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Allegations of undue delay against the University of Pretoria

CLOSING REPORT ON AN INVESTIGATION INTO ALLEGATIONS OF UNDUE DELAY BY THE UNIVERSITY OF PRETORIA TO ADDRESS QUERIES RAISED BY THE MS K MOODLEY AND HER DAUGHTER MS PT MOODLEY
1. **INTRODUCTION**

1.1 This is a closing report in terms of section 182(1) (b) of the Constitution of the Republic of South Africa, 1996 (the Constitution) and section 8(1) of the Public Protector Act, 1994 (the Public Protector Act).

1.2 This closing report is submitted to the Complainants who are Ms Kalla Moodley and her daughter Ms Pavana Tashmeera Moodley, a student at the University of Pretoria, and to;

1.3 Professor Tawana Kupe the Vice-Chancellor and Principal of the University of Pretoria.

1.4 This report relates to my investigation into allegations of undue delay by the University of Pretoria to address queries raised by the Complainants.

2. **THE COMPLAINT**

2.1 The Complainants raised this complaint against the University of Pretoria, alleging that the University of Pretoria unduly delayed to address queries that was raised with them.

2.2 The Complainants made a query to the University of Pretoria for quality assurance in respect of the reasonableness of the criteria for the Property Law (SAR310) assignment. The Complainants requested a sample of the assignment within the applicable word limit which they allegedly never received. Instead the assignment was remarked thus not addressing the actual query.
2.3 The lack of transparent engagement with the Complainants to objectively address their concerns about the sudden unexplained downturn in the performance of Ms Pavana Tashmeera Moodley after she actively critically engaged with an issue such as the reasonableness of an assignment.

2.4 Request by the Complainants for referral of the ISR310 assignment for independent assessment or moderation in order to address any perceived bias or feeling of victimisation suffered by Ms Pavana Tashmeera Moodley.

2.5 The University of Pretoria has not constructively engaged with the Complainants with a view of addressing concerns raised about the treatment of and seeming bias against Ms Pavana Tashmeera Moodley.

2.6 After consultation with Ms Kalla Moodley on 18 July 2019, the Complainant informed that the only issue which she wish to be investigated is the failure of the University to provide them with a model answer for the SAR310 assignment. She was informed that all the allegations as per the complaint had already been raised with the University.

2.7 On 23 July 2019 an e-mail correspondence was sent to Ms Kalla Moodley, reminding her that I had advised her to report the issues of alleged racism and discrimination to the South African Human Rights Commission (SAHRC). She informed the investigator that she did not want to pursue this issue with the SAHRC.

3. **POWERS AND JURISDICTION OF THE PUBLIC PROTECTOR**

3.1 The Public Protector is an independent constitutional body established under section 181(1) (a) of the Constitution to strengthen constitutional democracy through investigating and redressing improper conduct in state affairs.

3.2 Section 182(1) of the Constitution provides that:
"The Public Protector has power as regulated by national legislation –

(a) 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,
(b) to report on that conduct; and
(c) to take appropriate remedial action”.

3.3 Section 182(2) directs that the Public Protector has additional powers and functions prescribed by legislation.

3.4 The Public Protector is further mandated by the Public Protector Act to investigate and redress maladministration and related improprieties in the conduct of state affairs. The Public Protector is also given power to resolve disputes through conciliation, mediation, negotiation or any other appropriate Alternative Dispute Resolution (ADR) mechanism.

3.5 In the matter of Economic Freedom Fighters v Speaker of the National Assembly and Others; Democratic Alliance v Speaker of the National Assembly and Others (CCT 143/15; CCT 171/15) [2016] ZACC 11; 2016 (5) BCLR 618 (CC); 2016 (3) SA 580 (CC) (31 March 2016, the Constitutional Court per Chief Justice Mogoeng stated the following when confirming the powers of the Public Protector:

