
REPORT NO. 13 of 2009/10

REPORT ON AN INVESTIGATION INTO AN ALLEGATION OF FAILURE TO KEEP RECORDS OF APPLICATIONS FOR RDP HOUSES BY THE NGQUSHWA LOCAL MUNICIPALITY, EASTERN CAPE PROVINCE
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Executive Summary

(i) The Office of the Public Protector (OPP) investigated an allegation of maladministration by the Ngqushwa Local Municipality (Municipality).

(ii) Ms Potwana (the Complainant) allegedly applied for a Reconstruction and Development Programme (RDP) house. She alleged that she did not receive a response to her application from the Municipality. She indicated that she contacted the Municipality on numerous occasions in an attempt to find out about the status of her application, but did not receive assistance.

(iii) It was found that:

(a) The Municipality does not have a defined process to deal with applications for RDP houses. The record management system is not efficient;

(b) Observed and application of Batho Pele Principles is selectively applied within the Municipality;

(c) The Municipal officials failed to return telephonic enquiries and honour confirmed appointments with the OPP;

(d) Completed application forms submitted to the Municipality are forwarded to the Eastern Cape Provincial Department of Housing and Local Government (Department) without making copies or recording particulars of applicants;
(e) The Municipality did not inform all the people who applied for RDP houses of the outcome of their applications; and

(f) The Complainant’s name did not appear on the list of approved applications that the Municipality received from the Department;

(iv) The Public Protector recommended that the Municipal Manager should:

(a) Establish a customer care component to review, evaluate and monitor compliance with the Batho Pele Principles;

(b) Put in place effective and efficient record keeping systems for RDP housing applications; and

(c) Inform applicants, including the Complainant, in writing of the status of their applications upon receipt of the list of approved applications from the Department.
REPORT ON AN INVESTIGATION INTO AN ALLEGATION OF FAILURE TO KEEP RECORDS OF APPLICATIONS FOR RDP HOUSES BY THE NGQUKSHWA MUNICIPALITY, EASTERN CAPE PROVINCE

1. INTRODUCTION

1.1 This report is submitted to the Member of the Executive Council responsible for Housing and Local Government in the Eastern Cape Provincial Government, the Mayor of Amatole District Municipality and the Municipal Manager of the Ngqukshwa Municipality in terms of section 182(1)(b) of the Constitution of the Republic of South Africa, 1996 (Constitution) and section 8(1) of the Public Protector Act, 1994.

1.2 It relates to an investigation by the Office of Public Protector (OPP) into an allegation of failure to keep records of applications for Reconstruction and Development Programme (RDP) houses by the Ngqukshwa Local Municipality (Municipality).

2. THE COMPLAINT

2.1 Ms B Potwana (the Complainant) approached the OPP on 14 September 2007 with a complaint that she applied for an RDP house at the Municipality in 2005. The Municipality allegedly built RDP houses through a project called the Ethembeni Power Project (Project).

2.2 Seeing that other people she applied with were allocated houses, she allegedly visited the Municipality requesting to be allocated one of unoccupied houses that were being vandalised.
2.3 She was allegedly never informed of the outcome of her application and decided to bring the matter to the attention of the OPP in Bisho.

3. **POWERS AND JURISDICTION OF THE PUBLIC PROTECTOR TO INVESTIGATE THE COMPLAINT**

3.1 Section 182(1) of the Constitution provides that the Public Protector has the power, as regulated by national legislation 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 and to report on that conduct and take appropriate remedial action.

3.2 Section 6(4)(a) of the Public Protector Act, 1994 provides that in addition to the powers and functions assigned by the Constitution, the Public Protector shall be competent to investigate any conduct in state affairs that could result in impropriety.

3.3 Alleged failure by the Municipality to keep records of applications for RDP houses falls within the jurisdiction of the Public Protector to investigate.

4. **THE INVESTIGATION**

The investigation of the complaint was conducted in terms of section 6 and 7 of the Public Protector Act, 1994 and comprised the following:
4.1 Assessment of the Complaint

4.1.1 Upon receipt of the complaint the Municipality was visited to peruse and verify the status of the application. It was discovered that there were no records of applications for RDP houses for the Project.

