitutional Development at regional level where complaints from prisoners about inaction, delays or lack of response from the Clerks of the Court and/ or Registrars of the High Court could be referred.

### **10.2.3 Government Employees Pension Fund Report No 11 of 2008/09**

#### **Delay in the processing and payment of pension benefits by the GEPP**

10.2.3.1 OPP had been inundated with complaints about government employee pension benefits. These complaints account for a significant number of the complaints dealt with by the OPP, and relate mainly to undue delays with the payment of pension benefits, or to pension benefits that were allegedly calculated incorrectly.

10.2.3.2 OPP had been dealing with the complaints on a case-by-case basis and usually resolved complaints to the satisfaction of the complainants. Due to the fact that such interventions by the OPP did not reduce the inflow of complaints, OPP embarked on a systemic investigation into the deficiencies with the processing of pension benefits payable to former government employees and their dependants. The purpose was to identify patterns or sys-

temic deficiencies that contributed to the large number of complaints received by the OPP, and to address these deficiencies.

10.2.3.3 The complaints received were:

10.2.3.3.1 The delay in the payment of benefits caused by both the Government Employees Pension Fund (GEPF) and the employer departments;

10.2.3.3.2 The failure of GEPF and the employer departments to advise the complainants of the status or progress with the processing of their pensions, and to provide reasons for delays;

10.2.3.3.3 The failure of GEPF and employer departments to respond to queries of the complainants;

10.2.3.3.4 Allegations that pension calculations were incorrect;

10.2.3.3.5 Allegations that GEPF refused to recalculate pension benefits;

10.2.3.3.6 Allegations that the period of employment or membership was not correctly captured; and

10.2.3.3.7 Allegations that pensionable service that had been bought back had not been properly calculated.

10.2.3.4 The following key findings were made:

10.2.3.4.1 There is a general delay in the processing and payment of pension benefits to government employees.



10.2.3.4.2 Government employees, who exited the system, were improperly prejudiced as a result of the undue delays in the processing of their pension benefits.



10.2.3.4.3 The primary source of undue delays could be attributed to the failure by employer departments to:

- a. Submit the relevant exit documents to Pensions Administration for members who have exited the Fund;
- b. Submit correctly completed documentation in accordance with the Procedure Manual compiled by Pensions Administration; and
- c. Respond timeously to enquiries and requests for additional information which in turn flowed from the lack of compliance with the prescribed rules and procedures of the Fund, as well as the lack of efficient and effective communication between GEPF and the employer departments.

10.2.3.5 The Public Protector made the following recommendations:



- 
- 
- 10.2.3.5.1 Training by the Department of Public Service and Administration (DPSA) and GEPF of all relevant personnel, must be provided in respect of the completion of pension exit documents and the payroll administration system that is applicable;
- 10.2.3.5.2 Employer departments and GEPF should ensure proper compliance by employees with the provisions of the Batho Pele (People First) principles for service delivery, as well as the Code of Conduct for Public Servants;
- 10.2.3.5.3 The information on the applicable payroll systems should be continuously updated and corrected by employer departments. The payroll systems would then be able to generate updated exit documents;.
- 10.2.3.5.4 An effective complaints handling mechanism should be introduced at the employer departments and GEPF, to identify problem areas immediately. An internal complaints process is an informal and flexible process and will also provide an early opportunity for the employer departments and GEPF to detect problems that are arising in the administration process;.
- 10.2.3.5.5 The quality of information at the Call Centre of GEPF should be improved;
- 10.2.3.5.6 Personnel at the Call Centre should be properly trained on the process of the payment of exit benefits, and must have access to information in respect of members exiting the system;
- 10.2.3.5.7 The employer departments and GEPF should publish service standards to ensure that pension benefits are paid within specified timeframes. This will foster good public administration that is acceptable, lawful, fair, transparent and responsive;
- 10.2.3.5.8 GEPF should introduce measures to ensure that all deficiencies are identified after the first submission of exit documents by the employer departments. This would prevent the continuous requests for updated and amended information by GEPF from employer departments;
- 10.2.3.5.9 GEPF should take urgent steps to:
- a. Improve the channels of communication with government departments at both national and provincial levels;
  - b. Develop its information technology infrastructure to comprise methods of communication that will allow for the facilitation of internal and external information to the employer departments to ensure quick and efficient response to all enquiries;
  - c. Establish provincial offices of GEPF in all provinces and consider establishing district offices within the provinces where the need is identified;

- 
- 
- d. Appoint client managers for the different national and provincial departments; and
  - e. Issue clear instructions in respect of the requirements where previous periods of service of employees fell under other funds such as the previous Transkei, Bophuthatswana, Venda and Ciskei funds.
  - f. Every department at national and provincial levels must at regular intervals inform employees of the rules of GEPF and the different options available to them when exiting the Fund;
  - g. DPSA should assist in the formation of a “Pensions Forum” at national and provincial levels; and
  - h. GEPF should urgently continue with the project launched at the end of 2004 to identify and address all unprocessed exits with the aim of ensuring that the withdrawal documents are received from all members who have terminated their membership.



#### **10.2.4 Government Employees Pension Fund Report No 36 of 2008/09**

##### **GEPF and Departments should act in the best interest of ex-employees of former homelands**

10.2.4.1 OPP conducted a systemic investigation in connection with the unreasonable delays experienced by former employees of the former self-governing territories and independent states (the Homelands) pertaining to the transfer of their pension benefits from the Government Employees Pension Fund (GEPF) to other pension funds, in terms of the Transfer of Staff to Municipalities Act, 1998. The transfer of their pension benefits was linked to their transfer to municipalities.

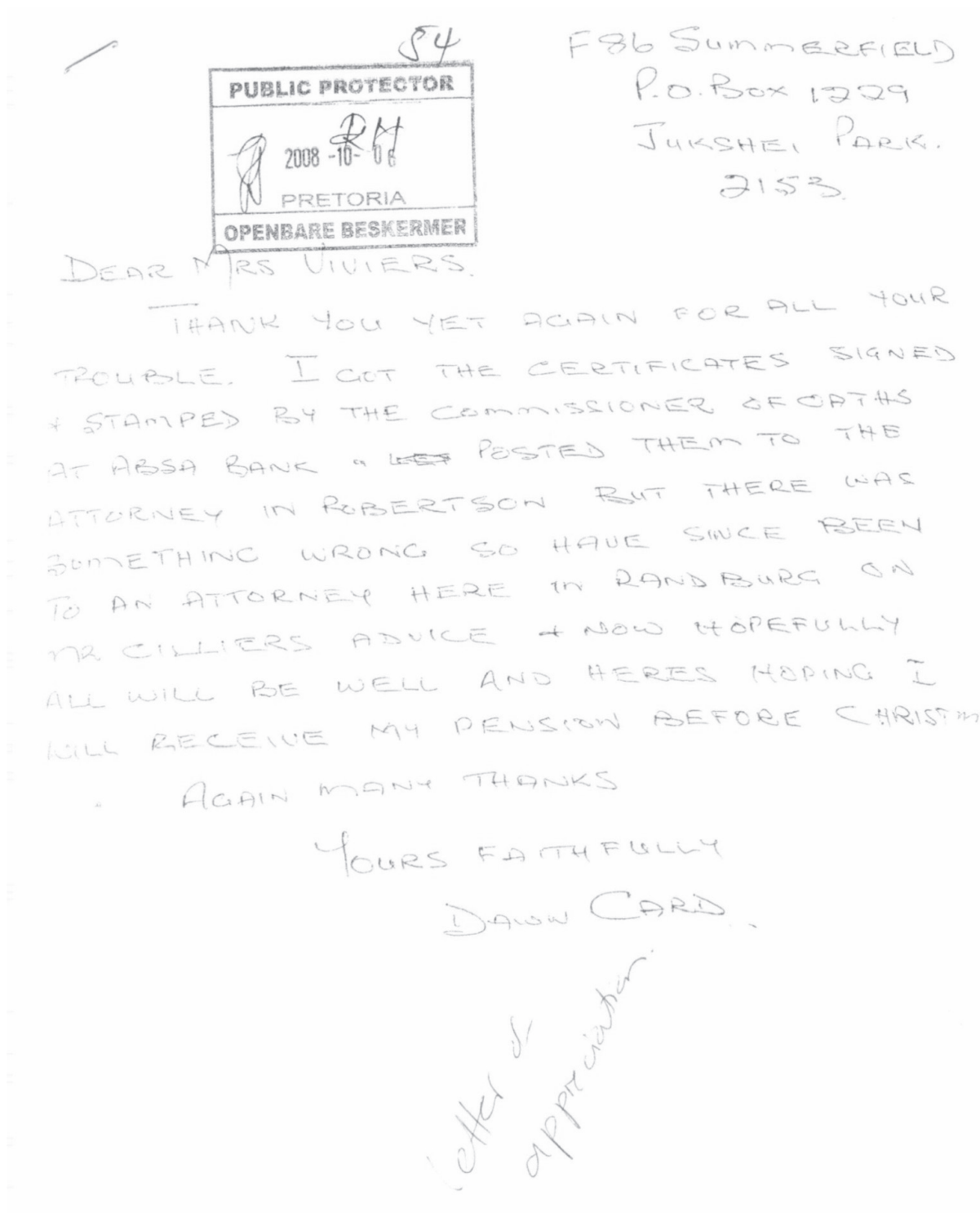
10.2.4.2 From the investigation it appeared that the process of the transfer of pension benefits commenced in 2000. Progress was stalled by the lack of co-operation between the stakeholders and various other problems. OPP intervened in 2006 and the process got back on track. By January 2009, the transfer of pension membership and the associated funds of almost all of the more than 8000 employees involved had been completed and the GEPF was committed to finalise the process by the end of March 2009.

10.2.4.3 It was concluded that;

- 
- 
- a. The GEPF was unable to transfer the associated funds of affected members, due to the fact that the prescribed legal requirements regulating the transfer of benefits to the elected pension funds were not adhered to;
  - b. The transfer of the pension benefits was linked to the transfer of former employees of the Homelands to municipalities and was a cumbersome process. Initially the Minister of Provincial and Local Government and the Director-General of the Department issued directives and guidance in respect of the process, which were not adhered to by the municipalities involved. The process was subsequently unduly delayed due to systemic deficiencies in the administration of the Department and the municipalities;
  - c. The delay in the transfer process caused severe prejudice, trauma and suffering to many former employees, some of whom had to wait years after they retired, for the benefits that they were entitled to; and .
  - d. It should serve as an example of the kind of irreversible prejudice that can be caused by a lack of timeous intervention and co-ordination by government institutions responsible for assisting its employees with the implementation of a process that is in their interest.

10.2.4.4 The Public Protector recommended that the government departments concerned and the GEPF must in future and during the processing of employees' pension benefits ensure that they act in the best interest of the affected employees to avoid

## 11. LETTERS OF APPRECIATION AND COMPLAINTS



Document Name: untitled

CIV861M1  
SN: 2086155  
LE01 2009011043 left section 511 on the 2009/01/19.  
Confirmed 002 Mrs MPEPELE MJ  
Pension No: 96639706 Warnings  
CP No: CP 37020491  
CP Type: 08 SPOUSE PENSION  
CP Code: 4 SPOUSE  
CP Status: A Alive  
Fund: 96 GEFF  
Employer: GAU193 GAU EDUCATION  
Salary No: 12127701 Pers: 12127701  
Service Type: P Permanent  
Service Date: 1986/01/01 Confirmed  
Admission Date: 1996/05/01 Med Dat:  
Termination Dat:  
Termination Cd:  
Serv.period: 23.167  
Enquiries: \_ Bought Service: \_ LWP: \_ Salary: \_ Other service: \_ Interest:  
Other numbers: \_ Review date: \_ Errors: \_ Dependants: \_ Address: \_ Block:  
Payment instructions: \_ Payment: \_ Document: \_ PB00: \_ Debt: \_ Print: \_ TBVC:  
Next pension: \_\_\_\_\_ or CP number: \_\_\_\_\_ or Institution: \_\_\_\_\_

GENERAL ENQUIRIES  
MPEPELE MJ  
Contributing member  
Date of Birth: 1963/03/20 Age: 45 Dep: 3  
Date of Death:  
Gender: Female TermType:  
CP Fund: 96 Language: 2 English Type: 1  
Marital stat: 2 Married Card: P  
ID/Pasport: 6303200806083 Pow/attn: No  
Tax No: 1358583647  
Reg/Act/Rule:  
Benefit To:  
Med No:  
Pens. Type:  
Pens w.e.f: 1991/04/20 Age: 28  
Previous fund: 1 Starting amt: 799.08  
MATHAPOLAN  
2009/03/02  
15:15:52

04.03.2009.

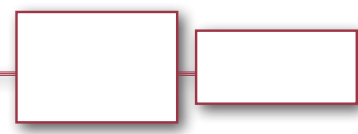
Dear Mr T Segoje

This is to confirm that my employer Gauteng Education Department recognise my service date as 1986.01.01. The Z125 was completed and records were updated as printed above.

Thank you very much. My problem is solved. May God bless you for ever.

Yours truly,  
mpepele m.j.

Date: 3/2/2009 Time: 3:19:18 PM



DU

7  
Edw

REF 7/2 9160/08

F. 86 SUMMERFIELD  
P.O. Box 1229  
TUKSKEI PARK  
21<sup>st</sup> Nov 2008

Waarom o Divies

Thank you so much for all you  
did for me. I havint been to the bank  
so I didnt know this pension had  
been payed in.