3.5.1 The remedial action taken by the Public Protector has a binding effect, “When remedial action is binding, compliance is not optional, and whatever reservations the affected party might have about its fairness, appropriateness or lawfulness. For this reason, the remedial action taken against those under investigation cannot be ignored without any legal consequences” (para 73);
3.5.2 Complaints are lodged with the Public Protector to cure incidents of impropriety, prejudice, unlawful enrichment or corruption in government circles (para 65);

3.5.3 An appropriate remedy must mean an effective remedy, for without effective remedies for breach, the values underlying and the rights entrenched in the Constitution cannot properly be upheld or enhanced (para 67);

3.5.4 Taking appropriate remedial action is much more significant than making a mere endeavour to address complaints as the most the Public Protector could do in terms of the Interim Constitution. However sensitive, embarrassing and far-reaching the implications of her report and findings, she is constitutionally empowered to take action that has that effect, if it is the best attempt at curing the root cause of the complaint (para 68);

3.5.5 The legal effect of these remedial measures may simply be that those to whom they are directed are to consider them properly, with due regard to their nature, context and language, to determine what course to follow (para 69);

3.5.6 Every complaint requires a practical or effective remedy that is in sync with its own peculiarities and merits. It is the nature of the issue under investigation, the findings made and the particular kind of remedial action taken, based on the demands of the time, that would determine the legal effect it has on the person, body or institution it is addressed to (para 70);

3.5.7 The Public Protector’s power to take appropriate remedial action is wide but certainly not unfettered. What remedial action to take in a particular case, will be informed by the subject-matter of investigation and the type of findings made (para 71);
3.5.8 Implicit in the words “take action” is that the Public Protector is herself empowered to decide on and determine the appropriate remedial measure. And “action” presupposes, obviously where appropriate, concrete or meaningful steps. Nothing in these words suggests that she necessarily has to leave the exercise of the power to take remedial action to other institutions or that it is power that is by its nature of no consequence (para 71(c));

3.5.9 She has the power to determine the appropriate remedy and prescribe the manner of its implementation (para 71(d));

3.5.10 “Appropriate” means nothing less than effective, suitable, proper or fitting to redress or undo the prejudice, impropriety, unlawful enrichment or corruption, in a particular case (para 71(e));

3.6 In the matter of the President of the Republic of South Africa v Office of the Public Protector and Others, Case no 91139/2016 (13 December 2017), [2017] ZAGPPHC 747; 2018 (2) SA 100 (GP); [2018] 1 all SA 800 (GP); 2018 (5) BCLR 609 (GP) (13 December 2017), the Court held as follows, when confirming the powers of the Public protector:

3.6.1 The constitutional power is curtailed in the circumstances wherein there is conflict with the obligations under the constitution (para 79);

3.6.2 The Public Protector has power to take remedial action, which include instructing the Members of the Executive including the President to exercise powers entrusted on them under the constitution where that is required to remedy the harm in question (para 82);

3.6.3 The Public Protector, in appropriate circumstances, has the power to direct the president to appoint a commission of enquiry and to direct the manner of its implementation. Any contrary interpretation will be unconstitutional as it will render the power to take remedial action meaningless or ineffective (para 85 and 152);
3.6.4 There is nothing in the Public Protector Act or Ethics Act that prohibit the Public Protector from instructing another entity to conduct further investigation, as she is empowered by section 6(4)(c)(ii) of the Public Protector Act (para 91 and 92);

3.6.5 Taking remedial action is not contingent upon a finding of impropriety or prejudice. Section 182(1) affords the Public Protector with the following three separate powers (para 100 and 101):

(a) Conduct an investigation;
(b) Report on that conduct; and
(c) To take remedial action.

3.6.6 The Public Protector is constitutionally empowered to take binding remedial action on the basis of preliminary findings or prima facie findings (para 104);

3.6.7 The primary role of the Public Protector is that of an investigator and not an adjudicator. Her role is not to supplant the role and function of the court (para105).

