POLITICAL ETHICS

Report on an investigation into allegations of violations of the Executive Ethics Code by Minister Rob Davies, MP, relating to the launch of the Saldanha Bay Industrial Development Zone

Report No: 11 of 2015/16
REPORT OF THE PUBLIC PROTECTOR IN TERMS OF SECTION 182(1)(b) OF THE
CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996 AND SECTION 8(1) OF
THE PUBLIC PROTECTOR ACT, 1994 AND THE EXECUTIVE MEMBERS ETHICS ACT,
1998

REPORT NO: 11 OF 2015/16
"POLITICAL ETHICS"

REPORT ON AN INVESTIGATION INTO ALLEGATIONS OF VIOLATION OF THE
EXECUTIVE ETHICS CODE BY MINISTER ROB DAVIES MP RELATING TO THE
LAUNCH OF THE SALDANHA BAY INDUSTRIAL DEVELOPMENT ZONE (SBIDZ)
# INDEX

- Executive Summary

- INTRODUCTION

- THE COMPLAINT

- POWERS AND JURISDICTION OF THE PUBLIC PROTECTOR

- THE INVESTIGATION

- THE STANDARD THAT SHOULD HAVE BEEN COMPLIED WITH

- EVIDENCE AND INFORMATION OBTAINED DURING THE INVESTIGATION

- MEASURING CONDUCT AGAINST THE RULES

- FINDINGS
Executive Summary

(i) "Political Ethics" is my report as Public Protector issued in terms of section 182 (1) (b) of the Constitution of the Republic of South Africa, 1996 read with section 8 (1) of the Public Protector Act 23 of 1994 and section 3 of the Executive Members' Ethics Act 82 of 1998 (Executive Members Ethics Act).

(ii) The report communicates my findings following an investigation into a complaint lodged by a member of the Democratic Alliance (DA), Honourable Geordin Hill-Lewis MP (the Complainant), alleging abuse of state funds resulting in the violation of the Executive Ethics Code published in terms of the Executive Members Ethics Act levelled against the Minister of Trade and Industry, Dr Rob Davies (Minister Davies), relating to the distribution of party political T-shirts and the payment of expenses for the launch of the Saldanha Bay Industrial Development Zone (SBIDZ) by public funds.

(iii) The Complainant alleged that Minister Davies breached paragraph 2(3) (d) and (f) of the Executive Ethics Code by using his position to improperly enrich the ANC in his failure to prevent a possible conflict of interest as Minister and his political interest as an ANC member. Further complaints related to allegations of the hiring of a sound system and a stage that was bigger than the marquee which could not be used; payment of costs for transportation [of ANC supporters]; and the supply of party political T-shirts at the official launch of the SBIDZ, an event dubbed the ANC rally by the Complainant.

(iv) The essence of the complaint was that: 1) the payment of costs for transportation of ANC supporters and the supply of political T-shirts for the event benefited ANC supporters and constituted misuse of public funds; 2) The event was nothing but an ANC rally paid for by public funds; 3) The stage and sound costs constitute wasteful expenditure, since the stage that was hired was too big for the marquee and could not be used at the event; and 4) Minister Davies breached the Executive Ethics Code as a result of the above
occurrences as well as by his failure to prevent the event from turning into a political party rally.

(v) The Complainant further alleged that despite a warning by Premier Zille to President Zuma the day before, that the event would be turned into a political rally, nothing was done to prevent that from happening and when a crowd clad in ANC T-shirts heckled Premier Zille at the event, Minister Davies and President Zuma did nothing to stop the obvious abuse of a state event for a political purpose and Minister Davies thereby exposed himself to a situation risking a conflict between his official responsibilities as a member of the executive and his political interests in the ANC.

(vi) In addition, the Complainant requested that an investigation be conducted on any breach under the Executive Members' Ethics Act by any of the Ministers who were present on the day of the launch, whether in official or personal capacity, and all decisions taken in terms of the event. Except for details of the allegations made against Minister Davies, the Complainant did not furnish specific details of other allegations of violation of the Executive Members Ethics Code against any other specific Minister present at the event and such allegations could therefore not be pursued due to insufficient factual details as well as limited capacity of my office to investigate such wide allegations.

(vii) From the analysis of the complaint, the following issues were identified for investigation:

1. Did Minister Davies unduly fail to discharge an ethical obligation to prevent a state event, the official launch of the SBIDZ from being turned into a political party rally resulting in violation of the Executive Ethics Code?

2. Did Minister Davies conduct himself in a manner that exposed him to a situation risking a conflict between his official responsibilities as a member of the Executive and his political interests as an ANC member and thereby benefiting the ANC or its members?
3. Did Minister Davies improperly distribute ANC T-shirts at the SBIDZ event resulting in violation of the Executive Ethics Code?

4. Did Minister Davies improperly transport ANC supporters to the SBIDZ event resulting in violation of the Executive Ethics Code?

5. Did Minister Davies hire a stage that was too big for the marque and not used at the event resulting in his violation of the Executive Ethics Code?

(viii) The investigation focused on the occurrences during the preparations and the launch of the SBIDZ by the Department of Trade and Industry (the DTI) and Minister Davies as well as the incidents that transpired at the event concerned during the period between September 2012 and October 2013, and included research and analysis of the regulatory framework, which includes the Constitution, Executive Members’ Ethics Act, Executive Ethics Code, the Public Finance Management Act and the Manufacturing Development Act.

(ix) The substantive scope focused on the propriety of the conduct of Minister Davies regarding the allegations of: - his failure to prevent the SBIDZ event from turning into an ANC rally; the improper arrangements of transport for ANC supporters; the hiring of a big stage that was not used and procurement and distribution of ANC T-shirts at the SBIDZ event, regarding compliance with the relevant laws and regulations.

(x) In arriving at the findings, I have been guided by the standard approach adopted by the Public Protector South Africa as an institution, which simply involves asking: What happened? What should have happened? Is there a discrepancy between what happened and what should have happened? If there is a discrepancy, does the conduct amount to improper conduct or violation of the Executive Ethics Code? If there was indeed improper conduct or violation of the Executive Ethics Code, what would be the appropriate remedial action?

(xi) As is customary, the “what happened” enquiry is a factual question settled on the assessment of evidence and making a determination on a balance of
probabilities. To arrive at a finding on what happened, the investigation, like all others, relied on oral and documentary submissions by the Complainant and Minister Davies and documents from the DTI. Correspondences were sent to, and/or received from the Complainant, Minister Davies and the DTI as well as the media groups. The question regarding what should have happened on the other hand, relates to the standard that Minister should have been complied with.