Thank you so much again  
a I do hope you have a blessed  
Christmas a a great new year.

God bless you + your family.

Yours truly  
Wawan Caid.

PUBLIC PROTECT

*PA*

2008 -11- 28

PRETORIA

1001 000 BEKNERIA





RECEIVED 18/11/2008 15:37 0123623473

PUBLIC PROTECTOR

FROM : EXCELLENT COPIERS

FAX NO. :

Nov. 18 2008 03:39PM P1

1/2-5571/08

**PUBLIC PROTECTOR**  
 19/11/08  
 2008-11-19  
 PRETORIA  
 OPENSAAR BEKERMER

EDW  
 P.O. Box 2158  
 Rustenburg  
 0300  
 2008-11-18

Private Bag 1677  
 Pretoria  
 0001  
 Tel: 012 366 7000  
 Fax: 012 362 3473  
 Ref: 1/2-5571/08

Dear Mr S G N Pillay

Thank you for your letter I had received previously. I am so please as you had investigated my complain to the Department of Road Accident Fund. I do wish you and all members of Department of Public Protector; world of happiness and never lastin life; and may God bless you all - ....

I had give all details of my complain to Mr S Potanius.

Thank you  
 Yours faithfully  
 Thembisilele

## 12. HUMAN RESOURCE MANAGEMENT AND DEVELOPMENT

### 12.1 Service Delivery

Table 12.1.1 – Main Services Provided And Standards

MAIN SERVICES	ACTUAL CUSTOMERS	POTENTIAL CUSTOMERS	STANDARD OF SERVICE	ACTUAL ACHIEVEMENT AGAINST STANDARDS
Outreach Initiatives	Public in rural areas, government departments and institutions and, NGO's	Public in rural areas, government departments and institutions and NGO's	Six visiting points per province. Identification of systemic investigations	Seven hundred and sixty three (763) Clinics conducted
Effective and efficient investigations	Public in rural areas, government departments and institutions and NGO's	Public in rural areas, government departments and institutions and NGO's	Identification of root cause investigations, reports (general and parliamentary) on investigations completed.	Twelve thousand four hundred and thirty five (12 435) complaints received  Six thousand seven hundred and eighty (6780) brought forward  Thirteen thousand two hundred and twenty (13 220) finalised  Five thousand nine hundred and ninety five (5995) carried over to the next financial year
Improve administrative support	OPP-internal clients	OPP-internal clients	Appointment of staff to new regional offices. Appointment of outreach facilitators in all provinces.	Appointment of staff to new regional offices. Appointment of four (4) outreach facilitators in provinces.



**Table 12.1.2 – Consultation Arrangements With Customers**

TYPE OF ARRANGEMENT	ACTUAL CUSTOMERS	POTENTIAL CUSTOMERS	ACTUAL ACHIEVEMENTS
Consultative forums with stakeholders	Community Development Workers (CDW), NGOs and Government Departments	Public in rural areas, government departments institutions and NGOs	15 consultative forums established Completed database of stakeholders

**Table 12.1.3 – Service Delivery Access Strategy**

ACCESS STRATEGY	ACTUAL ACHIEVEMENTS
Awareness campaign	Two hundred and thirty eight (238) meetings and workshops conducted
Outreach Facilitators	Four (4)
Workshops	Forty five (45)
Information Sessions	One hundred and ninety three (193)
Roadshows	Twenty two (22)

**Table 12.1.4 – Service Information Tool**

TYPES OF INFORMATION TOOL	ACTUAL ACHIEVEMENTS
Media	5 Media briefings organised
Electronic newsletter	One electronic newsletter produced
Public Protector Bulletin	Two bulletins produced
Brochures	Produced 100 000 brochures
Community meetings and workshops	Two hundred and thirty eight (238) meetings and workshops conducted
Workshops and meeting with Government Departments, Institutions and NGO.	Forty five (45) workshops

**Table 12.1.5 – Complaints Mechanism**

COMPLAINTS MECHANISM	ACTUAL ACHIEVEMENTS
Lodge complaints via correspondence/telephone	Twelve thousand four hundred and thirty five (12 435) complaints received
Own initiative investigations	Nine (9) finalised
Identification of root cause and systemic investigations	Six (6) finalised
Clinics and visiting points	Seven hundred and sixty three (763)
Receiving complaints at workshops and meetings	Outreach three thousand nine hundred and eighty three complaints (3983)
Visibility at functions (e.g. Rand Easter Show, Pretoria Show)	Conducted an exhibition at the Rand Easter Show and Pretoria Show

## 12.2 Expenditure

**Table 12.2.1 – Personnel Costs By Programme, 2008/09**

PROGRAMME	TOTAL EXPENDITURE (R'000)	PERSONNEL EXPENDITURE (R'000)	TRAINING EXPENDITURE (R'000)	PROFESSIONAL AND SPECIAL SERVICES (R'000)	PERSONNEL COST AS A PERCENT OF TOTAL EXPENDITURE	AVERAGE PERSONNEL COST PER EMPLOYEE (R'000)
<b>Total</b>	<b>R72 562</b>	<b>R69 025</b>	<b>R1 219</b>	<b>R2 318</b>	<b>95%</b>	<b>279</b>

**Table 12.2.2 – Personnel Costs By Salary Bands, 2008/09**

SALARY BANDS	PERSONNEL EXPENDITURE (R'000)	% OF TOTAL PERSONNEL COST	AVERAGE PERSONNEL COST PER EMPLOYEE (R'000)
Lower skilled (Levels 1-2)	R0	0%	R
Skilled (Levels 3-5)	R8 175	11.8%	R110
Highly skilled production (Levels 6-8)	R15 111	21.9%	R157
Highly skilled supervision (Levels 9-12)	R25 654	37.2%	R475
Senior management (Levels 13-16)	R20 085	29.1%	R873
<b>Total</b>	<b>R69 025</b>	<b>100%</b>	<b>R279</b>

**Table 12.2.3 – Salaries, Overtime, Home Owners Allowance and Medical Assistance By Programme, 2008/09**

PROGRAMME	SALARIES		OVERTIME		HOME OWNERS ALLOWANCE		MEDICAL ASSISTANCE	
	Amount (R'000)	Salaries as a % of personnel cost	Amount (R'000)	Over-time as a % of personnel cost	Amount (R'000)	HOA as a % of personnel cost	Amount (R'000)	Medical Assistance as a % of personnel cost
OPP	R65 288	94.5%	R82	0.05%	R1826	2.64%	R1870	2.7%
<b>Total</b>	<b>R65 288</b>	<b>94.5%</b>	<b>R82</b>	<b>0.05%</b>	<b>R1826</b>	<b>2.64%</b>	<b>R1870</b>	<b>2.7%</b>

**Table 12.2.4 – Salaries, Overtime, Home Owners Allowance And Medical Assistance By Salary Bands, 2008/09**

SALARY BANDS	SALARIES		OVERTIME		HOME OWNERS ALLOWANCE		MEDICAL ASSISTANCE	
	Amount (R'000)	Salaries as a % of personnel cost	Amount (R'000)	Over-time as a % of personnel cost	Amount (R'000)	HOA as a % of personnel cost	Amount (R'000)	Medical Assistance as a % of personnel cost
Lower skilled (Levels 1-2)	R0	0%	R0	0.0%	0	0	0	0
Skilled (Levels 3-5)	R7 120	10.3%	R11	0.0%	R411	0.6%	R633	0.9%
Highly skilled production (Levels 6-8)	R13 893	20.1%	R71	0.0%	R501	0.7%	R687	1.0%
Highly skilled supervision (Levels 9-12)	R24 820	36.0%	R0	0.0%	R285	0.4%	R549	0.8%
Senior management (Levels 13-16)	R19 455	28.2%	R0	0.0%	R630	0.9%		0.0%
<b>Total</b>	<b>R65 288</b>	<b>94.6%</b>	<b>R82</b>	<b>0.0%</b>	<b>R1 826</b>	<b>2.6%</b>	<b>R1870</b>	<b>2.7%</b>

## 12.3 Employment and vacancies

*Table 12.3.1 – Employment And Vacancies by Programme, 31 March 2009*

PROGRAMME	NUMBER OF POSTS	NUMBER OF POSTS FILLED	VACANCY RATE	NUMBER OF POSTS FILLED ADDITIONAL TO THE ESTABLISHMENT
OPP	267	247	7.4%	0
<b>Total</b>	<b>267</b>	<b>247</b>	<b>7.4%</b>	<b>0</b>

*Table 12.3.2 – Employment And Vacancies by Salary Bands, 31 March 2009*

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	74	3.8%	0
Highly skilled production (Levels 6-8)	106	96	9.4%	0
Highly skilled supervision (Levels 9-12)	59	54	8.5%	0
Senior management (Levels 13-16)	25	23	8%	0
<b>Total</b>	<b>267</b>	<b>247</b>	<b>7.4%</b>	<b>0</b>

*Table 12.3.3 – Employment And Vacancies by Critical Occupation, 31 March 2009*

CRITICAL OCCUPATIONS	NUMBER OF POSTS	NUMBER OF POSTS FILLED	VACANCY RATE	NUMBER OF POSTS FILLED ADDITIONAL TO THE ESTABLISHMENT
CEO	1	1	0%	0
<b>Total</b>	<b>1</b>	<b>1</b>	<b>0%</b>	<b>0</b>

#### 12.4 Job Evaluation

*Table 12.4.1 – Job Evaluation, 1 April 2008 To 31 March 2009 - There Were No Job Evaluation During The Financial Year*

*Table 12.4.2 – Profile Of Employees Whose Salary Positions Were Upgraded Due To Their Posts Being Upgraded, 1 April 2008 To 31 March 2009 - No Posts Were Upgraded During The Financial Year*

*Table 12.4.3 – Employees Whose Salary Level Exceed The Grade Determined By Job Evaluation, 1 April 2008 To 31 March 2009 (In Terms Of Psr 1.V.C.3) – There Were No Employees Whose Salary Level Exceeded The Grade*

*Table 12.4.4 – Profile Of Employees Whose Salary Level Exceed The Grade Determined By Job Evaluation, 1 April 2008 To 31 March 2009 (In Terms Of Psr 1.V.C.3) - No Profile Of Employees Whose Salary Level Exceed The Grade*

#### 12.5 Turnover Rates

*Table 12.5.1 – Annual Turnover Rates By Salary Band For The Period 1 April 2008 To 31 March 2009*

SALARY BAND	NUMBER OF EMPLOYEES PER BAND AS ON 1 APRIL 2008	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	14	5	6.8%
Highly skilled production(Levels 6-8)	96	29	9	9.5%
Highly skilled supervision(Levels 9-12)	54	2	5	9.3%
Senior Management Service Band A	16	2	3	18.7%
Senior Management Service Band B	4	0	1	25%
Senior Management Service Band C	2	1	0	0%
Senior Management Service Band D	1	0	0	0%
<b>Total</b>	<b>247</b>	<b>48</b>	<b>23</b>	<b>9.31%</b>

*Table 12.5.2 – Annual Turnover Rates By Critical Occupation For The Period 1 April 2008 To 31 March 2009 – No Annual Turnover Rates By Critical Occupation*

*Table 12.5.3 – Reasons Why Staff is Leaving The Department*

TERMINATION TYPE	NUMBER	% OF TOTAL
Death	1	4.3%
Resignation	20	87%
Expiry of contract	0	0%

Dismissal – operational changes	0	0%
Dismissal – misconduct	1	4.3%
Dismissal – inefficiency	0	0%
Discharged due to ill-health	0	0%
Retirement	1	4.3%
Transfers to other Public Service Departments	0	0%
Other	0	0%
<b>Total</b>	<b>23</b>	<b>100%</b>
<b>Total number of employees who left as a % of the total employment</b>		<b>9.31%</b>

**Table 12.5.4 – Promotions by Critical Occupation - No Promotions by Critical Occupation**

**Table 12.5.5 – Promotions by Salary Band**

SALARY BAND	EMPLOYEES 1 APRIL 2008	PROMOTIONS TO ANOTHER SALARY LEVEL	SALARY BANDS PROMOTIONS AS A % OF EMPLOYEES BY SALARY LEVEL	PROGRESSIONS TO ANOTHER NOTCH WITHIN A SALARY LEVEL	NOTCH PROGRES- SIONS AS A % OF EMPLOYEES BY SALARY BAND
Lower skilled (Levels 1-2)					
Skilled (Levels 3-5)	74	0	0%	0	
Highly skilled production (Levels 6-8)	96	5	5.2%	0	
Highly skilled supervision (Levels 9-12)	54	2	3.6%	27	
Senior management (Levels 13-16)	23	2	13%	0	
<b>Total</b>	<b>247</b>	<b>9</b>	<b>3.6%</b>	<b>27</b>	

## 12.6 Employment Equity

### 12.6.1 – Total Number Of Employees (Including Employees With Disabilities) in Each of the Following Occupational Categories as at 31 March 2009

OCCUPATIONAL CATEGORIES (SASCO)	MALE				FEMALE				TOTAL
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Legislators, senior officials and managers	9	0	0	4	8	0	0	2	23
Professionals	26	0	2	2	16	2	3	3	54