3.6.8 The fact that there are no firm findings on the wrong doing, this does not prohibit the Public Protector from taking remedial action. The Public Protector’s observations constitute prima facie findings that point to serious misconduct (para 107 and 108);

3.6.9 Prima facie evidence which point to serious misconduct is a sufficient and appropriate basis for the Public protector to take remedial action ( para 112);

3.7 The University of Pretoria mentioned in this report is an organ of state and its conduct amounts to conduct in state affairs, as a result the complaint falls within the ambit of the Public Protector’s mandate. Accordingly, I have
the power and jurisdiction to investigate and take appropriate remedial action in the matter under investigation.

3.8 My power and jurisdiction to investigate and take appropriate remedial action was not disputed by any of the parties in this investigation.

4. THE INVESTIGATION

4.1 Methodology

4.1.1 The investigation was conducted in terms of section 182 of the Constitution and sections 6 and 7 of the Public Protector Act.

4.1.2 The complaint was classified as a Service Delivery complaint for resolution by way of a formal investigation in line with sections 6(4) and (5) of the Public Protector Act.

4.1.3 The Public Protector Act confers on the sole discretion to determine how to resolve a dispute of alleged improper conduct or maladministration

4.2 Approach to the investigation

4.2.1 Like every Public Protector investigation, the investigation was approached using an enquiry process that seeks to find out:

(i) What happened?

(ii) What should have happened?

(iii) Is there a discrepancy between what happened and what should have happened and does that deviation amount to maladministration?
(iv) In the event of maladministration what would it take to remedy the wrong or to place the Complainant as close as possible to where they would have been but for the maladministration or improper conduct?

4.2.2 The question regarding what happened is resolved through a factual enquiry relying on the evidence provided by the parties and independently sourced during the investigation. In this particular case, the factual enquiry primarily focussed on whether there was undue delay by the University of Pretoria to address queries raised by the Complainant and her mother.

4.2.3 The enquiry regarding what should have happened, focuses on the law or rules that regulate the standard that should have been met by the officials of the University of Pretoria.

4.2.4 The enquiry regarding the remedy or remedial action seeks to explore options for redressing the consequences of maladministration. Where Complainant have suffered prejudice, the idea is to place her as close as possible to where she would have been had the University of Pretoria concerned complied with the regulatory framework setting the applicable standards for good administration.

5. ISSUES TO BE CONSIDERED AND INVESTIGATED

5.1 On analysis of the complaint, information and documents received during preliminary enquiries, the following issues were considered and investigated:

5.1.1 Whether the University addressed the Complainants enquiry relating to the reasonableness of the criteria used for the Property Law (SAR310) assignment, and further whether they failed to provided them with a model answer that was requested for this assignment.
5.1.2 Whether the University failed to have transparent engagements with the Complainants to address their concerns, regarding reasonableness of an assignment, which resulted in a downturn in the performance of Ms Pavana Tashmeera Moodley.

5.1.3 Whether the University failed to attend to the Complainants request for the ISR310 test script to be independently assessed or moderated in order to address any perceived bias or feeling of victimisation, wherein Ms Pavana Tashmeera Moodley was of the opinion that she was marked more stringently than other students.

5.1 The Key Sources of information

5.1.1 Documents and information received.

5.1.1.1 Letter dated 11 July 2019, from Inlexo, legal representative of the University of Pretoria;

5.1.1.2 Letter dated 17 April 2019, from the Vice Principal to the Complainant;

5.1.1.3 Faculty of Law, Faculty regulations and information, 2019;

5.1.1.4 Rules and Regulations, University of Pretoria, 2019; and

5.1.1.5 E-mail exchange between Dr van Wyk and Complainant dated 28 May 2019.

6. THE DETERMINATION OF THE ISSUES IN RELATION TO THE EVIDENCE OBTAINED AND CONCLUSIONS MADE WITH REGARD TO THE APPLICABLE LAW AND PRESCRIPTS
6.1 Whether the University addressed the Complainants enquiry relating to the reasonableness of the criteria used for the Property Law (SAR310) assignment, and further whether they failed to provided them with a model answer that she requested for this assignment.

Common cause

6.1.1 Ms Pavana Tashmeera Moodley was registered as a student to study at the University of Pretoria, at the Faculty of Law.