(xii) In determining the standard that Minister Davies should have complied with to avoid improper conduct or violation of the Executive Ethics Code, I was guided, as is customary, by the Constitution, national legislation, applicable code of conduct for Members of the Cabinet and related regulatory instruments.

(xiii) Key among the legal framework that informed the investigation and regulations taken into account to help me determine if there was any improper conduct on the part of Minister Davies, were principally those regulating the ethical standards expected of members of the Executive, including Ministers as provided in section 2 of the Executive Members' Ethics Act, section 96 of the Constitution regulating ethical conduct of Ministers, section 237 requiring constitutional obligations to be performed diligently and the Executive Ethics Code prescribing the minimum ethical standards for all members of the Executive.

(xiv) The Executive Ethics Code affirms and commits to uphold section 96 of the Constitution setting the vision behind it and the conduct to be upheld by Members of the Cabinet and Deputy Ministers in their official capacity, which conduct includes ensuring that they act in a manner that is consistent with their office and avoid exposure to any situation involving the risk of a conflict between their official responsibilities and political interests and preventing the use of position or any information entrusted to them to enrich themselves or improperly benefit any other person.
(xv) The investigation process included the gathering of correspondence, research and analysis of relevant documents, laws and other applicable regulatory prescripts.

(xvi) The conduct of Minister Davies was primarily assessed against the pursuit of ethical standards imposed on members of the executive by section 96 of the Constitution and the Executive Ethics Code read with the Executive Ethics Act and global principles requiring the separation of party and state and prohibition of the use of public resources for vote canvassing.

(xvii) My investigation included correspondence, and at its commencement, the allegations were brought to the attention of Minister Davies on 20 December 2013, after notifying President Zuma about the relevant investigation. The allegations were also raised with various media groups on 13 June 2014 with a view to solicit relevant information and responses.

(xviii) A further correspondence was entered into with Minister Davies during the investigation and I received his response to the allegations on 10 March 2014. Only one media company, Media24 responded to my correspondence on 17 June 2014 providing factual details of what transpired at the SBIDZ event which was helpful in assisting me to come to a fair determination.

(xix) All the information and evidence gathered during interactions with Minister Davies, the Complainant and the media were taken into account in an effort to reconstruct what happened and if what happened was in line with the rules. I have also sent a letter dated 15 April 2015 to Complainant detailing provisional findings on my investigation and calling on him to provide further information to support the unsubstantiated allegations and/or respond to the letter concerned (Discretionary Notice) but have not received his response in that regard.

(xx) After careful examination of the evidence and information obtained during the investigation and the regulatory framework setting the standard of conduct that
should have been complied with by Minister Davies, my findings are the following:

1. Regarding Minister Davies' alleged failure to discharge an ethical obligation to prevent a state event of the official launch of the SBIDZ from being turned into a political party rally resulting in violation of the Executive Ethics Code:

   a) The allegation that Minister Davies failed to discharge an ethical obligation to prevent a state event of the launch of the SBIDZ from being turned into a political party rally resulting in violation of the Executive Ethics Code was not substantiated. Based on the evidence received, the launch of the SBIDZ did not turn into a political party [ANC] rally.

   b) Minister Davies was in terms of section 96(2) of the Constitution and section 2(b) of the Executive Members' Ethics Act, read with paragraph 2(3) (f) of the Executive Ethics Code obliged not to expose himself to a situation involving the risk of a conflict between his official responsibilities and his political interest. However, Minister Davies did not expose himself to such a situation.

   c) The unruly behaviour by a group of ANC supporters clad in ANC T-shirts who booed Premier Zille did not turn the event into a political party rally and failure by Minister Davies to take action regarding such behaviour did not expose him to a situation involving the risk of a conflict between his official responsibilities and his political interest and therefore did not result in violation of the Executive Ethics Code.
2. Regarding Minister Davies' alleged conduct in a manner that exposed him to a situation risking a conflict between his official responsibilities as a member of the Executive and his political interests as an ANC member and thereby improperly benefiting the ANC or anyone:

a) The allegation that Minister Davies conducted himself in a manner that exposed him to a situation risking a conflict between his official responsibilities as a member of the Executive and his political interest as an ANC member and thereby improperly benefiting the ANC or anyone was not substantiated.

b) Minister Davies had the duty in terms of the Executive Ethics Code, particularly paragraph 2(3) (f) not to expose himself to any situation involving the risk of a conflict between his official responsibilities and his political interests. Based on the evidence, Minister Davies did not violate this duty.

3. Regarding Minister Davies' alleged improper distribution of ANC T-shirts at the SBIDZ event resulting in violation of the Executive Ethics Code?

a) The allegation that Minister Davies improperly distributed T-shirts at the event resulting in violation of the Executive Ethics Code was not substantiated.

b) A group of ANC supporters came to the event clad in ANC T-shirts. Based on the evidence, neither Minister Davies nor anyone acting on his instruction distributed ANC T-shirts at the SBIDZ event.

4. Regarding Minister Davies' improper transportation of ANC supporters to the SBIDZ event resulting in violation of the Executive Ethics Code:

a) The allegation that Minister Davies improperly transported ANC supporters to the SBIDZ event was not substantiated.
b) Members of the community were transported to the SBIDZ event irrespective of their political affiliation and the related transport costs were paid for by the DTI. Based on the evidence received, Minister Davies did not transport ANC supporters as alleged.

5. Regarding Minister Davies' improper hiring of a stage that was too big for the marquee and not used at the SBIDZ event resulting in violation of the Executive Ethics Code:

a) The allegation that Minister Davies improperly hired a stage that was too big for the marquee and not used at the SBIDZ event resulting in violation of the Executive Members Ethics Code was not substantiated.

b) The stage was hired by the DTI and according to section 36 (2) (a) of the Public Finance Management Act, 1999 (PFMA) the head of a department is the accounting officer for the department and not the Minister.

c) Based on evidence, Minister Davies was not involved in the hiring of the stage for the SBIDZ event.
REPORT ON AN INVESTIGATION INTO ALLEGATIONS OF VIOLATION OF THE EXECUTIVE ETHICS CODE BY MINISTER ROB DAVIES MP RELATING TO THE LAUNCH OF THE SALDANHA BAY INDUSTRIAL DEVELOPMENT ZONE (SBIDZ)

1. INTRODUCTION

1.1 "The Ethics of Politics" is my report as the Public Protector issued in terms of section 182(1) (b) of the Constitution of the Republic of South Africa, 1996 (the Constitution), read with section 8(1) of the Public Protector Act 23 of 1994 (the Public Protector Act) and section 3 of the Executive Members' Ethics Act 82 of 1998 (Executive Members Ethics Act).