Technicians and associate professionals	47	3	0	0	40	1	2	3	96
Clerks	17	0	0	0	45	5	3	4	74
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
<b>Total</b>	<b>99</b>	<b>3</b>	<b>2</b>	<b>6</b>	<b>109</b>	<b>8</b>	<b>8</b>	<b>12</b>	<b>247</b>
<b>Employees with disabilities</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>2</b>

**12.6.2 – Total Number Of Employees (Including Employees With Disabilities) in Each of the Following Occupational Bands as On 31 March 2009**

OCCUPATIONAL BANDS	MALE				FEMALE				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Top Management	2	0	0	0	1	0	0	0	3
Senior Management	7	0	0	4	7	0	0	2	20
Professionally qualified and experienced specialists and mid-management	26	0	2	2	16	2	3	3	54
Skilled technical and academically qualified workers, junior management, supervisors, foreman and superintendents	47	3	0	0	40	1	2	3	96
Semi-skilled and discretionary decision making	17	0	0	0	45	5	3	4	74
Unskilled and defined decision making	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>99</b>	<b>3</b>	<b>2</b>	<b>6</b>	<b>109</b>	<b>8</b>	<b>8</b>	<b>12</b>	<b>247</b>

**12.6.3 – Recruitment for the Period 1 April 2008 to 31 March 2009**

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	1	0	0	0	3	0	0	0	4
Professionally qualified and experienced specialists and mid-management	1	0	0	0	3	0	0	0	4
Skilled technical and academically qualified workers, junior management, supervisors, foreman and superintendents	17	1	0	0	16	0	0	0	34
Semi-skilled and discretionary decision making	2	0	0	0	11	1	0	0	14
Unskilled and defined decision making	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>22</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>33</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>57</b>

**12.6.4 – Promotions for the Period 1 April 2008 to 31 March 2009 – there were No Promotions During the Financial Year**

**12.6.5 – Terminations for the Period 1 April 2008 to 31 March 2009**

OCCUPATIONAL BANDS	MALE				FEMALE				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Top Management	0	1	0	0	0	0	0	0	1
Senior Management	1	0	1	0	1	0	0	0	3
Professionally qualified and experienced specialists and mid-management	3	1	0	0	0	0	1	0	5
Skilled technical and academically qualified workers, junior management, supervisors, foreman and superintendents	6	0	0	0	3	0	0	0	9
Semi-skilled and discretionary decision making	2	0	0	0	3	0	0	0	5
Unskilled and defined decision making	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>12</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>7</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>23</b>



12.6.6 – Disciplinary Action for the Period 1 April 2008 to 31 March 2009

	MALE				FEMALE				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Disciplinary action	4	1	0	0	1	0	0	0	6

12.6.7 – Skills Development for the Period 1 April 2008 to 31 March 2009

OCCUPATIONAL CATEGORIES	MALE				FEMALE				Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	
Legislators, senior officials and managers	9	0	0	4	8	0	0	2	23
Professionals	26	0	2	2	16	2	3	3	54
Technicians and associate professionals	47	3	0	0	40	1	2	3	96
Clerks	17	0	0	0	45	5	3	4	74
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
<b>Total</b>	<b>99</b>	<b>3</b>	<b>2</b>	<b>6</b>	<b>109</b>	<b>8</b>	<b>8</b>	<b>12</b>	<b>247</b>
<b>Employees with disabilities</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>2</b>

## 12.7 PERFORMANCE REWARDS

*Table 12.7.1 – Performance Rewards by Race, Gender, and Disability, 1 April 2008 to 31 March 2009*

	BENEFICIARY PROFILE			COST	
	NUMBER OF BENEFICIARIES	TOTAL NUMBER OF EMPLOYEES IN GROUP	% OF TOTAL WITHIN GROUP	COST (R'000)	AVERAGE COST PER EMPLOYEE
African					
Male	59	98	60%	R492 576	R8 348.74
Female	50	109	46%	R347 924	R6 958.48
Asian					
Male	3	2	150%	R42 566	R14 188.66
Female	8	8	100%	R46 657	R5 832.12
Coloured					
Male	3	3	100%	R20 183	R6 727.66
Female	7	8	87.5%	R34 453	R4 921.85
White					
Male	6	6	100%	R103 143	R17 227.00
Female	11	11	100%	R137 081	R11 711.50
Employees with a disability	1	2	50%	R 3 447	R3 447.75
<b>Total</b>	<b>148</b>	<b>247</b>	<b>60%</b>	<b>R1 228 219</b>	<b>R8 298.78</b>
Accrual Performance bonus				R1586 677	
<b>GRAND TOTAL</b>				<b>R2 814 896</b>	<b>R8 298.78</b>

*Table 12.7.2 – Performance Rewards by Salary Bands for Personnel Below Senior Management Service, 1 April 2008 to 31 March 2009*

SALARY BANDS	BENEFICIARY PROFILE			COST		
	Number of beneficiaries	Number of employees	% of total within salary bands	Total Cost (R'000)	Average cost per employee	Total cost as a % of the total personnel expenditure
Lower skilled (Levels 1-2)	0	0	0%	0	0	0%
Skilled (Levels 3-5)	44	73	60.3%	R156 491	R3 557	0.2%
Highly skilled production (Levels 6-8)	41	96	42.7%	R198 573	R4 843	0.3%

Highly skilled supervision (Levels 9-12)	48	55	87.3%	R558 773	R11 641	0.8%
<b>Total</b>	<b>133</b>	<b>224</b>	<b>59.4%</b>	<b>R913 838</b>	<b>R6 871</b>	<b>1.3%</b>

*Table 12.7.3 – Performance Rewards By Critical Occupations, 1 April 2008 to 31 March 2009 – No Performance Rewards by Critical Occupations*

*Table 12.7.4 – Performance Related Rewards (Cash Bonus), by Salary Band, for Senior Management Service*

SALARY BAND	BENEFICIARY PROFILE			TOTAL COST (R'000)	AVERAGE COST PER EMPLOYEE	TOTAL COST AS A % OF THE TOTAL PERSONNEL EXPENDITURE
	Number of beneficiaries	Number of employees	% of total within band			
Band A	12	23	56.5%	R239 890.00	R19 991	0.4%
Band B	3	3	66.7%	R74 530.00	R24 843	0.1%
Band C						
Band D						
<b>Total</b>	<b>15</b>	<b>26</b>	<b>65.2%</b>	<b>R314 420.00</b>	<b>R20 961</b>	<b>0.5%</b>

## 12.8 Foreign workers

*Table 12.8.1 – Foreign Workers, 1 April 2008 To 31 March 2009, by Salary Band – There were No Foreign Workers During the Financial Year*

*Table 12.8.2 – Foreign Worker, 1 April 2008 To 31 March 2009, by Major Occupation - There were No Foreign Workers by Major Occupation*

## 12.9 Leave utilisation for the period 1 January 2008 to 31 December 2008

*Table 12.9.1 – Sick Leave, 1 January 2008 To 31 December 2008*

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 (R'000)
Lower skilled (Levels 1-2)	N/A	N/A	N/A	N/A	N/A	N/A
Skilled (Levels 3-5)	445		76		0.17	

Highly skilled production (Levels 6-8)	225		101		0.45
Highly skilled supervision (Levels 9-12)	283		54		0.19
Senior management (Levels 13-16)	77		27		0.35
<b>Total</b>	<b>1030</b>	<b>N/A</b>	<b>258</b>	<b>N/A</b>	<b>0.25</b>

**Table 12.9.2 – Disability Leave (Temporary and Permanent), 1 January 2008 to 31 December 2008**

SALARY BAND	TOTAL DAYS TAKEN	% DAYS WITH MEDICAL CERTIFICATION	NUMBER OF EMPLOYEES USING DISABILITY LEAVE	% OF TOTAL EMPLOYEES USING DISABILITY LEAVE	AVERAGE DAYS PER EMPLOYEE	ESTIMATED COST (R'000)
Lower skilled (Levels 1-2)	N/A	N/A	N/A	N/A	N/A	N/A
Skilled (Levels 3-5)	37	100%	2	100%	19	
Highly skilled production (Levels 6-8)	0	0	0	0	0	
Highly skilled supervision (Levels 9-12)	26	100%	2	100%	13	
Senior management (Levels 13-16)	6	100%	1	100%	6	
<b>Total</b>	<b>69</b>	<b>100%</b>	<b>5</b>	<b>100%</b>	<b>14</b>	

**Table 12.9.3 – Annual Leave, 1 January 2008 to 31 December 2008**

SALARY BANDS	TOTAL DAYS TAKEN	AVERAGE PER EMPLOYEE
Lower skilled (Levels 1-2)	N/A	N/A
Skilled Levels 3-5)	1379	17.90
Highly skilled production (Levels 6-8)	1304	12.91
Highly skilled supervision (Levels 9-12)	1106	19.40
Senior management (Levels 13-16)	510	18.89
<b>Total</b>	<b>4299</b>	<b>16.40</b>

**Table 12.9.4 – Capped Leave, 1 January 2008 To 31 December 2008**

SALARY BANDS	TOTAL DAYS OF CAPPED LEAVE TAKEN	AVERAGE NUMBER OF DAYS TAKEN PER EMPLOYEE	AVERAGE CAPPED LEAVE PER EMPLOYEE AS AT 31 DECEMBER 2008
Lower skilled (Levels 1-2)	N/A	N/A	N/A
Skilled Levels 3-5)	22	11	27.6
Highly skilled production (Levels 6-8)	3	3	33
Highly skilled supervision(Levels 9-12)	17	8.5	44.1
Senior management (Levels 13-16)	16	8.0	29.4
<b>Total</b>	<b>58</b>	<b>8.29</b>	<b>35.07</b>

**Table 12.9.5 – Leave Payouts For The Period 1 April 2008 To 31 March 2009**

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

REASON	TOTAL AMOUNT (R'000)	NUMBER OF EMPLOYEES	AVERAGE PAYMENT PER EMPLOYEE
Leave payout for 2008/09 due to non-utilisation of leave for the previous cycle	R26 410.32	2	R13 205.16
Capped leave payouts on termination of service for 2008/09	0	0	0
Current leave payout on termination of service for 2008/09	R227590.57	22	R10 345.02
<b>Total</b>	<b>R254 000.89</b>	<b>24</b>	<b>R10 583.37</b>

## 12.10 HIV and AIDS & Health Promotion Programmes

**Table 12.10.1 – Steps Taken To Reduce The Risk Of Occupational Exposure**

REASON	TOTAL AMOUNT (R'000)	NUMBER OF EMPLOY- EES	AVERAGE PAYMENT PER EMPLOYEE
Leave payout for 2008/09 due to non-utilisation of leave for the previous cycle	R26 410.32	2	R13 205.16
Capped leave payouts on termination of service for 2008/09	0	0	0
Current leave payout on termination of service for 2008/09	R227590.57	22	R10 345.02
<b>Total</b>	<b>R254 000.89</b>	<b>24</b>	<b>R10 583.37</b>

**Table 12.10.2 – Details Of Health Promotion And HIV and AIDS Programmes (Tick The Applicable Boxes And Provide The Required Information)**

QUESTION	YES	NO	DETAILS, IF YES
1. Has the department designated a member of the SMS to implement the provisions contained in Part VI E of Chapter 1 of the Public Service Regulations, 2001? If so, provide her/his name and position.	X		Mr SJ Lentsoane as- sisted 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 well being of your employees? If so, indicate the number of employees who are involved in this task and the annual budget that is available for this purpose.	X		9 EWP Committee Members and 20 Peer Educators Budget: R250 000
3. Has the department introduced an Employee Assistance or Health Promotion Programme for your employees? If so, indicate the key elements/services of this Programme.	X		Psychological Services HIV and AIDS Disease Management Programme Counselling
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 Sethodimela 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 Employee Wellness Policy
6. Has the department introduced measures to protect HIV-positive employees or those perceived to be HIV-positive from discrimination? If so, list the key elements of these measures.	X		Employee wellness programme in progress
7. Does the department encourage its employees to undergo Voluntary Counselling and Testing? If so, list the results that you have achieved.	X		VCT taken during the HIV and AIDS Launch
8. Has the department developed measures/indicators to monitor & evaluate the impact of its health promotion programme? If so, list these measures/indicators.	X		Mini surveys conducted for monitoring and evaluation

## 12.11 Labour relations

*Table 12.11.1 – Collective Agreements, 1 April 2008 To 31 March 2009*

SUBJECT MATTER	DATE
N/A	N/A

*Table 12.11.2 – Misconduct And Disciplinary Hearings Finalised, 1 April 2008 To 31 March 2009*

OUTCOMES OF DISCIPLINARY HEARINGS	NUMBER	% OF TOTAL
Correctional counselling	1	16.7%
Verbal warning	1	16.7%
Written warning	2	33.3%
Final written warning	1	16.7%
Suspended without pay	0	0%
Fine	0	0%
Demotion	0	0%
Dismissal	1	16.7%
Not guilty	0	0%
Case withdrawn	0	0%
<b>Total</b>	<b>6</b>	<b>100%</b>

*If there were no disciplinary hearings, then use the following table*

Disciplinary hearings – 2008/09	6
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*Table 12.11.3 – Types Of Misconduct Addressed At Disciplinary Hearings*

TYPE OF MISCONDUCT	NUMBER	% OF TOTAL
Prejudicing the administration of OPP	2	33.3%
Unauthorised Appointments	1	16.7%
Unauthorised use of telephone pin number	1	16.7%
Disrespect to fellow colleagues	2	33.3%
<b>Total</b>	<b>6</b>	<b>100%</b>