6.1.2 The Complainants were unhappy with the mark that Ms Pavana Tashmeera Moodley received for the Property Law (SAR310) assignment.

Issues in dispute

6.1.3 The issue for determination by me is whether the University addressed the enquiry raised by the Complainants relating to the Property Law (SAR310) assignment, and also whether they failed to provide them with a model answer that was requested.

6.1.4 The University of Pretoria indicated that the query was addressed by the Deputy Dean of the Faculty of Law, Professor Birgit Kuschke on 4 April 2019 and also on 5 April 2019, when a comprehensive response providing clarity on the assessment process and reasonableness of the criteria required and used for the Property Law (SAR310) assignment was issued in a letter to Ms Kalla Moodley.

6.1.5 Responding to Ms Kalla Moodley, Professor Birgit Kuschke informed her that a marking rubric is available as required by the University. The rubric and feedback was provided to all students including Ms Pavana Tashmeera Moodley, and furthermore she was invited to request that it be re-issued to her by the Faculty. The response also clearly indicated that “the Complainant was informed that there is no single set model answer
as students had to provide a discussion type answer with a broad content and with a specific word count.”

6.1.6 Ms Kalla Moodley’s attention was drawn to the National Qualification Framework level 7 descriptors and the Council for Higher Education (CHE) LLB standard which provides that at level 7 there is no simple right and wrong answer as it requires application of principles and original presentation.

6.1.7 The Complainants concern regarding the weighting of the assignment was furthermore addressed in an e-mail dated 30 March 2019.

6.1.8 To ensure compliance with the CHE’s standards, the Complainants were informed that the assignment was sent out to be moderated by fellow legal scholars (tutors/postgraduates) before it was released to the students.

6.1.9 The University indicated that students are assessed throughout the semester for SAR 310, and furthermore that collaborative work assignments are just as valid a method of assessment as any written test, and therefore carries the same weighting as a semester test.

6.1.10 In making a determination on this issue, the investigation team perused the e-mails that were exchanged between the Complainants and the University of Pretoria. It is clear from the e-mail exchange and reports provided that at all material times the University of Pretoria responded as adequately as was reasonably possible in the circumstances, to the Complainants.

6.1.11 The University clearly showed that quality assurance was conducted on the Ms Pavana Tashmeera Moodley’s script, and to this extent, also informed the Complainants through a lengthy report that was sent to them on 17 April 2019.
6.1.12 The University also substantiated why a model answer of the assignment cannot be provided to the Complainants and it is noted in point 6.1.3 and 6.1.4 above.

6.2 Whether the University failed to have transparent engagements with the Complainants to address their concerns, regarding reasonableness of an assignment, which resulted in a downturn in the performance of Ms Pavana Tashmeera Moodley.

Common cause

6.2.1 It is common cause that the Complainants raised concerns in writing to the University; and

6.2.2 It is further common cause that the University sent correspondence to the Complainants in lieu of the complaint that was received from them.

Issues in dispute

6.2.3 Ms Kalla Moodley alleged that there was lack of transparent engagement with her or her daughter to objectively address her concerns raised, especially when there was a sudden unexplained downturn in the performance of her daughter. The downturn in her daughter’s performance started after she engaged the University on issues relating to reasonableness of an assignment that was given to her.

6.2.4 The University indicated that there was transparent engagement with the Complainants, to address each and every concern that was raised. The University also indicated that it has not at any point victimised or prejudiced
Ms Pavana Tashmeera Moodley in any way or manner subsequent to the concerns raised with the University.

6.2.5 The University indicated that it cannot be held responsible for Ms Pavana Tashmeera Moodley's downturn in performance. The downturn in performance cannot be linked to any concern raised by Complainants. The University records reflect that Ms Pavana Tashmeera Moodley has not attended any of the 27 SAR310 lectures where attendance was recorded.