4.2 Meeting with the Municipal official

4.2.1 A meeting that was scheduled with Ms Zongo (the Acting Municipal Manager), the Community Services Manager and Estate Officer for perusal of the records was not honoured. However, Mrs Lukhwe, the Municipal Land and Housing Clerk, explained that the Municipality does not keep records of RDP housing applications.

4.2.2 She provided a copy of the approved applications. On perusal of the list from the Eastern Cape Provincial Department of Housing and Local Government (Department) the name of the Complainant did not appear. The records of rejected applications outlining reasons thereof and/or copies of letters informing applicants of the outcome of their applications were not available. The explanation that was given was that the Municipality did not keep such records.

4.3 Consultation with the Acting Municipal Manager

The Acting Municipal Manager conceded that the Municipality did not keep the records as it was not its primary responsibility to provide the RDP low cost housing, but was only utilised as the conduit between the applicants and the Department.
4.4 Consideration of legislation and policies relating to the complaint

4.4.1 The Constitution, 1996

4.4.1.1 Section 2 provides that “This Constitution is the Supreme law of the Republic, law or conduct inconsistent with it is invalid and obligations imposed by it must be fulfilled.”

4.4.1.2 Section 26(1) and (2) provides that

(a) “Everyone has the right to have access to adequate housing.”

(b) “The State must take reasonable legislative and other measures within its available resources, to achieve the progressive realization of this right.”

4.4.2 The Local Government Municipal Systems Act, 2000

4.4.2.1 Section 17(2) and (3) provides that “a municipality must establish appropriate mechanisms, processes and procedures to enable the local community to participate in the affairs of the municipality, and must for this purpose provide-

(a) The receipt, processing and consideration of petitions and complaints lodged by members of the local Municipality.

4.4.2.2 When establishing the mechanisms and procedures in terms of the said section the Municipality must take into account the special needs of people who cannot read or write.”
4.4.3 White Paper on Transforming Public Service Delivery (Batho Pele White Paper)

4.4.3.1 The Batho Pele White Paper was formulated by the Department of Public Service and Administration in 1995 with the aim to provide a policy framework and a practical implementation strategy for the transformation of public service delivery.

4.4.3.2 Eight Batho Pele Principles were developed and the relevant principles to the complaint are:

*Ensuring courtesy*

“It requires service provides to empathise with the citizens and treat them with as much consideration and respect, as they would like for themselves.”

*Redress*

“This principle emphasises a need to identify quickly and accurately when services are falling below the promised standard and to have procedures in place to remedy the situation.” This implies that if the standard of services is not as promised, people should be given an apology, an explanation or an effective remedy. When complaints are lodged it must be dealt with properly.

5. OBSERVATIONS AND FINDINGS

5.1 The Municipality did not keep the records of application for RDP houses. It does not have a defined process to deal with applications for RDP houses.
5.2 Observance and application of Batho Pele Principles is selectively applied.

5.3 The Municipal officials failed to return OPP’s calls and honour confirmed appointments.

5.4 Application forms filled in and submitted to the Municipality are submitted to the Department without making copies or recording particulars of applicants.

5.5 The Municipality did not inform RDP houses applicants of the outcome of their applications.

5.6 The Complainant’s name did not appear on the list of approved applications that the Municipality received from the Department.

6. RECOMMENDATIONS

It is recommended in terms of section 182(1)(c) of the Constitution and section 6(4)(c)(ii) of the Public Protector Act, 1994 that the Municipal Manager should:

6.1 Establish a customer care component to review, evaluate and monitor compliance with the Batho Pele Principles;

6.2 Put in place effective and efficient record keeping systems for RDP housing applications; and
6.3 Inform applicants, including the Complainant, in writing of the status of their applications upon receipt of the list of approved applications from the Department.

7. CONCLUSION

The OPP will monitor the implementation of the recommendations at intervals of 3 months from the date of this report.

[Signature]
ADV M L MUSHWANA
PUBLIC PROCTOR OF THE
REPUBLIC OF SOUTH AFRICA
DATE: 19/08/09

Assisted by: Mrs. N Xhegwana, Investigator: Eastern Cape Office