*Table 12.11.4 – Grievances Lodged For The Period 1 April 2008 To 31 March 2009*

	NUMBER	% OF TOTAL
Number of grievances resolved	3	100%
Number of grievances not resolved	0	0%
<b>Total number of grievances lodged</b>	<b>3</b>	<b>100%</b>

**Table 12.11.5 – Disputes Lodged With Councils For The Period 1 April 2008 To 31 March 2009**

	NUMBER	% OF TOTAL
Number of disputes upheld	1	100%
Number of disputes dismissed	0	0%
Total number of disputes lodged	1	100%

**Table 12.11.6 – Strike Actions For The Period 1 April 2008 To 31 March 2009**

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 12.11.7 – Precautionary Suspensions For The Period 1 April 2008 To 31 March 2009**

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

## 12.12 Skills development

**12.12.1 – Training Needs Identified 1 April 2008 To 31 March 2009**

OCCUPATIONAL CATEGORIES	GENDER	NUMBER OF EMPLOYEES AS AT 1 APRIL 2008	TRAINING NEEDS IDENTIFIED AT START OF REPORTING PERIOD			
			Learnerships	Skills Programmes & other short courses	Other forms of training	Total
Legislators, senior officials and managers	Female	10		9	0	9
	Male	13		13	0	13
Professionals	Female	24		24	0	24
	Male	30		30	0	30
Technicians and associate professionals	Female	46		46	0	46
	Male	50		50	0	50
Clerks	Female	57		57	0	57
	Male	17		17	0	17
Service and sales workers	Female	N/A		N/A	N/A	N/A
	Male	N/A		N/A	N/A	N/A
Skilled agriculture and fishery workers	Female	N/A		N/A	N/A	N/A
	Male	N/A		N/A	N/A	N/A



Craft and related trades workers	Female	N/A		N/A	N/A	N/A
	Male	N/A		N/A	N/A	N/A
Plant and machine operators and assemblers	Female	N/A		N/A	N/A	N/A
	Male	N/A		N/A	N/A	N/A
Elementary occupations	Female	N/A		N/A	N/A	N/A
	Male	N/A		N/A	N/A	N/A
Sub Total	Female	137		136	0	136
	Male	110		109	0	109
<b>Total</b>		<b>247</b>		<b>245</b>	<b>0</b>	<b>245</b>

**12.12.2 – Training Provided 1 April 2008 To 31 March 2009**

OCCUPATIONAL CATEGORIES	GENDER	NUMBER OF EMPLOYEES AS AT 1 APRIL 2008	TRAINING PROVIDED WITHIN THE REPORTING PERIOD			
			Learnerships	Skills Programmes & other short courses	Other forms of training	Total
Legislators, senior officials and managers	Female	10		9		9
	Male	13		9		9
Professionals	Female	24		7		7
	Male	30		9		9
Technicians and associate professionals	Female	46		37		37
	Male	50		25		25
Clerks	Female	57		50		50
	Male	17		7		7
Service and sales workers	Female	N/A		N/A		N/A
	Male	N/A		N/A		N/A
Skilled agriculture and fishery workers	Female	N/A		N/A		N/A
	Male	N/A		N/A		N/A
Craft and related trades workers	Female	N/A		N/A		N/A
	Male	N/A		N/A		N/A
Plant and machine operators and assemblers	Female	N/A		N/A		N/A
	Male	N/A		N/A		N/A
Elementary occupations	Female	N/A		N/A		N/A
	Male	N/A		N/A		N/A
Sub Total	Female	137		103		103
	Male	110		50		50
<b>Total</b>		<b>247</b>		<b>153</b>		<b>153</b>

## 12.13 Injury on duty

Table 12.13.1 – Injury On Duty Xe “Injury On Duty” , 1 April 2008 To 31 March 2009

NATURE OF INJURY ON DUTY	NUMBER	% OF TOTAL
Required basic medical attention only	4	100%
Temporary Total Disablement	0	
Permanent Disablement	0	
Fatal	0	
<b>Total</b>	<b>4</b>	<b>100%</b>

## 12.14 Utilisation of consultants

Table 12.14.1 – Report On Consultant Appointments Using Appropriated Funds

PROJECT TITLE	TOTAL NUMBER OF CONSULTANTS THAT WORKED ON THE PROJECT	DURATION: WORK DAYS	CONTRACT VALUE IN RAND
Job Evaluation	2	1 Year	R257 888.00
EWP	3	2 Years	R500 000.00
Recruitment	2	2 Years	R500 000.00
Policy Manual	3	1 Year	R223 839.00
PPMDS	2	2 Year	R299 595.00
Team Building	2	1 Year	R767 800.00
<b>Total number of projects</b>	<b>Total individual consultants</b>	<b>Total duration: Work days</b>	<b>Total contract value in Rand</b>
6	14		R2 549 122.00

Note: The amounts appearing in Table 9.14.1 are the total contracted amounts but not paid.

Table 12.14.2 – Analysis Of Consultant Appointments Using Appropriated Funds, In Terms Of Historically Disadvantaged Individuals (Hdis)

PROJECT TITLE	PERCENTAGE OWNERSHIP BY HDI GROUPS	PERCENTAGE MANAGEMENT BY HDI GROUPS	NUMBER OF CONSULTANTS FROM HDI GROUPS THAT WORK ON THE PROJECT
Job Evaluation	30%	30%	
EWP	26%	26%	
Recruitment	57.3%	57.3%	
Policy Manual	30%	30%	
PPMDS	0%	0%	
Teambuilding	0%	0%	

**Table 12.14.3 – 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
Training	1	1 Year	R 112 000.00
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A

**Table 12.14.4 – Analysis Of Consultant Appointments Using Donor Funds, In Terms Of Historically Disadvantaged Individuals (Hdis)**

PROJECT TITLE	PERCENTAGE OWNERSHIP BY HDI GROUPS	PERCENTAGE MANAGEMENT BY HDI GROUPS	NUMBER OF CONSULTANTS FROM HDI GROUPS THAT WORK ON THE PROJECT
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A

# IN MEMORIUM

**Mr Zain Docrat**



Mr Zain Docrat passed away unexpectedly on 5 October 2008, exactly two years after joining the Office of the Public Protector as the Chief Financial Officer on 5 October 2006. During that short stint with us, he was the main contributor to the “clean audit reports of the OPP”. He is greatly missed.





## 13. ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2009

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## OFFICE OF THE PUBLIC PROTECTOR REPORT OF THE AUDIT COMMITTEE FOR THE YEAR ENDED 31 MARCH 2009

We are pleased to present our report for the financial year ended 31 March 2009.

### **Audit Committee members and attendance**

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

<b>Name of Member</b>	<b>No. of meetings attended</b>
Ms. M. Vuso (Chairperson)	5
Mr. A. Soma	2
Mr. J. Mokwena	3

### **Audit Committee responsibility**

We report that we have adopted appropriate formal terms of reference in our Charter in line with the requirements of Section 51(1) (a) of the PFMA and Treasury Regulations 27.1. We further report that we have conducted our affairs in compliance with the Charter.

The effectiveness of internal control

The system of internal control applied by the OPP over financial and risk management is effective, efficient and transparent.

In line with the PFMA and the King II 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 control 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 South Africa, it was noted that no matters were reported that indicate any material deficiencies in the system of internal control or any deviations there from. Accordingly we can report that the system of internal control over financial reporting for the period under review was efficient and effective.

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

We are satisfied with the content and quality of monthly and quarterly reports prepared and issued by the Accounting Officer of OPP 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 South Africa's management report and management's response thereto; Reviewed changes in accounting policies and practices;
- Reviewed OPP's compliance with legal and regulatory provisions; and
- Reviewed significant adjustments resulting from the audit

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

## Internal audit

We are satisfied that the internal audit function is operating effectively and that it has addressed the risks pertinent to OPP in its audits.

## Auditor-General South Africa

We have met with the Auditor-General South Africa to ensure that there are no unresolved issues.



.....  
**Ms. M. Vuso**

Chairperson of the Audit Committee  
31 May 2009



## **REPORT OF THE AUDITOR-GENERAL OF SOUTH AFRICA TO PARLIAMENT ON THE FINANCIAL STATEMENTS AND PERFORMANCE INFORMATION OF OPP FOR THE YEAR ENDED 31 MARCH 2009**

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Introduction**

1. I have audited the accompanying financial statements of OPP which comprise the statement of financial position as at 31 March 2009, and the statement of financial performance, the statement of changes in net assets and the cash flow statement for the year then ended, a summary of significant accounting policies and other explanatory notes, as set out on pages 122 to 159.

#### **The accounting officer's responsibility for the financial statements**

2. The accounting officer is responsible for the preparation and fair presentation of these financial statements in accordance with the basis of accounting determined by the National Treasury, as set out in accounting policy note 1.1 to the financial statements and in the manner required by the Public Finance Management Act, 1999 (Act No. 1 of 1999) (PFMA), and for such internal control as the accounting officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

#### **The Auditor-General's responsibility**

3. As required by section 188 of the Constitution of the Republic of South Africa, 1996 read with section 4 of the Public Audit Act, 2004 (Act No. 25 of 2004) (PAA), my responsibility is to express an opinion on these financial statements based on my audit.
4. I conducted my audit in accordance with the International Standards on Auditing read with General Notice 616 of 2008, issued in Government Gazette No. 31057 of 15 May 2008. 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.
5. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's 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.
6. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

#### **Basis for qualified opinion**

##### **Property, plant and equipment**

7. In terms of South African Statements of Generally Accepted Accounting Practice, IAS 16 (AC 123) *Property, plant and equipment* par 51 requires that the useful lives of assets shall be reviewed at each financial year end. Management did not review the useful life of assets during the current or previous financial periods.

8. OPP's records did not permit the application of alternative audit procedures to determine the useful lives of assets, as the conditions of the assets were not reflected on the asset register.
9. Consequently, I did not obtain all the information and explanations I considered necessary to satisfy myself as to the accuracy and valuation of property, plant and equipment amounting to R10,3 million as disclosed in note 1 to the financial statements.

#### **Opinion**

10. In my opinion, except for the possible effects of the matter described in the basis for qualified opinion paragraphs, the financial statements present fairly, in all material respects, the financial position of the OPP as at 31 March 2009 and its financial performance and its cash flows for the year then ended, in accordance with the basis of accounting determined by the National Treasury as set out in accounting policy note 1 and in the manner required by the PFMA.

#### **Emphasis of matter**

11. I draw attention to the following matters on which I do not express a qualified opinion:

#### **Basis of accounting**

12. OPP's policy is to prepare financial statements on the basis of accounting determined by the National Treasury, as set out in accounting policy note 1.

#### **Significant uncertainties relating to operating lease payments**

13. As disclosed in note 27.3 to the financial statements, there is significant uncertainty regarding the payment of operating leases in respect of premises used by the OPP. The contracts are between the Department of Public Works and the lessor. The OPP has not paid the monthly rental charge and I am unable to establish the contractual commitment of OPP in respect of these rental agreements

#### **Restatement of corresponding figures**

14. As disclosed in note 1.21 to the financial statements, the corresponding figures for 31 March 2008 have been restated as a result of an error discovered during the year ended 31 March 2009 in the financial statements of the OPP at, and for the year ended, 31 March 2008.

#### **Other matters**

15. I draw attention to the following matter that relates to my responsibilities in the audit of the financial statements:

**Governance framework**

16. The governance principles that impact the auditor’s opinion on the financial statements are related to the responsibilities and practices exercised by the accounting officer and executive management and are reflected internal control deficiencies and in the key governance responsibilities addressed below:

**Internal control deficiencies**

17. Section 38(1)(a)(i) of the PFMA states that the accounting officer must ensure that OPP has and maintains effective, efficient and transparent systems of financial and risk management and internal control. The table below depicts the root causes that gave rise to the deficiencies in the system of internal control, which led to the qualified opinion. The root causes are categorised according to the five components of an effective system of internal control. (The number listed per component can be followed with the legend below the table.) In some instances deficiencies exist in more than one internal control component.