6.2.6 Students are alerted to the increase in the level of knowledge and competency that is required in third year modules and also to the fact that they should maintain this high standard in accordance with the module outcomes published in the study guides. The University in their response indicated that the \textit{tutorial assistance is also made available to all students at all times to assist all student perform optimally}.\footnote{Conclusion}

6.2.7 From the evidence above and the exchange of e-mail correspondences between the University and the Complainants it was noted that the University had several engagements with the Complainants to try and assist them to better understand the marking criteria, and further more to address the enquires that they had raised.

6.2.8 Ms Kalla Moodley in her consultation with the Public Protector investigation team on 18 July 2019, indicated that her daughter had obtained an end of term mark of 65\% for SAR 310 and 76\% for ISR310 respectively. On her own evidence and the marks obtained by her daughter, there does not appear to be a nexus between the queries raised by the Complainants and the end of term marks obtained by Ms Pavana Tashmeera Moodley.
6.3 Whether the University failed to attend to the Complainants request for the ISR310 test script to be independently assessed or moderated in order to address any perceived bias or feeling of victimisation, wherein Ms Pavana Tashmeera Moodley was of the opinion that she was marked more stringently than other students.

*Common cause*

6.3.1 There are no common cause facts in this issue.

*Issues in dispute*

6.3.2 The Complainants requested that the ISR310 script be sent for independent assessment or moderation. They requested this to be done so there will be no victimisation or bias against Ms Pavana Tashmeera Moodley in the sense that she is marked more strictly than other students. The Complainants were of the opinion that following enquiries that were raised with the University, there will not be any fairness in the marking of the script.

6.3.3 The University indicated that Ms Pavana Tashmeera Moodley’s script was not marked more stringently than the other students. When a student queried the marking of a script, the student was informed and requested by the lecturer to follow the instructions on the memorandum posted on “CLICKUP” to bring any concern regarding the marking of the script to the Universities attention and in order for the student to be provided with constructive feedback.
6.3.4 The ISR310 script and answers were reviewed and moderated by Dr Tronel Joubert and the internal moderator for the semester test, Dr Carika Fritz after it was marked by Dr J van Wyk who is the course coordinator for ISR310. The University indicated that “the script ISR310 was marked by Dr Jani van Wyk who is the course co-ordinator. The course coordinators marking of the script was thereafter reviewed and moderated by her colleague Dr. Tronel Joubert and the internal moderator for the semester test paper Dr Carika Fritz for transparency purposes.” The allegation that the script was merely remarked was denied.

6.3.5 The University further indicated that it prides itself in offering all its students a quality education. The assessments and evaluations are of a high standard and they are consistently applied to all students. Ms Pavana Tashmeera Moodley is at all times held to the same standard as her fellow students and the University emphatically denies that she was marked stringently as a result of the Complainants lodging a complaint and raising her concerns against the University.

6.3.6 Ms Pavana Tashmeera Moodley also requested a meeting with the lecturer on 19 April 2019 to go through her test script and the marking thereof together with the lecturer. This request was granted by the lecturer in an attempt to provide the student with the required and / or desired feedback.

6.3.7 The University indicated that the test script cannot be referred externally for further assessment or moderation as the University is of the view that the script was assessed in accordance with the University’s policies and Faculty guidelines.

Conclusion
6.3.8 From the evidence above it can be seen that the lecturers were duly diligent when an assessment of the script of the Complainant was done. Her script was moderated and furthermore she also had a personal engagement with the lecturer who provided her with feedback regarding her enquires.

7. CONSIDERATION OF ISSUES RAISED REQUESTING A REVIEW OF THE PROVISIONAL CLOSING REPORT

7.1 Ms Kalla Moodley informed me that she objects to the discretionary notice that was sent to her. She raised objections in her e-mails dated 3 December 2019, and two further e-mails on 2 March 2020. The objections related to the following, that her “point of contention is that, certain criteria was supposed to be included, due to the word limit being imposed, after editing the contract only minimal criteria could be included in the contract. I do not think it is unreasonable to request that a sample contract be given to my daughter. It is my view that the University made an error, it is not possible to draw up a contract with the required criteria within the set word limit. This matter was brought to their attention before the semester marks were given out, the University should have done a block adjustment on the marks of all the affected students. My daughters aggregate has dropped because of this and I find it unacceptable because it is no fault of hers.”