1.2 The report communicates my findings following an investigation into a complaint lodged by a member of the Democratic Alliance (DA), Honourable Geordin Hill-Lewis MP (the Complainant), alleging abuse of state funds resulting in the violation of the Executive Ethics Code published in terms of the Executive Members Ethics Act levelled against the Minister of Trade and Industry, Dr Rob Davies (Minister Davies), relating to the distribution of party political T-shirts and the payment of expenses for the launch of the Saldanha Bay Industrial Development Zone (SBIDZ) by public funds.

1.3 The report is submitted in terms of section 8(1) of the Public Protector Act to the President of the Republic of South Africa, His Excellency President JG Zuma.

1.4 A copy is provided in terms of section 8 of the Public Protector Act to:

1.4.1 Minister of Human Settlements, Ms Lindiwe Sisulu, MP
1.4.2 Minister of Trade and Industry, Dr Rob Davies, MP

1.4.3 The Speaker of the National Assembly, Honourable Baleka Mbete, MP

1.4.4 The Complainant, Mr Geordin Hill-Lewis, MP

1.5 The report relates to the investigation into allegations of a breach of the Executive Ethics Code by Minister Davies.

2. THE COMPLAINT

2.1 A Member of Parliament representing the Democratic Alliance, Mr Geordin Hill-Lewis (the Complainant) lodged a complaint with my office in terms of section 4(1) of the Executive Members Ethics Act, on 26 November 2013 alleging breach of paragraphs 2(3) (d) and (f) of the Executive Ethics Code by Minister Davis in using his position to improperly enrich ANC members in his failure to prevent a possible conflict of interest as the Minister and his political interest as an ANC member, in relation to the payment of costs for transportation of ANC supporters, the hiring of a huge stage that was not used and the supply of party political T-shirts at the official launch of the SBIDZ, an event dubbed the ANC rally by the Complainant.

2.2 According to the Complainant:

2.2.1 The launch was supposed to be an occasion of celebration between all spheres of government involved in realizing the newest Special Economic Zone (SEZ) in South Africa with the potential to create 13 000 job opportunities;
2.2.2 The Department of Trade and Industry (the DTI) was in charge of organizing the event, which was attended by President Jacob Zuma, Minister Davies, Minister Ebrahim Patel, Western Cape Premier Helen Zille, diplomats and investors. It was chaired by Western Cape Chairperson of the ANC, Mr Marius Fransman;

2.2.3 Several instances of possible abuse of public funds were observed on the day. The stage and sound costs were almost all wasted expenditure, since the stage that was ordered was too big for the marquee, and could not be used at all, while ANC supporters were bussed in to the event and ANC T-shirts were distributed at the event in plain sight;

2.2.4 Despite Premier Zille’s warning to President Zuma the day before, that the SBIDZ event would be turned into a political rally, nothing was done to prevent this from happening. At the event, when the ANC crowd heckled Premier Zille, Minister Davies and President Zuma did nothing to stop the obvious abuse of a state event for political purposes.

2.2.5 By not taking action to prevent the event from being turned into a political rally, and in turn, the use of public funding for this purpose, Minister Davies may have breached the Executive Ethics Code, specifically:

(a) Paragraph 2(3)(f) which provides that:

"Members of the Executive may not expose themselves to any situation involving the risk of a conflict of interest between their official responsibilities and political interests"; and

(b) Paragraph 2(3)(d) which provides that:

"Members of the Executive may not use their position or any information entrusted to them, to enrich themselves or improperly benefit any other person";
2.2.6 It was necessary to investigate how Minister Davies exposed himself to a situation risking a conflict between his official responsibilities as a member of the executive and his political interests in the ANC, and whether he was operating under the instructions of the President or his political head in the Western Cape, Mr. Fransman.

2.3 The Complainant also requested that I conduct an investigation into a violation under the Executive Members' Ethics Act by any of the Ministers who were present at the launch, whether in official or personal capacity, and all decisions taken in terms of the event. This request was too expansive and because of lack of factual details as well as limited capacity, I could not pursue it.

3. POWERS AND JURISDICTION OF THE PUBLIC PROTECTOR

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

3.2 Section 182 of the Constitution provides that:

"The Public Protector has the 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 The Public Protector's powers are regulated and amplified by the Public Protector Act which states, among others, that the Public Protector has power to investigate and redress maladministration and related improprieties in the conduct of state affairs. The Public Protector Act also confers on me the power to resolve disputes
through conciliation, mediation, negotiation or any other appropriate dispute resolution mechanism. Section 182(2) directs that the Public Protector has additional powers prescribed by national legislation.

3.4 Sections 3(2)(a) and 4(1)(a) of the Executive Members' Ethics Act provide that the Public Protector must investigate any alleged violation of the Executive Ethics Code on receipt of a complaint by a Member of the National Assembly against a Cabinet member or Deputy Minister.

3.5 When investigating an alleged violation of the Executive Ethics Code, I, by virtue of section 3(4) of this Act, have all the powers vested in terms of the Public Protector Act. Section 4 of the Executive Members' Ethics Act further states that nothing in this Act may prevent me from investigating any complaint by a member of the public in accordance with the Public Protector Act.

3.6 The complaint lodged against Minister Davies relates to allegations of improper conduct in state affairs and unethical conduct by Minister Davies, and accordingly falls within the remit of the Public Protector.

3.7 Jurisdiction and investigative powers were not disputed by any of the parties.

4 THE INVESTIGATION

4.1 Methodology

4.1.1 The investigation was conducted in terms of section 182 of the Constitution, sections 3 and 4 of the Executive Members' Ethics Act and sections 6 and 7 of the Public Protector Act.

4.1.2 The Public Protector Act confers on the Public Protector the sole discretion to determine how to resolve a dispute of alleged improper conduct or
maladministration. Section 6 of the Public Protector gives the Public Protector the authority to investigate and report on her findings regarding any complaint lodged.

4.1.3 Section 3 (1) of the Executive Members’ Ethics Act confers a duty on the Public Protector to investigate any alleged violation of the code of ethics on receipt of a complaint from the President, a member of the National Assembly or a permanent delegate to the National Council of Provinces, if the complaint is against a Cabinet member or Deputy Minister.

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:
   a) What happened?
   b) What should have happened?
   c) Is there a discrepancy between what happened and what should have happened and does that deviation amount to improper conduct or violation of the Executive Ethics Code?
   d) In the event of a deviation, 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 improper conduct or violation of the Executive Ethics Code?

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, through correspondence, interviews, meetings and documents. In this particular case, the factual enquiry principally focused on whether or not Minister Davies acted in the manner alleged by the Complainant.

4.2.3 The source of evidence principally included institutional documents consisting of correspondence, as well as emails exchanged with the media. I have also sent a letter dated 15 April 2015 to Complainant detailing provisional findings on my
investigation and calling on him to provide further information to support the unsubstantiated allegations and/or respond to the letter concerned (Discretionary Notice) but have not received his response in that regard. Evidence was evaluated and a determination made on what happened based on a balance of probabilities.

4.2.4 The enquiry regarding what should have happened, focused on the law or rules that regulate the ethical standard that should have been met or complied with by Minister Davies, as regulated by the Executive Ethics Code and other regulatory frameworks, with implications for applicable ethical standards, to prevent the improper conduct or violation of the Executive Ethics Code. In this case, key reliance was placed on the Executive Ethics Code, in addition to the Executive Members’ Ethics Act and the Constitution.

4.2.5 The enquiry regarding the remedy or remedial action seeks to explore options for redressing injustice or prejudice suffered or damage caused as a consequence of improper conduct involving maladministration, unethical conduct or any other impropriety.

4.2.6 Where a Complainant has suffered prejudice, the idea is to place him or her as close as possible to where they would have been had the Minister or organ of state complied with the regulatory framework setting the applicable standards for proper conduct or good administration. The same is done where the wrongful conduct negatively affects the general populace. However, in appropriate circumstances, the remedial or corrective action primarily seeks to prevent a recurrence.

4.2.7 The substantive scope focused on compliance with the law and regulations relating to the propriety of the conduct of Minister Davies regarding the allegations of failure to discharge an ethical obligation to prevent the SBIDZ event from turning into a political rally, the improper arrangements of transport for ANC supporters, hiring of a big stage that was not used, procurement and distribution of ANC T-shirts in relation to the SBIDZ event.
4.3 On analysis of the complaint and allegations, the following were issues considered and investigated:

4.3.1 Did Minister Davies unduly fail to discharge an ethical obligation to prevent a state event of the official launch of the SBIDZ from being turned into a political party rally resulting in violation of the Executive Ethics Code?

4.3.2 Did Minister Davies conduct himself in a manner that exposed him to a situation risking a conflict between his official responsibilities as a member of the Executive and his political interests as an ANC member and thereby benefiting the ANC or its members?

4.3.3 Did Minister Davies improperly distribute T-shirts at the SBIDZ event resulting in violation of the Executive Ethics Code?

4.3.4 Did Minister Davies improperly transport ANC supporters to the SBIDZ event resulting in violation of the Executive Ethics Code?

4.3.5 Did Minister Davies hire a stage that was too big for the marque and not used at the event resulting in violation of the Executive Ethics Code?

4.4 The Key Sources of Information

4.4.1 Documents

4.4.1.1 Application for Industrial Development Zone Designation and Operation Permit for the Saldanha Bay Industrial Development Zone: November 2012

4.4.2 Correspondence sent and received:

Correspondence entered into between the Public Protector and:
4.4.2.1 The President, His Excellency J G Zuma, dated 20 December 2013, 18 February 2014 and 5 March 2014.

4.4.2.2 Minister Rob Davies dated 6 February 2014 (the response); 20 December 2013; 27 January 2014; 18 February 2014 and 10 March 2014.

4.4.2.3 The Media Company called Media 24, dated 13 and 17 June 2014 respectively; and

4.4.2.4 The Complainant, dated 15 April 2015.

4.4.3 Legislation and other prescripts

4.4.3.1 The Constitution;
4.4.3.2 The Executive Members' Ethics Act 82 of 1998;
4.4.3.3 The Executive Members' Ethics Code of 2000;
4.4.3.4 The Manufacturing Development Act 187 of 1993; and
4.4.3.5 Regulation 3A published by Notice R. 1224 of 1 December 2000 in terms of the Manufacturing Development Act 187 of 1993.

5 THE STANDARD THAT SHOULD HAVE BEEN COMPLIED WITH

5.1 Ethical Standards set by the Constitution

5.1.1 The issue relating to conduct of Members of the Cabinet is regulated by section 96(1) of the Constitution which provides that: "members of the Cabinet and Deputy Ministers must act in accordance with a code of ethics prescribed by national legislation".
5.1.2 In terms of section 96(2), Members of the Cabinet may not:

(a) ... "(a) act in a way that is inconsistent with their office, or expose themselves to any situation involving the risk of a conflict between their official responsibilities and political interest; or

(b) use their position or any information entrusted to them, to enrich themselves or improperly benefit any other person”.

5.2 The Executive Members’ Ethics Act

5.2.1 The Executive Members’ Ethics Act is the key legislation directly giving effect to section 96 of the Constitution. Section 2 of the Executive Members Ethics Act is an enabling section of legislation for the promulgation of the Executive Ethics Code prescribing standards and rules aimed at promoting open, democratic and accountable government and which Cabinet members, Ministers and Deputy Ministers must comply with in performing their official responsibilities.

5.2.2 Section 2(b) provides for the inclusion of provision prohibiting Cabinet members, Deputy Ministers and MEC’s from:

(a) Exposing themselves to any situation involving the risk of a conflict between their official responsibilities and their political interests; and

(b) Acting in a way that may compromise the credibility or integrity of their office or of the government.

5.3 The Executive Ethics Code, 2000
5.3.1 The Executive Ethics Code essentially seeks to provide a standard of code of conduct which members of Cabinet and Executive Council must abide with in the performance of their official responsibilities. Paragraph 2(3) (d) and (f) prohibits Ministers from using their positions or information entrusted to them, to enrich themselves or to improperly benefit any other person or expose themselves to any situation involving the risk of a conflict between their official responsibilities and their political interests.

5.3.2 The questions that need to be answered relating to the alleged improper conduct of Minister Davies are mainly regulated by paragraph 2 of the Executive Ethics Code which provides at sub-paragraph (3) that:

“(d) Members of the Executive may not use their position or any information entrusted to them, to enrich themselves or improperly benefit any other person;

(f) Members of the Executive may not expose themselves to any situation involving the risk of a conflict of interest between their official responsibilities and political interests”.

5.4 Regulation 3A published by Notice R. 1224 of 1 December 2000 in terms of the Manufacturing Development Act 187 of 1993

5.4.1 This regulation forms the basis for the application and approval of an industrial development zone by interested parties. In terms of Regulation 3A (as inserted by part 5 (b) of Government Notice R 1065 published in the Government Gazette No. 29320 of 2006), interested parties may approach the Minister to apply for a specified area linked to a port with customs facilities to be considered as an area suitable for development of an Industrial Development Zone (IDZ). The Regulation set standards that the establishment of the SBIDZ had to comply with to be compliant with the relevant laws.
5.5 The Manufacturing Development Act 187 of 1993

5.5.1 The Manufacturing Development Act is the enabling legislation for the development of industrial development zones in South Africa. Section 10(1) of the Manufacturing Development Act makes provision for the establishment of an IDZ Programme, to administer the process relating to application and appointment of IDZ operators and enterprises, as well as providing for matter incidental thereto.

5.5.2 For the SBIDZ event to be an official event it had to comply with the requirements of the laws relating to the development of industrial development zone and this Act forms the basis thereof.

6 EVIDENCE AND INFORMATION OBTAINED DURING THE INVESTIGATION

5.1 The evidence and information obtained is sketched together as the issues identified for investigation are intertwined and relate to conduct that tends to prove or disprove the propriety of Minister Davies’ actions or omissions during the SBIDZ event.

6.2 Complaint 1-5: Regarding the allegations that Minister Davies:- failed to discharge an ethical obligation to prevent a state event of the official launch of the SBIDZ from being turned into a political party rally; conducted himself in a manner that exposed him to a situation risking a conflict between his official responsibilities as a member of the Executive and his political interests as an ANC member thereby improperly benefiting anyone; improperly distributed T-shirts; improperly transported ANC supporters; and hired a stage that was too big for the marquee and not used at the SBIDZ event thereby resulting in his violation of the Executive Ethics Code:

6.2.1 Issues not in dispute
6.2.1.1 It is not in dispute that the DTI organised and paid for the launch of the SBIDZ and that President Jacob Zuma, Minister Rob Davies, Minister Ebrahim Patel, Western Cape Premier Helen Zille, diplomats and investors attended the event concerned that was chaired by Western Cape ANC Chairperson, Mr Marius Fransman;

6.2.1.2 It is also not in dispute that a group of ANC supporters clad in ANC T-shirts attended and heckled Premier Zille at the SBIDZ event, that members of the community were transported to the event by busses hired by the DTI and that a stage too big for the marque was hired for the event.

6.2.2 Issues in dispute

6.2.2.1 What I had to determine was whether or not, as a result of the occurrences alleged by the Complaint, Minister Davies exposed himself to any situation involving the risk of a conflict between his official responsibilities and his political interests, and used his position or information entrusted to him to enrich himself or to improperly benefit the ANC or anyone else resulting in violation of the Executive Ethics Code, specifically paragraphs 2(3) (f) and (d) during the SBIDZ event.

6.2.2.2 I must point out from the onset that the evidence received from the Media 24 does not contradict Minister Davies' version of the incidents that occurred at the SBIDZ event, and except for corroborating the allegations that people were bussed to the event and a group wearing ANC T-shirts caused rowdiness, it does not support the allegation of violation of the Executive Ethics Code made against Minister Davies. I could not find any evidence indicating the role that Minister Davies played during the event or that contradicted his version relating to the allegations made against him.

6.2.2.3 Also as pointed out herein above, the Complainant was requested in my letter, Discretionary Notice of 16 April 2015, to furnish evidence to corroborate the
unsubstantiated allegations on my provisional findings. However, I have not received the Complainant’s response in that regard.

6.2.2.4 In his response of 6 February 2014 to my inquiry regarding the allegations, Minister Davies denied that the SBIDZ launch was used as a platform for a political rally and that he was involved in organizing the event. He asserted in this regard that the DTI was in charge of organizing the launch and that it worked closely with the Saldanha Bay Municipality, the Presidency, Office of the Premier of the Western Cape and other relevant stakeholders during September 2012, when it received an application for the designation of the SBIDZ and the granting of an operator permit from the SBIDZ Licensing Company (SBIDZ LiCo), which Cabinet approved in August 2013.

6.2.2.5 According to Minister Davies, the event was initially planned for the attendance of approximately 400 people but due to the interest shown by members of the community of the surrounding areas, the numbers increased. It impacted on the planning which was informed by advice received from municipal officials about the expectation of a huge turnout from the local community of the West Coast who were very keen to attend the launch to participate in the event attended by the President.

6.2.2.6 Minister Davies’ response was intended to justify the hiring of the big stage by the DTI. However, I have accepted his explanation that he was not involved in the arrangements for the launch and the question of holding him responsible for the hiring of the stage falls away.

6.2.2.7 In response to the issue of the transporting of ANC members to the event, Minister Davies further stated that the launch was advertised publicly and the community was invited regardless of political affiliation. He dispelled the allegation that the event was a political party (ANC) rally.
6.2.2.8 Accordingly, Minister Davies' version is that the official launch of the IDZ was a normal practice that was designated before the SBIDZ event to make the investor community aware of an enabling platform for doing business and to carry the message across the spectrum of stakeholders that are relevant to the success of the IDZ project including the broader community around the area to be identified as an industrial development zone.

6.2.2.9 Minister Davies denied that payment for the launch and transportation of members of the community amounts to abuse of public funds. According to him, the DTI paid for bus transportation of community members who through various wards informed the Saldanha Bay Municipality about their request to government to provide them with transport to attend the event. As alluded to above, Minister Davies stated that he was not involved in the arrangements concerned.

6.2.2.10 Minister Davies further denied that the DTI paid for the printing of ANC T-shirts in issue and asserted in this regard that he was not aware that there would be any T-shirts belonging to a political party that would be distributed before or during the event.

6.2.2.11 Minister Davies further contended that after a thorough consideration of the obvious challenge of public transport around the targeted areas in the region, the DTI acceded to the request for transport and procured the services of a bus company for a one trip collection of community members on a first-come first serve basis, at the collection points that were identified by the municipality.

6.2.2.12 I could not find any evidence that shows that Minister Davies was involved in the arrangement of transport and therefore could not take the issue further for purpose of making a determination in that regard.

6.2.2.13 The key question that I had to determine of whether Minister Davies violated the Executive Ethics Code as he did not prevent a possible conflict of interest
between his official duties as Minister and his political interest as a member of the ANC, and whether he used his position to enrich or to improperly benefit the ANC or anyone cannot be decisively answered in the positive due to lack of evidence linking him to the evidence stated above.

6.2.2.14 Minister Davies’ response in this regard is that the DTI planned the launch of the SBIDZ as a government project based on pure government administrative processes and have discharged all the planned activities of the launch from that basis. As far as his assessment was concerned, no person or persons were improperly enriched or benefited from the launch of the project.

6.2.2.15 The indication by Minister Davies was that as a result of the launch, a number of potential investors were negotiating business deals with the SBIDZ LiCo.

6.2.2.16 Huge interest was shown by the community of Saldanha Bay Municipality and the broader West Coast regions to collaborate with the SBIDZ Operator to be registered into a comprehensive Supplier Development Database and Skills Database.

6.2.2.17 The Supplier Development Database and Skills Database would, according to Minister Davis, give a clearer picture of the business community and the skills base that exist in that region in support of the developments that are expected to happen in and around the IDZ. This fact may be accepted as persuasive information that the SBIDZ did not turn into ANC rally as alleged by the Complainant.

6.2.2.18 It is worth noting that according to Minister Davies’ response, the cost for the SBIDZ event was funded by the DTI from its operational budget, however, there were certain contributions made by the Saldanha Bay Municipality, among others for the provision of public toilets and tables.
6.2.2.19 Furthermore, the SBIDZ LiCo also made a contribution towards the event and the expenditure amounting to R 969 855.86, which was budgeted for at the planning stage (earlier estimated at R 1 000 000.00) by the DTI and that no expenditure was incurred which was not budgeted for. A breakdown of the budget for the costs incurred was provided as follows:

<table>
<thead>
<tr>
<th>Item</th>
<th>Estimated budget (Rands)</th>
<th>Actual cost (Rands)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Catering:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>200 people</td>
<td>200 000.00</td>
<td>155 000.00</td>
</tr>
<tr>
<td>400 invited guests</td>
<td></td>
<td>83 000.00</td>
</tr>
<tr>
<td>Furniture (Holding rooms)</td>
<td></td>
<td>37 750.00</td>
</tr>
<tr>
<td>Marquee, stage and sound equipment</td>
<td>500 000.00</td>
<td>558 676.10</td>
</tr>
<tr>
<td>Marquee tent</td>
<td></td>
<td>63 135.00</td>
</tr>
<tr>
<td>Stage (including furniture) Sound system, equipment, engineering and ancillary services</td>
<td>429 041.00</td>
<td></td>
</tr>
<tr>
<td>Advertising:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Radio Stations</td>
<td>200 000.00</td>
<td>151 279.76</td>
</tr>
<tr>
<td>Newspapers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Online advertisers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transportation:</td>
<td>100 000.00</td>
<td>104 900.00</td>
</tr>
<tr>
<td>Total Costs</td>
<td>1 000 000.00</td>
<td>969 855.86</td>
</tr>
</tbody>
</table>

6.2.3 Information submitted to Public Protector by Media24, dated 13 and 17 June 2014:

6.2.3.1 My office requested comments on the event from various media groups in emails sent on 13 June 2014, to which at the time of the conclusion of my investigation,
only Media24 responded on 17 June 2014. The Journalist who attended the event stated among others that:

"I personally attended the said event and was extremely disappointed by the way the proceedings got side-tracked by political rowdiness. For one, the tent was too small and some of us from the media (we were all officially invited to attend) were told there is not enough room for us to attend it. After the event had already started I and a few others were then told we can now go in, but had to go in from the back as there was no room in front.

I got a seat in the middle among a group wearing ANC T-shirts. Everything went very well until Premier Helen Zille was asked to speak by Minister Marius Fransman. The group wearing ANC T-shirts immediately started shouting at her and making hand signs. I do not understand Xhosa, but they made it quite impossible for her to speak. Minister Fransman tried to calm the crowd, but when Premier Zille came back and started shouting that this is a political conspiracy and that she phoned President Jacob Zuma the previous evening and warned him that this would happen, the group wearing the ANC T-shirts really got worked up.

I noticed that the other community members sitting in the tent were generally not involved with the debate going on. I was told that these people who caused the trouble were bussed in from elsewhere and were not local, but this could not be confirmed.

It soon became clear that Premier Zille would not be allowed to speak. She was emotional and was wiping tears from her eyes. She then whispered something to President Zuma and left. During all this commotion President Zuma sat behind the table and didn’t show in any way that he was upset about what was going on. He also did nothing to calm the rowdy element in the crowd. He only mildly admonished them after he had delivered his speech.
I didn't recognise any of our local ANC leaders among the group causing the trouble in the tent. I did see some of them outside who waited with a crowd of locals who couldn't get access to the tent – they were addressed briefly by President Zuma after the proceedings in the tent were completed.

It was clear that the rowdiness was directed solely at Premier Zille by people wearing ANC T-shirts. There after the proceedings went smoothly and there were no further incidents.

6.2.3.2 Media24 made no reference to what Minister Davis did during the event and I could also not find any evidence linking him to the allegations raised by the Complainant.

6.2.3.3 I have noted that the application for the designation of the Saldanha Bay as the IDZ brought by the SBIDZ LiCo was made in terms of Regulation 3A of the IDZ Programme Regulations of 2000, as amended in 2007, published in terms of the Manufacturing Development Act which outline the relevant processes to be followed in the designation of the IDZ ("a Special Economic Zone") and that the SBIDZ event was therefore not a political but an official state event.

7 MEASURING CONDUCT AGAINST THE RULES

To arrive at a fair conclusion, I had to test the information received from the media and Minister Davies against the allegations raised by the Complainant to make a determination based on a balance of probabilities.

7.1 Regarding Minister Davies' alleged failure to discharge an ethical obligation to prevent a state event of the official launch of the Saldanah Bay Industrial Development Zone (SBIDZ) from being turned into a political party rally resulting in violation of the Executive Ethics Code:
7.1.1 Having concluded that the SBIDZ was an event organized by the DTI and Minister Davies as its political head had the ethical duty to ensure that the event remained a state event and was not turned into a political party rally, the issue to be adjudicated was whether or not Minister Davies failed to discharge such duty and whether his conduct in that regard was in violation of the Executive Ethics Code.

7.1.2 Minister Davies’ duty emanates from his responsibility in terms of the Executive Ethics Code which prohibits Members of the Executive from exposing themselves to any situation involving the risk of a conflict between their official responsibilities and their political interests, and that they may not use their position or information entrusted to them, to enrich themselves or to improperly benefit any other person.

7.1.3 In addition Minister Davies also had a duty in terms of section 2(b) of the Executive Members’ Ethics Act which prohibits a Cabinet Minister from acting in any way that may compromise the credibility or integrity of their office or of the government.

7.1.4 By allowing a state event to turn into a political rally, Minister Davies would have exposed himself to the risk of a conflict between his official responsibilities and his political interests and would have acted in violation of the Executive Ethics Code. However, based on the information received, I cannot conclude that Minister Davies failed to exercise such duty, as the information does not suggest that a political party rally prevailed at the official launch of the SBIDZ.

7.1.5 Information received indicates that the incident that occurred during the launch, which was indicative of a perception gained by the Complainant that the event turned into a political party rally, relates to the booing of the leader of the DA, Premier Zille when she was called to take the podium, by a group wearing ANC T-shirts, who were reprimanded by Mr Marius Fransman and President Zuma. The incident concerned may not be regarded as conclusive proof that the event turned into a political party rally, as it happened for a short period and did not change the programme of the day.
7.1.6 I am therefore of the view that Minister Davies could not have done anything to prevent the booing under the circumstances. In any official event, the duty to ensure a smooth running of the event lies with the person entrusted with the powers to direct the ceremony and according to evidence received, Minister Davies was not one of them. Minister Davies' failure to take any action could be justified by the fact that the event never turned into a political party rally and therefore no obligation existed for him to have acted. The question of Minister Davies's failure to take action to prevent the SBIDZ event from being turned into a political party rally therefore falls away.

7.1.7 On analysis of the evidence received, the launch was an official event which complied with Regulation 3A as promulgated in terms of the relevant legal framework, the Manufacturing Development Act and the allegation that it was an ANC rally could not be sustained.

7.1.8 However, the SBIDZ event would have been a political party [ANC] rally had the issues pertaining to the political party concerned prevailed within the programme of the day and dealt with for political interests. I could not find any evidence suggesting that, that was the situations that prevailed during the event.

7.1.9 Nothing in the evidence received supports the allegation that Minister Davies violated paragraph 2 (3) of the Executive Ethics Code read with Section 2(b) of the Executive Members' Ethics Act or section 96(2) of the Constitution.

7.1.10 The evidence received from the DTI also points that the expenses for the launch of the SBIDZ were covered from the budget of the DTI and contributions from various stakeholders, among others, the Saldanha Bay Municipality and the SBIDZ LiCo.

7.1.11 No evidence was received to the effect that T-shirts were distributed at the event and Media24 in its response to my office's inquiry regarding the event only
confirmed that certain individuals were wearing ANC T-shirts but there was no
evidence to suggest that Minister Davies distributed the T-shirts.

7.1.12 Nothing in the evidence supports the allegation that Minister Davies may have
violated the Executive Ethics Code, specifically paragraph 2(3) (f) which provides
that the Executive members may not expose themselves to any situation involving
the risk of a conflict between their official responsibilities and their political interests.

7.2 Regarding the allegation that Minister Davies conducted himself in a manner
that exposed him to a situation risking a conflict between his official
responsibilities as a member of the Executive and his political interests as an
ANC member and thereby improperly benefiting the ANC or anyone:

7.2.1 Having concluded that the launch of the SBIDZ was an official function carried out in
compliance with the relevant regulation relating to the establishment of an IDZ, the
issue to adjudicate was whether or not Minister Davies' conduct in the SBIDZ event
exposed him to a situation risking a conflict between his official responsibilities as a
member of the Executive and his political interests as an ANC member and thereby
improperly benefiting the ANC or anyone, and whether his conduct in that regard
was in violation of the Executive Ethics Code.

7.2.2 Had Minister Davies exposed himself to a situation risking a conflict between his
official responsibilities as a member of the Executive and his political interests as an
ANC member and thereby improperly benefiting the ANC or anyone, the provisions
of paragraph 2 of the Executive Ethics Code would have applied. However, I was not
presented with such evidence.

7.2.3 I have considered all the relevant information before me and could find no evidence
suggesting that Minister Davies used his position or information entrusted to him, to
enrich himself or to improperly benefit anyone, particularly the ANC members as alleged.

7.2.4 Similarly, the suggestion that Minister Davies exposed himself to any situation involving the risk of a conflict between his official responsibilities and his political interest in violation of section 96(2) of the Constitution and section 2(b) of the Executive Members' Ethics Act read with paragraph 2(3) (f) of the Executive Members Ethics Code cannot supported.

7.3 Regarding Minister Davies' alleged improper distribution of ANC T-shirts at the SBIDZ event resulting in violation of the Executive Ethics Code:

7.3.1 Having concluded that a group dressed in ANC T-shirts attended the SBIDZ event, the issue to adjudicate was whether or not Minister Davies distributed the T-shirts concerned during the launch in violation of the Executive Ethics Code.

7.3.2 Had Minister Davies distributed ANC T-shirts at the event, the provisions of paragraph 2 of the Executive Ethics Code would have applied. However, I was not presented with such evidence. The information at my disposal did not provide any proof regarding the origins of the T-shirts concerned and did not point to any action that may be attributed to Minister Davies' conduct regarding the distribution of such T-shirts.

7.4 Regarding the alleged improperly transportation of ANC supporters to the SBIDZ event resulting in violation of the Executive Ethics Code by Minister Davies:

7.4.1 Having concluded that members of the community were transported to the SBIDZ event by busses hired by the DTI, the issue to adjudicate was whether or not Minister Davies improperly transported members of the ANC to the event and whether his conduct in that regard resulted in violation of the Executive Ethics Code.
7.4.2 Had Minister Davies transported only ANC members to the event, the provisions of paragraph 2 of the Executive Ethics Code would have applied. However, I was not presented with such evidence.

7.4.3 The evidence of Minister Davies which was not contradicted indicates that people were transported to the SBIDZ irrespective of their political affiliation and the related transport costs were paid for by the DTI. I could find no evidence to prove that Minister Davies paid for, or was involved in the payment of transport costs concerned and the question of his violation of the Executive Ethics Code could not be sustained.

7.4.4 I could also find no evidence to substantiate the allegation that only ANC supporters were transported to the event, as according to the information received, the transport arranged was for everyone who wanted to attend the event irrespective of their political affiliation. Key fact to note is that no evidence could be found to prove that Minister Davies took part in the arrangements for transport and therefore the question that he transported ANC members to the event cannot be answered in the affirmative.

7.4.5 I have considered all the relevant information before me and could find no evidence suggesting that Minister Davies used his position or information entrusted to him during the hiring of busses by the DTI to enrich himself or to improperly benefit any person, particularly the ANC members as alleged.

7.5 Regarding the allegation that Minister Davies improperly hired a stage that was too big for the marquee and not used at the SBIDZ event resulting in violation of the Executive Ethics Code:

7.5.1 Having concluded that a big stage was hired at the SBIDZ by the DTI, the issue to adjudicate was whether or not Minister Davies was responsible for the alleged impropriety and whether his conduct was in violation of the Executive Ethics Code?
7.5.2 Had Minister Davies been involved in the hiring of the stage that was too big and not used at the event, the provisions of paragraph 2 of the Executive Ethics Code would have applied. However, I could not find such evidence.

7.5.3 The evidence received from the DTI indicates that the stage and sound costs were budgeted for and paid by the DTI. It could therefore not be concluded that Minister Davies improperly benefited the ANC or anyone as envisaged in the Executive Members’ Ethics Code.

7.5.4 To this end, and based on the information received, it cannot be concluded that Minister Davies used his position or information entrusted to him, to enrich himself or to improperly benefit any other person as envisaged in paragraph 2(3) (d) of the Executive Ethics Code to lead to a conclusion that he violated the Executive Ethics Code.

7.5.5 Having considered all the relevant information before me, I could find no evidence suggesting that Minister Davies used his position or information entrusted to him, during the hiring of the stage by the DTI, to enrich himself or to improperly benefit any other person, particularly ANC members as alleged.

8 FINDINGS

After a careful examination of the evidence and information obtained during the investigation and the regulatory framework setting the standard that should have been upheld by Minister Davies, I make the following findings:

8.1 Regarding Minister Davies’ alleged failure to discharge an ethical obligation to prevent a state event of the official launch of the Saldanah Bay Industrial Development Zone (SBIDZ) from being turned into a political party rally resulting in violation of the Executive Ethics Code:
8.1.1 The allegation that Minister Davies failed to discharge an ethical obligation to prevent a state event of the launch of the SBIDZ from being turned into a political party rally resulting in violation of the Executive Ethics Code was not substantiated. Based on the evidence received, the launch of the SBIDZ did not turn into a political party [ANC] rally.

8.1.2 Minister Davies was in terms of section 96(2) of the Constitution and section 2(b) of the Executive Members’ Ethics Act, read with paragraph 2(3) (f) of the Executive Ethics Code obliged not to expose himself to a situation involving the risk of a conflict between his official responsibilities and his political interest. However, Minister Davies did not expose himself to such a situation.

8.1.3 The unruly behaviour by a group of ANC supporters clad in ANC T-shirts who booed Premier Zille did not turn the event into a political party rally and failure by Minister Davies to take action regarding such behaviour did not expose him to a situation involving the risk of a conflict between his official responsibilities and his political interest and therefore did not result in violation of the Executive Ethics Code.

8.2 Regarding Minister Davies’s alleged conduct in a manner that exposed him to a situation risking a conflict between his official responsibilities as a member of the Executive and his political interests as an ANC member and thereby improperly benefiting the ANC or anyone:

8.2.1 The allegation that Minister Davies conducted himself in a manner that exposed him to a situation risking a conflict between his official responsibilities as a member of the Executive and his political interest as an ANC member and thereby improperly benefiting the ANC or anyone was not substantiated.

8.2.2 Minister Davies had the duty in terms of the Executive Ethics Code, particularly paragraph 2(3) (f) not to expose himself to any situation involving the risk of a
conflict between his official responsibilities and his political interests. Based on evidence, Minister Davies did not violate this duty.

8.3 Regarding Minister Davies’ alleged improper distribution of ANC T-shirts at the SBIDZ event resulting in violation of the Executive Ethics Code?

8.3.1 The allegation that Minister Davies improperly distributed T-shirts at the event resulting in violation of the Executive Ethics Code was not substantiated.

8.3.2 A group of ANC supporters came to the event clad in ANC T-shirts. Based on evidence, neither Minister Davies nor anyone acting on his instruction distributed ANC T-shirts at the SBIDZ event.

8.4 Regarding Minister Davies’ improper transportation of ANC supporters to the SBIDZ event resulting in violation of the Executive Ethics Code:

8.4.1 The allegation that Minister Davies improperly transported ANC supporters to the SBIDZ event was not substantiated.

8.4.2 Members of the community were transported to the SBIDZ event irrespective of their political affiliation and the related transport costs were paid for by the DTI. Based on evidence, Minister Davies did not transport ANC supporters as alleged.

8.5 Regarding Minister Davies’ improper hiring of a stage that was too big for the marquee and not used at the SBIDZ event resulting in violation of the Executive Ethics Code:

8.5.1 The allegation that Minister Davies improperly hired a stage that was too big for the marquee and not used at the SBIDZ event resulting in violation of the Executive Members Ethics Code was not substantiated.
8.5.2 The stage was hired by the DTI and according to section 36 (2) (a) of the Public Finance Management Act, 1999 (PFMA), the head of a department is the accounting officer for the department and not the Minister.

8.5.3 Based on evidence, Minister Davies was not involved in the hiring of the stage for the SBIDZ event.

ADV T N MADONSELA
PUBLIC PROTECTOR OF THE REPUBLIC OF SOUTH AFRICA
DATE: 31/03/2016

Assisted by the Branch: Good Governance and Integrity