PAR. NO.	BASIS FOR QUALIFIED	CE	RA	CA	IC	M
7 - 9	Property, plant and equipment_			3 and 4		

LEGEND	
CE = Control environment	
The organisational structure does not address areas of responsibility and lines of reporting to support effective control over financial reporting.	1
Management and staff are not assigned appropriate levels of authority and responsibility to facilitate control over financial reporting.	2
Human resource policies do not facilitate effective recruitment and training, disciplining and supervision of personnel.	3
Integrity and ethical values have not been developed and are not understood to set the standard for financial reporting.	4
The accounting officer/accounting authority does not exercise oversight responsibility over financial reporting and internal control.	5
Management’s philosophy and operating style do not promote effective control over financial reporting.	6
The entity does not have individuals competent in financial reporting and related matters.	7
RA = Risk assessment	

Management has not specified financial reporting objectives to enable the identification of risks to reliable financial reporting.	1
The entity does not identify risks to the achievement of financial reporting objectives.	2
The entity does not analyse the likelihood and impact of the risks identified.	3
The entity does not determine a risk strategy/action plan to manage identified risks.	4
The potential for material misstatement due to fraud is not considered.	5
CA = Control activities	
There is inadequate segregation of duties to prevent fraudulent data and asset misappropriation.	1
General information technology controls have not been designed to maintain the integrity of the information system and the security of the data.	2
Manual or automated controls are not designed to ensure that the transactions have occurred, are authorised, and are completely and accurately processed.	3
Actions are not taken to address risks to the achievement of financial reporting objectives.	4
Control activities are not selected and developed to mitigate risks over financial reporting.	5
Policies and procedures related to financial reporting are not established and communicated.	6
Realistic targets are not set for financial performance measures, which are in turn not linked to an effective reward system.	7
IC = Information and communication	
Pertinent information is not identified and captured in a form and time frame to support financial reporting.	1
Information required to implement internal control is not available to personnel to enable internal control responsibilities.	2
Communications do not enable and support the understanding and execution of internal control processes and responsibilities by personnel.	3
M = Monitoring	
Ongoing monitoring and supervision are not undertaken to enable an assessment of the effectiveness of internal control over financial reporting.	1
Neither reviews by internal audit or the audit committee nor self-assessments are evident.	2
Internal control deficiencies are not identified and communicated in a timely manner to allow for corrective action to be taken.	3

### Key governance responsibilities

18. The PFMA tasks the accounting officer with a number of responsibilities concerning financial and risk management and internal control. Fundamental to achieving this is the implementation of key governance responsibilities, which I have assessed as follows:

No.	MATTER	Y	N
<b>Clear trail of supporting documentation that is easily available and provided in a timely manner</b>			
1.	No significant difficulties were experienced during the audit concerning delays or the availability of requested information.	√	
Quality of financial statements and related management information			
2.	The financial statements were not subject to any material amendments resulting from the audit.		√
3.	The annual report was submitted for consideration prior to the tabling of the auditor's report.	√	
Timeliness of financial statements and management information			
4.	The annual financial statements were submitted for auditing as per the legislated deadlines section 40 of the PFMA.	√	
Availability of key officials during audit			
5.	Key officials were available throughout the audit process.	√	
Development and compliance with risk management, effective internal control and governance practices			
6.	Audit committee		
	• OPP had an audit committee in operation throughout the financial year.	√	
	• The audit committee operates in accordance with approved, written terms of reference.	√	
	• The audit committee substantially fulfilled its responsibilities for the year, as set out in section 77 of the PFMA and Treasury Regulation 3.1.10		
7.	Internal audit	√	
	• OPP had an internal audit function in operation throughout the financial year.	√	
	• The internal audit function operates in terms of an approved internal audit plan.	√	
	• The internal audit function substantially fulfilled its responsibilities for the year, as set out in Treasury Regulation 3.2	√	
8.	There are no significant deficiencies in the design and implementation of internal control in respect of financial and risk management.	√	
9.	There are no significant deficiencies in the design and implementation of internal control in respect of compliance with applicable laws and regulations.	√	
10.	The information systems were appropriate to facilitate the preparation of the financial statements.	√	

No.	MATTER	Y	N
11.	A risk assessment was conducted on a regular basis and a risk management strategy, which includes a fraud prevention plan, is documented and used as set out in Treasury Regulation 3.2	√	
12.	Powers and duties have been assigned, as set out in section 44 of the PFMA	√	
Follow-up of audit findings			
13.	The prior year audit findings have been substantially addressed.	√	
14.	SCOPA resolutions have been substantially implemented.	N/A	
Issues relating to the reporting of performance information			
15.	The information systems were appropriate to facilitate the preparation of a performance report that is accurate and complete.	√	
16.	Adequate control processes and procedures are designed and implemented to ensure the accuracy and completeness of reported performance information.		√
17.	A strategic plan was prepared and approved for the financial year under review for purposes of monitoring the performance in relation to the budget and delivery by the entity against its mandate, predetermined objectives, outputs, indicators and targets as per Treasury Regulation 29.1	√	
18.	There is a functioning performance management system and performance bonuses are only paid after proper assessment and approval by those charged with governance.	√	

## REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

### Report on performance information

19. I have reviewed the performance information as set out on pages 10 to 42.

### The accounting officer's responsibility for the performance information

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

### The Auditor-General's responsibility

21. I conducted my engagement in accordance with section 13 of the PAA read with General Notice 616 of 2008, issued in Government Gazette No. 31057 of 15 May 2008.

22. In terms of the foregoing my engagement included performing procedures of an audit nature to obtain sufficient appropriate evidence about the performance information and related systems, processes and procedures. The procedures selected depend on the auditor's judgement.

23. I believe that the evidence I have obtained is sufficient and appropriate to provide a basis for the review findings reported below.

## Findings on performance information

### Usefulness and reliability of reported performance information

24. The following criteria were used to assess the usefulness and reliability of the information on the OPP performance with respect to the objectives in its strategic plan:

- Consistency: Has OPP reported on its performance with regard to its objectives, indicators and targets in its approved strategic plan?
- Relevance: Is the performance information as reflected in the indicators and targets clearly linked to the predetermined objectives and mandate. Is this specific and measurable, and is the time period or deadline for delivery specified?
- Reliability: Can the reported performance information be traced back to the source data or documentation and is the reported performance information accurate and complete in relation to the source data or documentation?

The following audit findings relate to the above criteria:

### Reported performance information not reliable

#### Source information not accurate and complete

25. The source information provided to support the reported performance information with regard to the investigations and reporting programme did not adequately support the accuracy and completeness of the facts.

## APPRECIATION

26. The assistance rendered by the staff of the OPP during the audit is sincerely appreciated.

*Auditor-General*

31 July 2009



AUDITOR-GENERAL  
SOUTH AFRICA

*Auditing to build public confidence*

## REPORT BY THE CHIEF EXECUTIVE OFFICER TO THE EXECUTIVE AUTHORITY AND PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA FOR THE YEAR ENDED 31 MARCH 2009

### 1. Legislative Mandate

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

1.2 The core business of the OPP 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 OPP operates with four programmes, which are as follows:

PROGRAMME	SUB-PROGRAMME
Programme 1: Investigations and Reporting	Programme 1.1: National Investigations Programme 1.2: Provincial Investigations Programme 1.3: Special Investigations
Programme 2: Executive Management	Programme 2.1: Public Protector Programme 2.2: Deputy Public Protector Programme 2.3 Chief Executive Officer Programme 2.4: Executive Support Programme 2.5: Communications Programme 2.6: Security and Risk Management
Programme 3: Outreach	Programme 3.1: National Outreach Programme 3.2: Provincial Outreach



Programme 4: Corporate Support Services	Programme 4.1: Human Resource Management and Development Programme 4.2: Finance and Supply Chain Management Programme 4.3: Knowledge Management Programme 4.4: Information Technology Programme 4.5: Administrative Support
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2.2 The OPP was successful in achieving its constitutional mandate and has made significant progress in reaching the poorest of the poor through the outreach programme. In support of this statement, see the report on Performance against Strategic Objectives section of the Annual Report.

2.3 The development of the Case Management System (CMS) was completed in January 2009. During the post implementation and stabilisation phase, computer literacy and workflow and connectivity challenges mostly related to bandwidth were encountered. Measures were put in place to resolve the challenges and further training will be finalised in the 2009/10 financial year. It is pleasing to report that the development of the system is a success and the system processes are being streamlined. The system will be monitored throughout the year and a possible reengineering of the process will be considered in the 2010/11 financial year.

2.4 The OPP has posted an operating deficit for the year of R5 006 million. When the depreciation charge of R3 485 million is added back the operating position is an operating surplus of R1 521 million. Matters which further negatively affected the OPP's operating position were:

- The implementation of the first phase of the OSD salary adjustment for legally qualified staff which resulted in an increase of approximately 19.5%; and
- DPSA overall approved salary increase percentage of 10.5% as opposed to the OPP budget of only 6.5%.

### 3. Capacity constraints

3.1 OPP has experienced high staff turnover in all the sections. The position of the Chief Executive Officer became vacant and an Acting Chief Executive Officer was appointed since 18 December 2007 until 31 December 2008. This had a ripple effect of acting appointments in the OPP. In October 2008, the OPP suddenly lost its Chief Financial Officer in a car accident and this negatively impacted on the operations of OPP. Measures were put in place to appoint an Acting Chief Financial Officer and a consulting firm was appointed to assist OPP.

3.2 The Chief Executive Officer post was filled in January 2009, and the Chief Financial Officer will commence duties on 1 June 2009.

#### 4. Utilisation of Donor Funds

4.1 As disclosed in note 2 of the notes to the Annual Financial Statements, OPP entered into a Memorandum of Understanding with the Human Rights Commissions (HRC), and the Commission on Gender Equality (CGE) to implement the Civil Society Advocacy Programme (CSAP). This programme was funded by the European Union (EU) and the signatory of the Financing Agreement is the SAHRC. In terms of this agreement, the EU funded the salaries of six OPP employees for two years, starting from 1 January 2007 until 31 December 2008. This has allowed OPP to expand the Outreach programme and the EU- funded employees have since been absorbed in the OPP effective 1 January 2009.

4.2 One of the objectives of the civil society programme was to contract service providers to educate communities about their rights.

4.3 The OPP and the two mentioned Chapter Nine institutions encountered challenges in the implementation of the EU programme. This resulted in potential litigation by both the EU and the relevant service providers. The Chapter Nine institutions have responded to all related correspondence and are awaiting further correspondence from the other parties.

#### 5. Public Participation in the National Treasury Public Private Partnerships (PPP) Programme

5.1 During the financial year under review, OPP 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.

## 6. Events after the reporting date

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

## 7. Business Address

### Physical Address

175 Lunnon Street  
Hillcrest Office Park  
HILLCREST  
0083

### Postal Address

Private Bag X677  
PRETORIA  
0001

## 8. Statement of Responsibility

8.1 The OPP is responsible for the preparation, integrity, and fair presentation of the annual financial statements. The annual financial statements presented on pages 122 to 159, have been prepared in accordance with the effective Standards of Generally Recognised Accounting Practices (GRAP) issued by the Accounting Standards Board replacing the equivalent GAAP Statements.

8.2 OPP 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.

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

8.4 The OPP 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 OPP's annual financial statements to have confidence that the financial information provided is timely, complete, relevant, and accurate.

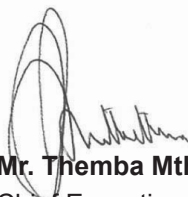
8.5 The OPP has established and maintains a strong ethical climate so that its affairs are conducted to the highest standards of personal and corporate conduct. OPP also has established an effective system of internal control that provides reasonable assurance as to the integrity and accuracy of these 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.

8.6 The OPP's external auditors, the Auditor-General South Africa, are responsible for reporting on the fair presentation of these financial statements.

8.7 The OPP is committed to, and fully understands and embraces, all its fiduciary and legislative responsibilities. OPP is dedicated to ensuring that the high standards of financial accounting and reporting as well as the underlying system of internal controls are maintained. OPP's culture demands integrity and OPP 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.

#### 9. Approval

The annual financial statements set out on pages 122 to 159 have been approved by the Chief Executive Officer



**Mr. Themba Mthethwa**  
Chief Executive Officer  
31 May 2009

	Notes	2009 Actual R'000	2008 Actual R'000
<b>REVENUE</b>			
Grants and transfers	2	92,354	81,480
Other income	3	71	3
Finance income	4	1,833	2,337
<b>TOTAL REVENUE</b>		<b>94,258</b>	<b>83,820</b>
<b>EXPENDITURE</b>			
Administrative expenses	5	17,530	14,055
Staff costs	6	69,024	52,174
Loss on disposal of assets	7	0	37
Other operating expenses	8	8,658	12,778
Depreciation and amortisation	9	3,485	2,824
Finance Costs	10	567	457
<b>TOTAL EXPENDITURE</b>		<b>99,264</b>	<b>82,325</b>
<b>Surplus/(Deficit) for the year</b>		<b>-5,006</b>	<b>1,495</b>

	Notes	2009 Actual R'000	2008 Actual R'000
<b>ASSETS</b>			
<b>Non-current assets</b>			
Property, plant and equipment	11	10,392	10,748
Intangible assets other than goodwill	12	6,685	3,039
<b>Current assets</b>			
Trade and other receivables	13	292	1,312
Inventory	14	239	231
Cash and cash equivalents	15	7,436	20,909
<b>Total assets</b>		<b>25,044</b>	<b>36,239</b>
<b>NET ASSETS AND LIABILITIES</b>			
<b>Net Assets</b>			
Accumulated Surplus/(Deficit)		6,991	11,997
<b>Non-current liabilities</b>			
Non-current finance lease liability	16	1,569	2,006
<b>Current liabilities</b>			
Trade and other payables	17	5,582	9,908
Provisions	18	10,328	6,874
Deferred income	19	0	5,000
Current finance lease liability	16	574	455
<b>Total net assets and liabilities</b>		<b>25,044</b>	<b>36,239</b>

Office of the Public Protector  
 Annual Financial Statements for the year ended 31 March 2009  
 Changes in Net Assets for the year ended 31 March 2009

	<b>Net Assets</b>
	R'000
Balance 31 March 2007	10,328
Prior year adjustments	114
Balance 31 March 2007 Restated	<u>10,442</u>
Restated Surplus/(Deficit) 2008	2,400
Prior year adjustments	-845
Restated Balance as at 31 March 2008	<u>11,997</u>
Restated balance as at 31 March 2008	11,997
Surplus/(Deficit for the year 2008/09	<u>-5,006</u>
Balance as at 31 March 2009	<u><u>6,991</u></u>