7.2 With regards to attendance, she merely queried whether I had sight of the class register.

7.3 She raised objections regarding the marking system that was used by the University of Pretoria indicating, “did you refer the script to another institution, did you benchmark against another institution.”
7.4 Regarding 7.1 above, this issue has already been comprehensively addressed in the discretionary notice at paragraph 9.1 following through to 9.1.10. The University also addressed your query as to why a model answer cannot be provided.

7.5 Regarding 7.2 above, she has not made any averments that the information submitted to me regarding her daughter's attendance is incorrect, she merely asked me whether I had sight of the registers. Kindly be advised that I have not had sight of the registers, and it was not a material factor, or even a factor that I considered when making a determination on this issue, I included it merely as part of the response that was received from the University.

7.6 Regarding 7.3 above, this was part of the initial complaint that was raised with our office, and which was consequently also dealt with in the discretionary notice at paragraph 9.3 through to 9.3.6.

7.7 Furthermore no new evidence to refute what is contained in the discretionary notice that was sent to Ms Kalla Moodley on 26 February 2020. She merely reiterated and echoed what you had raised in the initial complaint on 6 May 2019.

7.8 Long after the time period allocated for persons to raise objections to the discretionary notice had expired she raised further objections on 23 March 2020.

7.9 The objections related to *inter alia* comments made regarding her own interpretation that the discretionary report is muddled, save to say that this appears to be coming from a point of frustration as the underlying issue is an emotional one, relating to the possibility of her daughter losing a
scholarship. I cannot comment on the averments and comments made in this regard as they have no nexus to the Complaint that was raised with my office.

7.10 The same issue of the "word count" and the model answer was raised, which have fully been addressed in the discretionary notice discretionary notice at paragraph 9.1 following through to 9.1.10.

7.11 Further comments relate to moderation and re-marking of Ms Pavana Tashmeera Moodley script. These issues were addressed in the discretionary notice at paragraph 9.1.5 through to 9.1.7, the contents thereof are clear and concise and follow a coherent explanation of the issue at hand, and therefor there is no need for me to further elaborate this exhaustive point.

7.12 The final issue that was raised related to potential victimisation, and discrimination of Ms Pavana Tashmeera Moodley, wherein I had advised in my e-mail dated 23 July 2019 to report the issues of alleged racism and discrimination to the South African Human Rights Commission (SAHRC). The investigator was informed that Complainants did not want to pursue this issue with the SAHRC. Again this information was communicated in the discretionary notice at paragraph 3.7.

7.13 An issue was raised during a virtual meeting with me on 17 June 2020 relating to Ms Pavana Tashmeera Moodley being accused of plagiarism, as a mechanism of punishment. Upon perusal of the e-mails exchanged herein it appears that when the assignment was submitted the responsibility of the Complainant according to the group responsibilities form was that she was to reference and check for plagiarism. This was intended to be a remedial self – assessment where students could correct their referencing and re-
submit. However since Ms Kalla Moodley had already escalated this matter to Management, the plagiarism issues had to be dealt with by Management and a decision would have to be taken by management on what is to be done in this case. The Lecturer had submitted a response on the assignment to Management for them to adjudicate the matter and was notifying the Complainants as such. In my opinion this was merely fact stating on the part of the lecturer in response to the e-mail that was sent from Ms Kalla Moodley to the lecturer, Dr van Wyk.

8. FINDINGS

8.2 Having regard to the evidence received, and for the reasons advanced herein above, I make the following findings:

8.2.1 Regarding the issue of whether the University addressed the Complainants enquiry relating to the reasonableness of the criteria used for the Property Law (SAR310) assignment, and further whether they failed to provided them with a model answer that was requested for this assignment, I find that the complaint is unsubstantiated. This is due to the query being addressed by the Deputy Dean of the Faculty of Law, Professor Birgit Kuschke on 4 April 2019 and also on 5 April 2019, when a comprehensive response providing clarity on the assessment process and reasonableness of the criteria used, was sent to her. The Complainants were further informed that there was no set single model answer. The Complainants were further alerted to the CHE standards which provides that there is no simple right and wrong answer as it requires application of principles and original presentation. To further ensure compliance with the CHE’s standards, the Complainants were informed that the assignment was sent out to be moderated by fellow legal scholars (tutors/postgraduates) before it was released to the students.