**CASH FLOW STATEMENT FOR THE YEAR  
 ENDING 31 MARCH 2009**

<b>2009 Actual</b>	<b>2008 Actual</b>
<b>R'000</b>	<b>R'000 Restated</b>

**CASH FLOWS FROM OPERATING ACTIVITIES**

Cash received from grants and other income	93,446	80,440
Cash paid to suppliers and employees	-101,092	-75,749
Cash flows from operating activities	-7,646	4,691
Interest paid	-567	-457
<b>Net cash flow from operating activities</b>	<b>-8,213</b>	<b>4,234</b>

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**CASH FLOWS FROM INVESTING ACTIVITIES**

Purchase of property, plant and equipment	-2,526	-3,422
Purchase of intangible assets	-4,085	-3,039
Interest received	1,833	2,337
<b>Net cash flow from investing activities</b>	<b>-4,778</b>	<b>-4,124</b>

**CASH FLOWS FROM FINANCING ACTIVITIES**

Repayment of borrowings	-481	-322
<b>Net cash flow from financing activities</b>	<b>-481</b>	<b>-322</b>

Net increase/(decrease) in cash and cash equivalents	-13,474	-211
Cash and cash equivalents at the beginning of the year	20,909	21,120
Cash and cash equivalents at end of the year	7,436	20,909

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## 1. Basis of preparation

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

STANDARD OF GRAP	REPLACED STANDARD OF GAAP
GRAP 1: Presentation of financial statement	AC101: Presentation of financial statements
GRAP 2: Cash flow statements	AC118: Cash flow statements
GRAP 3: Accounting policies, changes in accounting estimates and errors	AC103: Accounting policies, changes in accounting estimates and errors

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

### Terminology differences:

STANDARD OF GRAP	REPLACED STATEMENT OF GAAP
Statement of financial performance	Income statement
Statement of financial position	Balance sheet
Statement of changes in net assets	Statement of changes in equity
Net assets	Equity
Surplus/deficit for the period	Profit/loss for the period
Accumulated surplus/deficit	Retained earnings
Contributions from owners	Share capital
Distributions to owners	Dividends
Reporting date	Balance sheet date

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

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

## 1.2 Currency

These financial statements are presented in South African Rands since that is the currency in which the majority of OPPs' transactions is denominated. Grants received from the European Union through the Civil Society Advocacy Programme were received in South African Rands.

## 1.3 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.

### Grants and transfers

Grants and transfers constitute transfer payments from the Department of Justice and Constitutional Development and the European Union through the CSAP Programme.

Grants and transfers are recognised as revenue in the statement of financial performance:

- a. When it is probable that the economic benefits or service potential associated with the transaction will flow to the entity
- b. When the amount of the revenue can be measured reliably
- c. To the extent that there has been compliance with any restrictions associated with the grant.

Until the conditions of a grant or transfer have been met a liability is recognised, under Unspent Conditional Grants and Transfers, equal to the value of the grant or conditions with which there must still be compliance. Thereafter a transfer is made to revenue when the conditions have been met.

### Income from investments

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

#### **1.4 Regular, fruitless and wasteful expenditure**

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

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

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

#### **1.5 Debts written off**

OPP has adopted a policy, consistent with Treasury Regulations issued in terms of the Public Finance Management Act, with regards to the writing off of debts. In terms of this policy, debt is written off if:

- The debtor is untraceable and it would not be economically viable to employ tracing agents;
- The debt cannot be supported by adequate supporting documentation;
- Recovery of debt would be uneconomical;
- Recovery would cause undue hardship to the debtor or his/her dependents; and
- It is advantageous for the State to effect settlement of the claim or to waive the claim.

All debts written off require the express written authorisation of the Accounting Officer.

#### **1.6 Employee Benefits**

##### **Retirement benefit costs**

OPP offers its employees the option of choosing both a defined contribution plan and a defined benefit plan. The defined benefit plan offered to employees is the Government Employees Pension Fund (GEPF). In terms of the rules of the GEPF, the National Revenue Fund is responsible for any potential liability that might arise as a result of this plan. This implies that once contributions are paid, OPP 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 recognized in the annual financial statements of OPP, but is disclosed in the financial statements of the National Revenue Fund.

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

#### **Short-term employee benefits**

The cost of all short-term employee benefits is recognised during the period in which the employee renders the related service. 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 his office. The gratuity calculation is based on his basic salary and his period in office. The provision raised in the annual financial statements is the actual amount that is payable to the Public Protector on vacating his office.

#### **1.7 Extraordinary items**

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

#### **1.8 Transfer payments**

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 of the valuation profession. Receivables are recognised when a binding transfer arrangement is in place but cash or other assets have not been received.

#### **1.9 Property, plant and equipment**

##### **Initial recognition**

Property, plant and equipment comprise of 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

The cost of replacing a major part of an item of property, plant and equipment is recognised in the carrying amount of such an item at acquisition if it could be measured reliably and if it is probable that the future economic benefits embodied in the item will flow.

### 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 methods of 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 method over the following periods:

Computer equipment	4 – 8 years
Furniture & 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**

Gains or losses on disposal are included in the Statement of Financial Performance and are determined by comparing sales proceeds to the carrying amounts.

### **1.10 Intangible assets other than goodwill**

#### **Recognition**

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

#### **Subsequent costs**

Subsequent cost is recognised in the carrying amount of such an item at acquisition if it could be measured reliably and if it is probable that the future economic benefits embodied in the item will flow.

#### **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 method. The estimated useful lives, residual values, and depreciation method are reviewed at each year end, with the effect of any changes in estimate accounted for on a prospective basis.

#### **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 or losses on disposal**

Gains and losses on disposal are included in the Statement of Financial Performance and are determined by comparing sales proceeds with the carrying amounts.

### 1.11 Inventory

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

### 1.12 Impairment of assets

At each balance sheet date, OPP 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.

### 1.13 Leases

Finance leases are treated in terms of IAS 17 and refer to a contract that transfers the risks, rewards, rights, and obligations incidental to ownership to the lessee. It is recorded as a purchase of equipment by means of long-term borrowings. All other leases are classified as operating leases.

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

Rentals payable under operating leases are charged to income on a straight-line basis over the term of the relevant lease. Where allowance is made in the lease agreement for an annual escalation in rentals payable, the actual lease payments are recognised in a straight line basis over the term of the lease.

#### **1.14 Financial Instruments**

##### **Recognition**

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

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

##### **Measurement**

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

##### **Financial assets**

OPP’s principle financial assets are accounts receivable and cash equivalents.

- Accounts receivables

Accounts receivables are stated at their nominal value as reduced by appropriate allowances for estimated irrecoverable amounts. Short-term receivables with no interest rate are measured at the original invoice amount if the effect of discounting on individual transactions is immaterial.

##### **Financial liabilities**

OPP’s principle financial liabilities are accounts payable.

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

- 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.

### **1.15 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.

### **1.16 Cash and cash equivalents**

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

### **1.17 Key sources of estimation uncertainty**

The following are the key assumptions concerning the future, and other key sources of estimation uncertainty at the balance sheet date, that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next financial year:

- Review of residual lives, carrying values and impairment charges for property, plant and equipment and intangible assets – refer to Accounting Policy 1.9 Property, Plant and Equipment; Accounting Policy 1.10 Intangible assets other than goodwill and Accounting Policy 1.12 Impairment of assets; and
- Review of the recoverability of outstanding debts and the writing off of debt – refer to Accounting Policy 1.6 Debts written off.

### **1.18 Comparatives**

In order to conform to changes, comparative figures have been adjusted, where necessary, in presentation in the current year. The comparative figures shown in these financial statements are

limited to the figures shown in the previous year's audited financial statements and such other comparative figures that OPP may reasonably have available for reporting.

### 1.19 Going concern

The Statements have been prepared on a going-concern basis. Management is not aware of any uncertainties, related to events or conditions which cast significant doubt over the ability of OPP's office (OPP) to continue as a going concern. There is no intention to liquidate the OPP or to cease operating.

### 1.20 Effect of new GRAP standards

The following GRAP standards have been approved but are not yet effective:  
 GRAP 4 – 14, 16, 17, 19 and 100 – 102.

The effective date of the above standards is 1 April 2009. The effect of adopting these GRAP standards when they become effective is not expected to have a significant impact on the financial statements as the principles are similar to those already applied under the equivalent of SA GAAP.

### 1.21 Prior period errors

The following prior period errors have been adjusted:

A voided transaction in the General ledger during 2007/08 resulted in an overstatement of an amount of R702 000 being carried forward under Accounts payable. This amount has been adjusted between Accounts payable and the Medical Aid contributions. It affected the medical aid contributions during 2007/08. The line items affected was:

DESCRIPTION	RANDS (R)
Accounts payable	(702 000)
Medical Aid	702 000

- The rentals of a building leased in Mabopane as an office allows for an escalation of rentals. The rentals payable were not straight lined during 2007/08 and this adjustment has now been made. The amount involved for 2007/08 was R9 911. The line items affected was:

DESCRIPTION	RANDS (R)
Other operating expenses	9 911
Trade and other payalbes	(9 911)

- The rentals in respect of the leased building at Mabopane are paid by the Department of Works although the agreement is with the OPP. No account has been received in this respect and an accrual is made for any possible liability. The line items affected are as follows:

DESCRIPTION	RANDS (R)
Other operating expenses	90 877
Accruals	(90 877)

- Photo copiers are leased from Konica Minolta in terms of a transversal contract managed by National Treasury. During 2007/08 additional photo copiers were acquired. At that stage negotiations were pending for an increase in contract charges. A finance lease obligation was allowed for as from date of acquisition, which was September 2007, of the photo copiers. The negotiations were only finalised later and the agreements were signed on 1 March 2008. The first six months were therefore changed from a finance lease obligation to operating leases. Depreciation of R123 156,82 and rentals of R147 260,47 were adjusted. The line items affected is:

DESCRIPTION	RANDS (R)
Depreciation	(123 156)
Accumulated Depreciation - Office Equipment	123 156
Other Operating expenses	147 260
Operating expenses	(40 673)
Non-current Fin Leases Liabilities	(106 587)
Non-current Fin Leases Liabilities	(13 517)
Current portion of finance lease liability	13 517

- A vehicle was acquired from the Government Garage for use by the Public Protector as from April 2006. It has been judged that the lease should be recorded as a Finance lease in stead of an Operating lease. The vehicle has now been recorded in the assets register at an amount of R616 274 with the equivalent liability. The depreciation and finance costs, since that date, have also been allowed for.

The line items affected was:

DESCRIPTION	2006/07 (R)	2007/08(R)
Motor vehicle Public Protector	616 274	-
Non-current Fin Leases Liabilities	(616 274)	-

Depreciation	123 255	123 255
Accumulated Depreciation Motor vehicle	(123 255)	(123 255)
Other Operating expenses	(238 786)	(238 786)
Operating expenses	176 104	154 572
Non-current Fin Leases Liabilities	62 662	84 214
Non-current Fin Leases Liabilities	84 214	28 929
Current portion of finance lease liability	(84 214)	(28 929)

- Assets have been donated to the OPP by the Department of Justice. These assets have been recorded at a nominal value of R1 per asset. These assets have now been fair valued at an amount of R193 464, backdated to 2006/07. Depreciation since 2006/07 has been allowed for. The net book value is now R135 425. The line items affected is as follows:

DESCRIPTION	2006/07 (R)	2007/08 (R)
Donated assets	(193 464)	
Furniture and fittings	166 250	
Office Equipment – Cost (Own)	9 929	
Computer equipment	17 285	
Depreciation	16 625	16 625
Depreciation	992	992
Depreciation	1 728	1 728
Accumulated depreciation	(19 346)	(19 346)

	<b>2009</b>	<b>2008</b>
	<b>R'000</b>	<b>R'000</b>
2. Grants and transfers		
National Departments	91,475	80,222
Foreign Institutions	879	1,258
<b>Total</b>	<b>92,354</b>	<b>81,480</b>

<b>2.1 National Departments</b>	<b>2009</b>	<b>2008</b>
	<b>R'000</b>	<b>R'000</b>
Transfer from Department of Justice	86,475	78,722
Deferred Income recognised as income in current year	5,000	6,500
Income deferred in current year	0	-5,000
<b>Total</b>	<b>91,475</b>	<b>80,222</b>

<b>2.2 Foreign Institutions</b>	<b>2009</b>	<b>2008</b>
	<b>R'000</b>	<b>R'000</b>
European Union (Civil Society Advocacy Programme)	879	1,258
<b>Total</b>	<b>879</b>	<b>1,258</b>

During the 2006/07 financial year, OPP concluded a Memorandum of Understanding with the European Union whereby the salaries for six OPP employees was funded by the European Union through the Civil Society Advocacy Programme. This agreement ended 31 December 2008. Also refer to Note 6.

<b>3. Other Income</b>	<b>2009</b>	<b>2008</b>
	<b>R'000</b>	<b>R'000</b>
Revenue	71	3
<b>Total</b>	<b>71</b>	<b>3</b>

<b>4. Finance Income</b>	<b>2009</b>	<b>2008</b>
	<b>R'000</b>	<b>R'000</b>
Interest on cash and bank deposits	1,833	2,337
<b>Total</b>	<b>1,833</b>	<b>2,337</b>

<b>5. Administrative Expenses</b>	<b>2009</b>	<b>2008</b>
	<b>R'000</b>	<b>R'000</b>
General and administrative expenses	16,832	13,574
Auditor's Remuneration	698	481
<b>Total</b>	<b>17,530</b>	<b>14,055</b>

**6. Staff costs**

Basic salaries
Performance awards
Service Bonus
Defined Pension contribution plan expense
Medical Aid contributions
Housing allowance
Pension allowance
Travel allowance
Other allowances

<b>2009</b>	<b>2008</b>
<b>R'000</b>	<b>R'000</b>
47,366	34,944
2,600	1,611
2,520	2,613
4,049	2,766
1,870	1,636
1,826	1,325
1,812	1,922
2,795	2,581
4,187	2,772
<b>69,025</b>	<b>52,170</b>

**Total**

Included in the above is the salary cost of R878822.58 that relates to the salaries for six employees funded by the European Union through the Civil Society Advocacy Programme

**7. Loss on disposal of assets**

Loss on disposal of assets
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<b>2009</b>	<b>2008</b>
<b>R'000</b>	<b>R'000</b>
0	37
<b>0</b>	<b>37</b>

**Total**

During the year ended 31 March 2008, assets with a carrying amount of R 37 124 were disposed of. There were no disposals during 2008/09

**8. Other operating expenses**

Staff training and development
Consultants, contractors and special services
Maintenance, repairs and running costs
Operating leases
Other

<b>2009</b>	<b>2008</b>
<b>R'000</b>	<b>R'000</b>
1,219	1,551
2,318	4,553
280	547
4,183	1,616
658	4,510
<b>8,658</b>	<b>12,777</b>

**Total**

### Operating leases

The amount of operating leases are as follows:

Building & Other Fix Structures	1,808	538
Photocopiers	34	41
Motor Vehicles (Phavis World)	2,341	887
Other	0	151
<b>Total</b>	<b>4,183</b>	<b>1,617</b>

### Commitments in respect of operating leases are:

#### Buildings and other fixed structures

Payable within one year	550	441
Payable within two to five years	437	987
	<b>987</b>	<b>1,428</b>

### 9. Depreciation and amortisation

	2009	2008
	R'000	R'000
Office equipment	695	397
Motor vehicles	433	446
Computer equipment	1,303	1,362
Furniture and fittings	615	619
Intangible assets	439	0
<b>Total</b>	<b>3,485</b>	<b>2,824</b>

### 10. Finance Costs

	2009	2008
	R'000	R'000
Obligations under financet leases	567	457
<b>Total</b>	<b>567</b>	<b>457</b>

11 Property, plant and equipment

<b>2009</b>	<b>Computer Equipment R'000</b>	<b>Furniture &amp; Fittings R'000</b>	<b>Office Equipment R'000</b>	<b>Motor Vehicle R'000</b>	<b>Total R'000</b>
<b>Cost</b>					
Balance at 1 April 2008	7,571	4,500	2,806	3,062	17,939
Additions	1,478	845	204	0	2,527
Additions Leased assets	0	0	103	60	163
<b>Cost at 31 March 2009</b>	<b>9,050</b>	<b>5,345</b>	<b>3,112</b>	<b>3,122</b>	<b>20,629</b>
<b>Depreciation and amortisation</b>					
Balance at 1 April 2008	3,885	1,509	1,200	597	7,191
Current year charge	1,303	615	695	433	3,046
Depreciation at 31 March 2009	-5,188	-2,124	-1,895	-1,030	-10,237
<b>Book value at 31 March 2009</b>	<b>3,862</b>	<b>3,221</b>	<b>1,217</b>	<b>2,092</b>	<b>10,392</b>
<b>2008</b>					
	<b>Computer Equipment R'000</b>	<b>Furniture &amp; Fittings R'000</b>	<b>Office Equipment R'000</b>	<b>Motor Vehicle R'000</b>	<b>Total R'000</b>
<b>Cost</b>					
Balance at 1 April 2007	6,099	4,185	2,013	2,228	14,525
Additions	1,656	344	1,269	894	4,163
Disposals	183	28	475	60	746
<b>Cost at 31 March 2008</b>	<b>7,571</b>	<b>4,500</b>	<b>2,806</b>	<b>3,062</b>	<b>17,942</b>
<b>Depreciation and amortisation</b>					
Balance at 1 April 2007	2,934	890	1,050	174	5,048
Current year charge	1,362	648	397	446	2,853
Disposals	411	28	247	23	709



Depreciation at 31 March 2008	-3,886	-1,508	-1,200	-597	-7,192
Book value at 31 March 2008	3,685	2,992	1,607	2,465	10,748

Fair value adjustments. Assets donated are valued at fair value having regard to the age of the assets and that there are limited demand for these types of assets. Values were placed on the different types of assets and values were allocated accordingly.

## 12 Intangible assets other than goodwill

### Computer Software

#### Cost

Balance at 1 April 2008

Additions

Balance at 31 March 2009

#### Amortisation

Balance at 1 April 2008

Current year charge

Balance at 31 March 2009

**Book value at 31 March 2009**

2009 R'000	2008 R'000
3,039	0
4,085	3,039
7,124	3,039
0	0
439	0
439	0
<b>6,685</b>	<b>3,039</b>

## 13 Trade and other receivables

Trade receivables

Other receivables

**Total**

2009 R'000	2008 R'000
139	1,262
153	50
<b>292</b>	<b>1,312</b>

At balance sheet date, no debts are considered impaired, and a provision for doubtful debts has not been raised. OPP has also not written off any debts during the period under review.

Liquidity Analysis

As at 31 March 2009, Trade receivables of R139 were past due but not impaired. The ageing analysis for these trade receivables are as follows:

	<b>2009</b>	<b>2008</b>
	<b>R'000</b>	<b>R'000</b>
Up to 3 months past due	139	315
3 to 6 months past due	0	323
Over 6 months past due	0	322
	<b>139</b>	<b>960</b>

Trade receivables are disclosed at undiscounted values. A comparison of the undiscounted values against the discounted values is provided in the table below:

	<b>Undiscounted</b>	<b>Discounted</b>
	<b>R'000</b>	<b>R'000</b>
Up to 3 months past due	139	132
3 to 6 months past due	0	0
Over 6 months past due	0	0
	<b>139</b>	<b>132</b>

**14 Inventory**

Consumables

**Total**

	<b>2009</b>	<b>2008</b>
	<b>R'000</b>	<b>R'000</b>
Consumables	239	231
<b>Total</b>	<b>239</b>	<b>231</b>

Inventory represents consumables on hand at year end. Inventory has been costed using the First In First Out (FIFO) method.

**15 Cash and cash equivalents**

	<b>2009</b>	<b>2008</b>
	<b>R'000</b>	<b>R'000</b>
Cash at bank	7,386	20,859
Cash on hand	50	50
<b>Total</b>	<b>7,436</b>	<b>20,909</b>

The carrying amount of cash and cash equivalents approximates their fair values. Cash at bank earns interest at floating rates based on daily bank deposit rates.

For the purpose of the cash flow statement:

Cash and cash equivalents at the beginning of the year	20,909	21,120
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**16 Lease obligations**

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

**Finance leases**

	<b>Up to 1 year</b>	<b>1 to 5 years</b>	<b>More than 5 years</b>	<b>Total</b>
	R'000	R'000	R'000	R'000
<b>Year ended 31/3/2008</b>				
Future minimum lease payments	777	2,456	-	3,233
Finance cost	322	450	-	772
<b>Present value</b>	<b>455</b>	<b>2,006</b>	<b>-</b>	<b>2,461</b>
<b>Year ended 31/3/2009</b>				
Future minimum lease payments	842	1,818	-	2,662
Finance cost	268	248	-	516
<b>Present value</b>	<b>574</b>	<b>1,569</b>	<b>-</b>	<b>2,146</b>

**Analysed for financial reporting purposes:**

Non-current finance lease liability  
 Current finance lease liability (recoverable within 12 months)

**Net finance lease liability**

2009	2008
R'000	R'000
1,569	2,006
574	455
<b>2,143</b>	<b>2,461</b>

**Net carrying amount of leased assets**

Office equipment  
 Motor vehicles

2009	2008
R'000	R'000
421	595
1,533	1,259
<b>1,954</b>	<b>1,854</b>

**Finance Leases:**

OPP is leasing photocopiers under Finance Leases in terms of a transversal contract managed by National Treasury. The average lease terms range between three and five years. For the year ended 31 March 2009 the average effective borrowing rate was 12%. Interest rates are fixed at the contract date. OPP's obligations under finance leases are secured by the lessor's charge over the leased assets.

**Public Private Partnership**

OPP 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.

**17 Trade and other payables**

Trade creditors  
 Accruals  
 Total

2009	2008
R'000	R'000
970	3,985
4,612	5,923
<b>5,582</b>	<b>9,908</b>

Trade creditors are disclosed at undiscounted values. All trade creditors are payable within three (3) months of balance sheet date.

**18 Provisions**

**Salary and related expenses**

Opening balance  
 Increase/(decrease) in provision for salary and related expenses  
 Transfer to Accruals as per change in accounting policy

	<b>2009</b>	<b>2008</b>
	<b>R'000</b>	<b>R'000</b>
Opening balance	3,270	2,317
Increase/(decrease) in provision for salary and related expenses	132	1,433
Transfer to Accruals as per change in accounting policy	0	-479
<b>Closing balance</b>	<b>3,402</b>	<b>3,271</b>

**Closing balance**

Allowance is made for the value of untaken leave due to staff. This amount will only be payable to staff at resignation or retirement from duty. The amount payable will be based on the respective salaries and untaken leave due to staff.

Allowance is made for performance bonuses payable to staff. The actual amount will be based on their individual performances. The provision is based on a maximum of 2.5% of the total salary budget.

Levies provision  
 Opening balance  
 Increase/(decrease) in provisions for levies

Opening balance	198	163
Increase/(decrease) in provisions for levies	-75	35
<b>Closing balance</b>	<b>123</b>	<b>198</b>

**Closing balance**

Allowance is made for levies payable to the Compensation Commissioner. The provision is based on 0.33% of salaries paid. A final calculation will be made when the amount is due.

Public Protector Gratuity  
 Opening balance  
 Increase in provision for Public Protector Gratuity  
 Closing balance

Opening balance	3,406	2,814
Increase in provision for Public Protector Gratuity	3,398	592
<b>Closing balance</b>	<b>6,804</b>	<b>3,406</b>

The term of the Public Protector is coming to an end during September 2009. The final amount payable will be calculated at the end of his term based on the final salary.

Total provisions		
Opening balance	6,874	5,293
Increase/(decrease) in total provisions	3,454	2,060
Transfer to Accruals as per change in accounting policy	0	-479
Closing balance	10,328	6,874

#### 19 Deferred Income

	2009	2008
	R'000	R'000
Opening balance	5,000	6,500
Deferred Income recognised as income in current year	-5,000	-6,500
Income deferred in current year	0	5,000
<b>Closing balance</b>	<b>0</b>	<b>5,000</b>

Deferred Income relates to the portion of the Grants and transfers received which has not been recognised in the Statement of Financial Performance, as the expenditure that it is intended to compensate has not yet been incurred.

#### 20 Reconciliation of surplus for the year to cash generated from operations

	2009	2008
	R'000	R'000
Surplus for the year	-5,006	1,495
Adjusted for:		
Financial transactions in assets and liabilities	0	37
Depreciation	3,485	2,824
Income from investments	-1,833	-2,337
Finance Costs	567	457
Operating cash flows before working capital changes	-2,787	2,476
Net change in working capital	-4,859	2,217
	-7,646	4,693

**21 Changes in working capital**

	2009	2008
	R'000	R'000
(Increase)/Decrease in debtors	1,020	-1,043
(Decrease)/Increase in creditors	-4,326	4,357
(Increase)/Decrease in inventories	-8	-231
Increase/(Decrease) in unspent conditional grants	-5,000	-1,500
increase/(decrease) in provisions	3,455	634
<b>Net change in working capital</b>	<b>-4,859</b>	<b>2,217</b>

**22. Related party transactions**

**22.1 Key management personnel**

	2009	2008
	R'000	R'000
Public Protector & Deputy Public Protector	2,435	1,662
Chief Directors	3,982	3,295
<b>Total</b>	<b>6,417</b>	<b>4,957</b>

Key management personnel includes the Public Protector, Deputy Public Protector, Chief Executive Officer, and the Chief Directors.

**Mushwana ML-Public Protector**

	2009
	R
Salary	1,502,617
Medical Aid Allowance	10,152
Entertainment Allowance	7,000
Settlement Allowance	67,200
Non Pensionable Allowance	3,500
<b>TOTAL EARNINGS</b>	<b>1,590,469</b>

**Shai MT- Deputy Public Protector**

Salary(including Backdates)	506,295
Travelling Allowance	144,000
Housing Allowance	144,000
Non Pensionable Allowance	49,914
<b>TOTAL EARNINGS</b>	<b>844,209</b>

**Russon RD- Chief Executive Officer Resigned May 2008**

Salary	53,725
Severance Package	604,384
Pensionable Allowance	4,258
Medical Aid Allowance	8,516
Travelling Allowance	22,166
Non Pensionable Allowance	6,650
Leave Payout	29,443
<b>TOTAL EARNINGS</b>	<b>729,142</b>

**Mthethwa TP- Chief Executive Officer Appointed 1 January 2009**

Salary	146,562
Pensionable Allowance	21,984
Medical Aid Allowance	7,966
Travelling Allowance	67,758
Resettlement Allowance	48,854
<b>TOTAL EARNINGS</b>	<b>293,124</b>

**Fourie CH Chief Director**

Salary	420,845
Pensionable Allowance	59,827
Medical Aid Allowance	36,552
Travelling Allowance	136,281
Non Pensionable Allowance	8,653
13th Cheque	33,237
Merit Bonus	28,392
<b>TOTAL EARNINGS</b>	<b>723,787</b>



**Ndou LR Chief Director**

Salary	395,325
Medical Aid Allowance	21,600
Travelling Allowance	80,000
Non Pensionable Allowance	41,401
Housing Allowance	35,460
13th Cheque	31,794
Merit Bonus	10,647
<b>TOTAL EARNINGS</b>	<b>616,227</b>

**Schutte M Chief Director**

Salary	428,641
Pensionable Allowance	61,623
Travelling Allowance	48,000
Non Pensionable Allowance	171,505
Merit Bonus	17,745
<b>TOTAL EARNINGS</b>	<b>727,514</b>

**Thoke SM Chief Director**

Salary	399,546
Acting Allowance	183,068
Pensionable Allowance	57,229
Medical Aid Allowance	36,000
Travelling Allowance	48,000
Non Pensionable Allowance	96,150
13th Cheque	31,794
Merit Bonus	28,392
Leave Payout	11,707
<b>TOTAL EARNINGS</b>	<b>891,886</b>

**22.2 Other related party transactions**

PP enjoys representation on the board of the Civil Society Advocacy Programme, which is funded by the European Union. In addition to funding received from the European Union through this programme, staff members from OPP also received training, which was funded by the European Union through this programme. It is not possible to quantify the benefits related to this training. The European Union assistance ended 31 December 2008.

## 23. 23.1 Financial instruments

### Introduction and overview

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

### 23.2 Risks

The OPP 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 OPP is exposed to.

#### 23.2.1 Credit risk:

Credit risk is the risk that one party to a financial instrument will cause a financial loss for the other party by failing to discharge an obligation. OPP's only exposure to credit risk related to the agreement with the European Union whereby the salaries for six OPP employees is funded by the European Union through the Civil Society Advocacy Programme. OPP enjoyed representation on the board of the Civil Society Advocacy Programme, and was therefore able to continually manage this risk. This agreement ended on the 31 December 2008 and the account has been settled in full.

All debtors are requested to settle their accounts within 30 days, debts are also recovered in installments at the request of a debtor.

The OPP does not have any significant credit risk exposure to any counterparty or group of parties having similar characteristics.

#### 23.2.2 Liquidity Risk:

The OPP 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 OPP to be able to make payments as and when required in terms of its financial liabilities.

Due to the nature of its business, the OPP manages liquidity risks by maintaining adequate cash reserves.

**23.2.3 Market risk:**

*i) Foreign Exchange Risk:*

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

*ii) Interest rate risk:*

OPP 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. OPP 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. OPP'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 OPP'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 OPP.
- b) Interest income linked to rates prescribed by National Treasury.
- c) Interest on accounts held at banking institutions.
- d) Discounting of financial instruments.

The OPP is mainly exposed to interest rate fluctuations. The OPP'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 OPP settles its outstanding obligation within 30 days and interest on outstanding debts is charged monthly using the applicable interest rates. Refer to the sensitivity analysis below to illustrate the possible effect of changes in the variable interest rates on the financial assets and liabilities.

**Concentration of market risk**

**Variable rate instruments**

Financial assets

	2009	2008
	R'000	R'000
Financial assets	-	-

Financial Liabilities ( accounts payables)	5,582	9,908
<b>Total</b>	<b>5,582</b>	<b>9,908</b>

#### Fixed rate instruments

Financial liabilities	-	-
Financial assets: Accounts receivable	292	1,312
<b>Total</b>	<b>292</b>	<b>1312</b>

#### 23.2.4 Fair values

OPP'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 methods and 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 at discounted values.

#### 23.2.5 Analysis of financial assets and liabilities

##### Financial assets

2008/09

##### Opening balance

Net gains or losses recognised in profit or loss

Cash and bank	Loans and receivables
R'000	R'000
20,909	1,312
-	-

Interest income	1,833	-
Impairments	-	-
Net other movements	(15,306)	(1,020)
<b>Closing balance</b>	<b>7,436</b>	<b>292</b>

Maximum credit exposure	7,436	292
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Sensitivity analysis: Effect of interest rate changes	(425)	(24)
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#### Financial assets

2007/08

	Cash and bank	Loans and receivables
	R'000	R'000
<b>Opening balance</b>	21,120	269
Net gains or losses recognised in profit or loss	-	-
Interest income	2,337	-
Impairments	-	-
Net other movements	(2,548)	1,043
<b>Closing balance</b>	<b>20,909</b>	<b>1,312</b>

Maximum credit exposure	20,909	1,312
-------------------------	--------	-------

#### Financial liabilities

2008/09

	Loans	Payables
	R'000	R'000
<b>Opening balance</b>	2,461	9,908
Net gains or losses recognised in profit or loss	-	-
Interest expense	335	-
Net other movements	(653)	(4,326)
<b>Closing balance</b>	<b>2,143</b>	<b>5,582</b>

Sensitivity analysis:

Effect of interest rate changes

(69)

(232)

**2007/08**

**Opening balance**

Net gains or losses recognised in profit or loss

Interest expense

Net other movements

**Closing balance**

Loans	Payables
R'000	R'000
1,428	5,550
457	-
576	4,358
<b>2,461</b>	<b>9,908</b>

Sensitivity analysis:

Effect of interest rate changes

78

309

**Assumptions:**

The sensitivity analysis has been based on a decrease in interest rates of 150 basis points which is based on the approximate change in prime rates for the period under review. The OPP is not materially exposed to other price risks.

Line item	Note	Loans and receivables	Financial Liabilities at amortised cost	Finance lease liabilities	Total carrying amount
		R'000	R'000	R'000	R'000
<b>31-Mar-09</b>					
Trade and other receivables	13	292	-	-	292
Cash and cash equivalent	15	7,436	-	-	7,436
Trade and other payables	17	5,582	-	-	5,582
Finance lease liability ( Current)	16	-	-	574	574
Finance lease liability ( Non-current)	16	-	-	1,569	1,569
<b>Total</b>		<b>13,310</b>	<b>-</b>	<b>2,143</b>	<b>15,453</b>

31-Mar-08					
Trade and other receivables	<b>13</b>	1,312	-	-	1,312
Cash and cash equivalent	<b>15</b>	20,909	-	-	20,909
Trade and other payables	<b>17</b>	9,908	-	-	9,908
Finance lease liability ( Current)	<b>16</b>	-	-	455	455
Finance lease liability ( Non-current)	<b>16</b>	-	-	2,006	2,006
<b>Total</b>		<b>32,129</b>	<b>-</b>	<b>2,461</b>	<b>34,590</b>

#### Fair value sensitivity analysis for fixed rate instruments

The OPP does not account for any fixed rate for financial assets and liabilities at fair value through profit and loss. Therefore a change in interest rates at the reporting date would not affect the profit and loss.

#### Cash flow sensitivity analysis

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	50 basis point increase
<b>2009</b>	<b>2008</b>
<b>-25,032</b>	<b>7,474</b>

The following changes in prime overdraft rates of Banks (as determined by SARB) occurred between 01 April 2008 - 31 March 2009

2008/09		
Date of change	Interest rates	Change in basis points (From previous rates)
2007/12/07	14.50	
2008/04/11	15.00	0.50
2008/06/13	15.50	0.50
2008/12/12	15.00	(0.50)
2009/02/06	14.00	(1.00)
2009/03/25	13.00	(1.00)
<b>Total</b>		<b>(1.50)</b>

2007/08		
Date of change	Interest rates	Changes in basis points ( From previous rates)
2006/12/08	12.5	
2007/06/08	13	0.50
2007/08/17	13.5	0.50
2007/10/12	14	0.50
2007/12/07	14.5	0.50
<b>Total</b>		<b>2.00</b>

## 24 Irregular Expenditure

	2009 R'000	2008 R'000
<b>Reconciliation of irregular expenditure</b>		
Opening balance	13	-306
<b>Add: Irregular expenditure current year.</b>		
<b>Total</b>	348	151
<b>Less: Amounts condoned</b>	335	457
Administrative expenses	0	0
Staff costs	0	0
Other operating expenses	0	0
Property, plant and equipment	335	457
<b>Less: Not condoned</b>	13	0
Administrative expenses	0	0
Staff costs	0	0
Other operating expenses	13	0
Property, plant and equipment	0	0
<b>Irregular expenditure awaiting condonement</b>	13	13
Administrative expenses	0	0
Staff costs	0	0
Other operating expenses	13	13
Property, plant and equipment	0	0



**Irregular expenditure**

**Incident**

Payments made for finance leases

**Disciplinary steps**

None as these are transversal contracts approved by National Treasury and condoned by the Accountant General.

**Incident**

Procurement process not followed

**The person involved was dismissed.**

2009	2008
R'000	R'000
335	457
13	13
<b>348</b>	<b>470</b>

**25 Gifts, donation and sponsorships received**

During 2007/08 2 wood carvings were received.

No gifts were received during the year.

2009	2008
R'000	R'000
0	0
<b>0</b>	<b>0</b>

**26 Gifts, donations and sponsorships paid**

Desk ornaments to staff

2009	2008
R'000	R'000
0	12
<b>0</b>	<b>12</b>

## 27. Contingent Liability

### 27.1 European Union

The OPP and the two other Chapter Nine institutions encountered challenges in the implementation of the EU programme. This resulted in potential litigation by both the EU and the relevant service providers. The Chapter Nine institutions have responded to all related correspondence and are awaiting further correspondence from the other parties. It is not anticipated that there should be any substantial liability in this respect.

### 27.2 Occupational Salary Dispensation

In terms of Public Service Co-ordinating Bargaining Council Resolution no 3 of 2008, legally qualified employees in the public service, appointed in terms of the Public Service Act, 1994, are entitled to an improved salary structure, back dated to 1 July 2007.

The legally qualified employees in OPP are appointed in terms of the Public Protector Act, and not the Public Service Act. However, based on past practices, OPP may have a contractual and constructive obligation to provide the improved salary structure to legally appointed staff of the OPP. The financial implications resulting from the implementation of the OSD cannot as yet, be quantified. Discussions will be held with National Treasury, the Department of Public Service and Administration and other relevant parties to confirm this obligation and, if necessary, to quantify the financial implications. No reliable estimate of this contingent liability can be made.

### 27.3. Office Rentals.

The Department of Public Works has been paying the leases in respect of all office buildings occupied by the OPP. OPP has not reimbursed the Department of Public Works for this expenditure and there is no clarity whether any other Department reimbursed them. All agreements, except the one for OPP at Mabopane, are with the Department of Works. The Department of Public Works has indicated that future invoices to the OPP will allow for these amounts. There is no clarity whether it includes any payments in respect of previous periods. There is therefore a possible contingent liability. Future negotiations will establish any obligations in respect of previous periods. An estimate of the possible contingent liability is 2009 R13 233 818 (2008 R7 153 144) and previous periods amounts could not be estimated reliably.

### 27.4 Mail and Guardian

Judgment 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.

## 13. THE YEAR AHEAD

1. The following vision and mission were adopted in the 2009 – 2012 strategic plan:

**Vision:**

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

**Mission:**

“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. Programmes

Operations have been revised to three programmes namely: Investigations and Outreach, Executive Support and Corporate Services. This new realignment will support our strategic drive for the OPP to remain lean and highly professional. The respective Programmes contribute to the revised vision statement for Office of the Public Protector as follows:

**Programme 1:**

“To conduct excellent investigations and be accessible to all”

**Programme 2:**

“To provide world class strategic direction”

**Programme 3:**

“To provide excellent support services to enable the organisation to deliver on its mandate”

3. The strategic objectives and elements of the strategic objectives are as follows:

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

- 3.1.1 To enhance international participation.
- 3.1.2 To establish an effective relationship with organs of state.
- 3.1.3 To establish the media as a critical partner for enhancing the work of the OPP.
- 3.1.4 To establish strategic partnerships with stakeholders.
- 3.1.5 An effective integrated internal and external communications strategy

- 3.2 To ensure that all allegations of improper conduct by the state and its entities are investigated, reported on and appropriate remedial action taken.

- 3.2.1 To investigate alleged improper conduct.
- 3.2.2 To produce reports on investigations.
- 3.2.3 To take remedial action.

3.2.4 To monitor the implementation of recommendations.

3.3 To ensure accessibility of OPP services to all persons and communities.

3.3.1 To raise awareness of the mandate of OPP.

3.3.2 To take the services of OPP to communities.

3.4 To ensure the efficient and effective management/leadership of OPP of the Public Protector.

3.4.1 Ensure automation of business systems and processes.

3.4.2 Ensure good governance.

3.4.3 Ensure that the organisational structure is aligned to the strategy.

3.4.4 Monitor and evaluate the overall institutional performance.

3.4.5 Ensure the implementation of the Service Delivery Charter.

3.4.6 Institutionalise organisational memory, research and knowledge products.

3.5 To ensure high performance culture by attracting and retaining highly competent and skilled individuals.

3.5.1 Integrated HR strategy and policies implemented.

3.5.2 Instill a conducive environment to support a high performance culture.

3.5.3 Ensure that organisational values are displayed in the behaviour of employees.

3.5.4 Further development, review and implementation of the Employee Wellness Programme



## 14. OPP ADDRESSES

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## NOTES