8.2.2 Regarding whether the University failed to have transparent engagement with the Complainants to address their concerns, regarding reasonableness
of an assignment, which resulted in a downturn in Ms Pavana Tashmeera Moodley's performance, the allegation is unsubstantiated. This is due to a marking rubric which is made to all students as required by the University and furthermore that the rubric and feedback was provided to all students including the Complainant's daughter. The University had several engagements with both the Complainants to try and assist them to better understand the marking criteria. Furthermore the Complainants were notified that a collaborative work assignments is just as valid a method of assessment as any written test, and therefore carries the same weighting as a semester test. Regarding downturn in performance the University commented that tutorial assistance is also made available to all students at all times to assist them perform optimally, hence the University had measures in place to ensure that students received assistance in instances where they were having difficulty. From the evidence above I find that this allegation is unsubstantiated.

8.2.3 Regarding whether the University failed to attend to the Complainants request for the ISR310 test script to be independently assessed or moderated in order to address any perceived bias or feeling of victimisation, wherein Ms Pavana Tashmeera Moodley was of the opinion that she was marked more stringently than other students, I also find that this allegation is unsubstantiated. This is due to the evidence that the students ISR310 script was marked by Dr Jani van Wyk who is the course co-ordinator. The course co-ordinators marking of the script was thereafter reviewed and moderated by her colleague Dr. Tronel Joubert and the internal moderator for the semester test paper Dr Carika Fritz for transparency purposes. Furthermore the student attended a meeting with the lecturer on 19 April 2019 to go through her test script and the marking thereof.

9. OBSERVATION AND REMEDIAL ACTION
9.1 During my interaction with this particular case and other cases against the University of Pretoria I made the following observations and direct the following remedial action to be taken, which in my opinion will enhance the manner in which the University of Pretoria functions and operates when dealing with Complaints received from students, parents of students or personnel within the University structures.

9.2 The University needs to maintain complaint files as well as have clear procedures for receiving, reviewing and evaluating complaints preferably by establishing a formal designated independent complaints unit that will serve as an ombudsman office. The Complaints need to be investigated in a uniform and timely manner. Having this independent unit will instil confidence and give the impression of a separation of powers approach, protecting the independence and integrity of the complaints which are to be investigated.

9.3 Having a designated complaints unit will circumvent an influx of cases that the office of the Public Protector receives against the University of Pretoria. Persons will be able to report matters directly to the complaints unit / Ombudsman, instead of approaching the office of the Public Protector for assistance. A case in point is that of Miss TK Chimbwanda, who approached me for assistance on the allegations of maladministration and/or improper conduct by the University of Pretoria, when her name was excluded during the selection process for a Bachelor of Social Science Honours programme in Psychology for 2019 and for further directive on the matter. This matter, and five (5) other matters namely Mlangeni, Willems, Moagi, Nyokana and Nakeni have been reported to my office and should the University have an established complaints unit / Ombudsman, these matters referred to, could have been dealt with at that level.
10. Kindly take note that in terms of section 7(2) of the Public Protector Act, the contents of this closing report are confidential and no person may disclose them without the authorization of the Public Protector.

11. Contravention of section 7(2) is in terms of section 11(1) of the Public Protector Act an offence and upon conviction, punishable in terms of subsection (4) with a fine not exceeding R40 000 or with imprisonment not exceeding 12 months or with both such fine and such imprisonment.

ADVOCATE BUSISIWE MKHWEBANE
PUBLIC PROTECTOR OF THE
REPUBLIC OF SOUTH AFRICA
DATE: