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MESSAGE FROM THE PUBLIC PROTECTOR

Thank you, for enriching the dialogue!

Once again I have the privilege of presenting to you the latest copy of The Public Protector, the first edition for the 2013/14 financial year.

This edition comes shortly after we concluded one of premier outreach programmes; namely, the annual National Stakeholder Dialogue and Public Hearing.

Focusing on health and poverty, the programme sought to enhance government’s ability to deliver of the related Millennium Development Goals that our country, together with many others across the globe, has signed up for.

As you know, countries will be reporting to the United Nations in 2015 on their accomplishment in this regard.

The dialogue and public hearing took us to all provinces across the country, where we engaged in a fruitful dialogue with a diverse stakeholder network. Read more about the preliminary outcomes of that process on page 4.

From our side, we would like to thank all stakeholders for having come to the party to enhance the quality of the dialogue.

It would not have succeeded had it not been for ordinary members of the public, representatives of government, the provincial legislatures, civil society organisation and the media, to mention but a few.

This edition also comes shortly after we presented our annual report for the 2012/13 financial year in Parliament. The report shows that, as an institution, we achieved 75 percent of our performance targets.

Out of the 37 770 total caseload from the year in question, we managed to finalise 22 400, bringing justice and remedial action to tens of thousands of the people of South Africa. However, we continue to worry about those whose cases are not moving fast enough.

Unfortunately, we are under-resourced. With an investigator in our Gauteng office, for example, juggling over 500 cases in the last financial year, it is clear that they would not finalise their entire case load in a year.

However, we continue to engage with authorities in a bid to alleviate the problem. In the meantime, my team and I will continue working smarter, balancing rigour with speed to ensure thorough but expeditious investigations.

I call on you to entrust my office and other constitutional avenues with your complaints. Reporting service and conduct failure shows that you care about your country.

We all have a responsibility to ensure an accountable state that operates with integrity while being responsive to the needs of its entire people. Follow us on Twitter: @PublicProtector and like our Facebook page: Public Protector South Africa.

Till next time!

Adv. Thuli Madonsela
Public Protector of South Africa

LETTERS TO THE PUBLIC PROTECTOR

Shield use from retailers
Dear Public Protector. Please protect the public from the wholesale and retail crooks. I’m sure you have people whom you can deploy to make sure that basic food prices are standardized. The cell phone industry is ripping us off. The banks nail us around every corner with ridiculous charges. When you deposit money, they charge you. When you [withdraw] money they charge you and they charge a monthly fee. No wonder the poor remain poor and contribute to the high crime rate in SA.

Bevan Shelton, Facebook

Ed: Dear Bevan. The issues you raise fall outside our jurisdiction. Try the National Consumer Commission and the Banking Ombudsman. All the best!

May God give you strength!
Dear Public Protector. I pray for you and your team; [for] strength and determination to overcome all obstacles in the fight against crime, corruption and fraud; for protection of each person and their family. May God open doors that have been closed, make resources, tools, access to information available to you, and protect you all from succumbing to temptation and threats.

Sylvia Arena, Facebook

Ed: Dear Sylvia, thank you for the wonderful words and the prayers. God bless you.
IN SICKNESS & IN HEALTH

A handful of drawbacks threaten government successes in public health care

From June to mid-September 2013, the Public Protector travelled the lengths and breadths of South Africa, interfacing with a wide-ranging network of stakeholders on health and poverty issues as part of her annual national stakeholder dialogue. Among the stakeholders engaged were ordinary members of the public, government leaders, legislatures, political parties and civil society organisations. In this article, we look at what she observed.

Policy gaps, management inefficiencies, administrative problems, fragmented decision-making and aging infrastructure are some of the challenges that may be undermining efforts to improve the country’s public health system, says Public Protector Adv. Thuli Madonsela.

The Public Protector was summing up her observations at the end of her two-month National Stakeholder Dialogue, during which she and Deputy, Adv. Kevin Malunga, traversed all nine provinces, interacting with parties interested in her work.

The dialogue focused on strengthening government’s ability to deliver on the Millennium Development Goals, placing special emphasis on improving healthcare services and eradicating poverty.

According to the Public Protector, other issues that undermined the provision of quality healthcare services as observed during interactions with communities and on surprise visits to nearly 20 public health care facilities were issues beyond the health sector.

While taking stock of these limitations, the Public Protector has noted the good strides that government has made in the provision of quality health care, particular on the HIV/AIDS programme, and the planned National Health Insurance.

The dialogue, she said, sought to complement the good work that was already being done by the Department of Health. It was also enriching the systemic investigations that she was conducting in relation to health matters.

On policy gaps, the Public Protector indicated that while the grading of hospitals into primary and tertiary facilities was a good idea, the model needed to be reconsidered in respect of areas where the facilities were far apart.

For hospitals that were not far from each other, it was not risky to refer emergency patients. It was, however, a different story for patients that had to be referred to faraway hospitals as this exacerbated their conditions, leaving them extremely distressed by the time they reached the next hospitals.

This was observed in a number of provinces, including the Northern Cape and Limpopo, where facilities that did not have theatres to conduct life-saving operations such as the caesarean procedure for women who were in labour, had to refer such patients to other hospitals more than 200km away.

“It is a good idea but it presupposes that these facilities will be in close proximity to each other,” said the Public Protector.

“The Bloemfontein National Hospital, for example, told us that it has had zero maternal deaths for the last four years and one infant death in the last 12 months. When an emergency occurs they are able to send the sick to another centre in ten minutes. But rural communities have a different experience and that is where deaths usually occur.”

She said the inability of primary health care centres to perform minor operations impacted negatively on high level care centres because people bypassed local clinics and went direct to tertiary hospitals, leaving them over crowded thereby slowing down the pace of service.
Doctors themselves believe certain services should be available at lower level hospitals, the Public Protector said.

Other policy issues included the need to standardize the remuneration of community health care givers, which seemed to differ from one province to the other.

In addition, the care givers, whom the Public Protector said appeared to be shouldering part of the country’s health care burden, often had to work without important surgical consumables such as gloves, diapers, antiseptic solutions and health ointments.

They also had to travel long distances at own expense to visit and care for patients at the patients’ own homes. There were also issues surrounding ambulance response times and other patient transport services.

Regarding administration problems, the management of the facilities emerged as a source for concern. Although some facilities had managers who appeared in control and competent, others had managers who were found wanting when they had to account for unclean surroundings, unfilled vacancies, and MDGs statistics and monitoring.

Human behaviour including rude staff and unprofessional conduct by staff, spending little time with patients and allegedly misdiagnosing them, also emerged as big issues in some of the facilities, the Public Protector said.

“At MUCCP clinic, the question of human behaviour was a big issue. A patient cried, indicating that if she were to be treated that way by people who were young enough to be her children, she’d rather die,” she said referring to a facility outside Bloemfontein.

Outsourcing of goods and services, management of equipment, including replacing and servicing, operating hours and daily intake of patients from clinics, and patient nutrition were also observed as management issues that needed to be given urgent attention.

In respect of multiple level decision-making, the Public Protector referred to problems with delegations of power to hire and fire staff and the procurement threshold that allowed facility managers to be able to acquire important equipment as and when needed. There was also a need to standardize norms in terms of infrastructure.

On poverty, the Public Protector noted government reports that more than 52.3 percent of the population still lived below the poverty line of R577.

She noted that the provinces appeared to have no integrated poverty eradication strategy covering all dimensions as no plan, targets or milestones were shared.

Undertakings were received from authorities in all provinces to resolve some of the issues they conceded in respect of both health and poverty matters as well as other service delivery issues raised during each session in all provinces.

She will monitor implementation in this regard. Comprehensive reports on her observations will be issued to the respective provinces and to the central government. Complex matters will be investigated.
Armed robbery survivor finally gets compensation

A KwaZulu-Natal woman has been paid more than R190,000 in arrear pensions following the trauma she suffered as a result of an armed robbery incident that occurred at her workplace nearly six years ago.

Nelly Booysens*, a former store manager at a well-known furniture shop, had to go on early retirement on medical grounds following the attack.

She turned to the Public Protector in 2011 when the Compensation Commissioner allegedly failed to process her injury-on-duty claim on time.

Nelly’s troubles started one fateful day in April 2007. What should have been a normal day at work turned into something that could have come out of an action thriller.

In her complaint, she told of how she stared down the barrel of a gun as a gang of three pistol-wielding men entered the premises of the store she managed.

Nelly related how she was hit in the head, robbed of her jewellery and violently dragged to the vault, where the thieves stole an undisclosed amount of money before fleeing the scene.

For 14 days following the incident she could not go to work after being certified medically unfit for duty.

Although she lived to tell the tale, she did not anticipate the struggles that lay ahead with regard to her compensation claim.

Nelly first lodged her claim on 23 May 2007 at the Commissioner’s offices. She alleged that the Commissioner failed to pay her claim on time, prompting her to refer the matter to her attorneys.

In July 2012, Nelly’s attorneys lodged her complaint with the Public Protector, who immediately wrote to the Commissioner, requesting an explanation on why Nelly’s claim had not been paid.

The Public Protector received a response more than two months later, in which the Commissioner explained that Nelly’s compensation in respect of temporary total disablement had been approved a year earlier.

However, Nelly did not receive the approved R4657, 39 compensation. The Commissioner told the Public Protector that the money went into the coffers of Nelly’s employers as refunds for salary advances. The advances related to the days she was not at work after being declared medically unfit.

But the compensation claim for permanent disablement was still outstanding. The Commissioner requested Nelly, through the Public Protector, to furnish him with a final medical report in order for his office to finalise the claim.

The Public Protector duly shared a copy of the medical report, which the Commissioner received before requesting further documents.

The additional documents were also supplied. The Commissioner later informed the Public Protector that Nelly’s degree of permanent disablement for Post-Traumatic Stress Disorder was assessed at 33 percent and that monthly pension had been approved, backdated to April 2009 – the date on which she stopped working.

The Commissioner subsequently confirmed that an amount of R131 286.52 in arrear pension had been paid into Nelly’s bank account and that she would further receive monthly payments of R4510.16.

In an interview with The Public Protector, Nelly’s husband, Dominic Booysens* said the family was grateful to the Public Protector for the assistance.

“The communication was very good,” he recalled. “Whenever we phoned for feedback the response was excellent.”

Although he was not happy with the fact that the arrear pension was not paid from the day of the robbery, Dominic was glad that the case expeditiously compared to the time it had taken the Commissioner to address it.

He said his wife was coping but remained on medication.

“From time to time I have to take her to hospital for psychiatric treatment,” said Dominic.

– Additional reporting by Siphozake Singenu

*Not her real name

Joburg metro pays up after demolishing woman’s house

A proactive intervention by the Public Protector has resulted in the City of Johannesburg paying an elderly Gauteng woman R10 000 in damages after the metro orchestrated and executed the demolition of her house.

The city reduced 66-year-old Thabile Mshuqwana’s inherited house in Ebunjandini informal settlement in the West Rand to a heap of rubble on the basis that the structure was built on municipal land.

Mshuqwana had not been informed about the plan to destroy the house, which she assumed ownership of following the passing of her son nearly two years earlier.

The Public Protector caught wind of the Mshuqwana’s plight when a national daily newspaper reported that she had been “left homeless” after the house was destroyed on the instruction of area ward councillor, Zama Nqayi.

According to the newspaper report, Mshuqwana returned to Ebunjandini from a two-month trip in KwaZulu-Natal, where she visited family, only to find three shacks occupying the stand on which her house had stood only a few weeks earlier.

Next to the shacks were the remains of the house.

The newspaper report quoted Nqayi as saying Mshuqwana’s house had been built on a stand that belonged to the Municipality. He reportedly confirmed to the newspaper that the new occupants of the stand had also been told to vacate the property to make way for impending development.

Upon learning of the case, the Public Protector tracked Mshuqwana down and consulted with her before taking the matter up with the city.

Several engagements with city authorities led to a settlement agreement, which saw Mshuqwana awarded thousands of rand in compensation.

Mshuqwana, who – apart from the destroyed house – has a home of her own in Tshepisonong near Kagiso, has since confirmed receipt of the money.
Public Protector soldiers on with limited resources

The Public Protector’s request for additional funding to finance, among other things, newly-created investigation posts in line with the approved organisational has not been successful. Though disappointed, she said she understood that her office competed for the funds with important priority expenditure areas such as health and education.

“We understand that we asked for more resources at the time when everybody was being called upon to tighten their belts while equally important services were being prioritised;” she said.

The Public Protector had requested additional funding to the tune of R35.3 million for the 2013/14 Medium Term Expenditure Framework during the recent presentation of her office’s 2012/13 annual report in Parliament.

She told Parliament’s Portfolio Committee on Justice and Constitutional Development that the resources allocated to her office remained disproportionate to the mandate and strategic objectives of her office.

For the current financial year, the office has been allocated R199.2 million, which is not nearly enough to enable the institution to fully implement its constitutional mandate.

Had the request been granted, a lion’s share of the budget was to be used to fund newly-created investigator positions while the rest was meant for upgrading the remuneration of current personnel and the implementation of Occupation Specific Dispensation (OSD) for legally-qualified staff.

The Public Protector told the Committee at the time that these were key priorities that required immediate attention as the status quo impacted negatively on the office’s ability to adequately execute its constitutional mandate.

The constraints, she explained, affected mainly the office’s investigative capacity, OSD implementation and the expansion of the office’s footprint. With about 308 fulltime investigators, excluding managers, the investigative wing of the office remains overstretched.

On average, each investigator handled about 256 cases in the last financial year alone. The situation was dire in Gauteng, Eastern Cape and Free State provinces, where each investigator juggled 518, 458 and 415 cases at a time, respectively.

This meant that even if the investigators were to complete one case per day, including on weekends and public holidays, they would still not finalise their caseload in a year. Neither would they do a quality job.

Despite the tight squeeze on resources, the office continued to register pleasing success, achieving 75 percent of its performance targets.

The Public Protector told Parliament that the office handled up to 37 770 cases during the 2012/13 financial year - a significant increase from the previous year’s 27 376.

Of the total caseload, 22 400 were finalised, with just under half of these while 13 995 were carried over to the current financial year. About 2 085 of the cases were referred to other competent bodies.

About 25 860 of the 37 770 were received or initiated during the reporting period while the rest had been carried over from the previous year.

Turning to her score business, the Public Protector urged Parliament to note maladministration trends that formed recurring themes in her investigations and findings.

These included indifference, systemic service failure, non-compliance, corruption, overbilling, overcharging, false billing and scope creep in state contracts or tenders.

Reflecting on lessons learned over her last four years in office, the Public Protector, whose term of office coincidentally commenced on 15 October 2009, said there had been a significant increase in the number and complexity of complaints.

There had also been a spike in the reach of her office’s services in line with the constitutional injunction on the office to be accessible to all persons and communities.

“There were increased productivity levels amid continuing challenges regarding balancing swiftness and accuracy despite an increase in staff and on-going improvements in skills and work methods,” the Public Protector explained.

She noted that there were systemic administrative deficiencies, mostly relating to lapses in compliance. Indifference and systemic failures in services such as the RDP housing programme, administration of estates and municipal services were rife.

There were, however, improvements in some service areas such as South African Social Security Agency and identity documents (IDs) matters, even though the issues surrounding the problem of duplicate IDs still persisted, posing a poverty threat to victims.

“There are growing reports of corruption and tender-rigging,” the Public protector said. “Without ending impunity, no difference can be made.”

She highlighted the need to assist local government with policy development and training; the need for tightening the ethics regulatory framework and training; and the need for consistency in the application of disciplinary action.

On the Auditor General’s finding of “irregular, fruitless and wasteful expenditure” relating to the R13 million that had been spent on the office’s Case Management System since 2008, the Public Protector indicated that she had inherited the problem as it predated her appointment in 2009.

She said the office had decided to do away with the system as it had never worked. Processes to put out a tender for a new system were underway, the Public Protector reported.

She told the Committee that processes were also underway to ensure that original tax clearance certificates were obtained for goods and services with a transactional value of above R30 000. This followed a finding that service providers had only been asked to provide copies of the certificates.
THE CHILDREN SHALL PAY

Leadership failure causes children to pay dearly at Olifantshoek in the Northern Cape

Public Protector Adv. Thuli Madonsela has urged the Gamagara Local Municipality in the Northern Cape to get its house in order following several findings of improper and unlawful conduct as well as maladministration.

The findings were revealed in the Public Protector’s investigation report titled The Children Shall Pay.

The report followed an investigation into allegations of maladministration, lack of service delivery and corruption against Mayor Maria Diniza, and several other people within the municipality. Mayor Diniza has since passed away.

The Public Protector was requested to intervene when the community elected to close local schools to back its call for the recall of Mayor Diniza on account of the allegations levelled against her.

In support of its demands, the Olifantshoek community forced local learners to stop going to school, resulting in the closure of all schools in the area. The standoff resulted in children losing a whole year of learning time in 2012.

Although several mediation efforts were held, with a view to healing the rift between the police and the community, the intervention did not yield the desired results. Agreements reached after two such meetings did not result in learners going back to the classroom.

This impasse and allegation of bad administration paved the way for the Public Protector to launch an investigation into the matter.

Among a myriad of issues looked at were allegations of systemic service failure, maladministration, tender irregularities and conduct failure on the part of Mayor Diniza.

On service failure allegations, the Public Protector looked at, among other things, claims that there were no roads in Olifantshoek despite promises made in 2006 to construct 14km of tarred roads; that material for the building of bridge was bought but funds were depleted before construction commenced and that some residents did not have electricity in their townships.

The Public Protector found that only 1.3km of access roads was upgraded from gravel to surface road as part of the Expanded Public Works Programme (EPWP) due to limited funding. She upheld the allegation relating to the bridge and also found that while formalised stands in the area were electrified, informal sections of the community were not.

To remedy the situation, the Public Protector directed the municipality to construct a bridge on the access road already built, with culverts that were bought during the implementation of the EPWP project in order to address storm water issues within six months of the release of her report.

In relation to the electricity matter, the Public Protector urged the municipality to decide whether to evict illegal occupants of land and allocate the sites properly; or resettling the people to areas within marked borders of serviced sites; or re-survey the land according to the current settlement to formalise it.

Maladministration against the municipality, allegations included that the municipality was paying rent for its Chief Financial Officer (CFO), who shared a house with the Acting Technical Services Manager, while they both had housing allowances.

There were further allegations that the municipality spent R25 000 on the funeral of the Speaker of another municipality yet its Indigent Funeral Policy allowed for the use of up to R1500 for funerals. In addition, it was alleged that the salary of five Ward Committee members was stopped in May 2012 whereas five others continued to receive their pay.

Following the investigation, the Public Protector found that the allegation that the municipality paid for the CFO’s accommodation was valid. Even though the municipality explained that it only paid the difference between the rental amount of R3300 and R250 rental that staff was required to pay when renting state property, the Public Protector found that the municipality did not have a Rental Policy to regulate leases by employees.

The failure by the CFO and the then Corporate Services Manager, who is now the Municipal Manager, to develop a policy in this regard as directed by the then Municipal Manager was found to constitute improper conduct and maladministration.

The Public Protector directed the municipality to not rely too much on Council Resolutions for anything and everything or every time a particular decision has to be taken, urging the municipality to establish policies and in particular the Accommodation Policy to deal with but not limited to staff related accommodation.

The Public Protector found that an amount of R25 000
Follow proper procedures which Ward Committee members and municipality to reinstate the five salaries of Gamaraga. This conduct was found to be unlawful, improper and constituting maladministration. She urged the municipality to refrain from paying out funeral contributions towards individuals who were not indigent, were outside the Gamaraga area and amounts that were more than what was specified in the Indigent Funeral Policy.

The Public Protector further found that it was true that the salaries of five Ward Committee members were stopped abruptly and arbitrarily. The municipality was obliged to ensure fairness since the matter was an administrative act, the Public Protector indicated. She said the action was procedurally unfair, improper and constituted maladministration.

As a corrective measure, the Public Protector urged the municipality to reinstate the five Ward Committee members and follow proper procedures which may lead to disciplinary action should it be that the members had committed misconduct.

“The municipality should also reinstate their salaries retrospectively pending its decision to institute disciplinary action,” she said.

On tender irregularities, allegations included, among others, that the municipality built houses in 2009 and never completed the project, with some of the houses left without windows and some left at foundation level, yet the builder, Lebogang Afrika Suppliers, ran away having been paid most of the money.

The Public Protector found that indeed the Housing Project was not completed and only R1.9 Million was left from the project budget. The Municipality failed to monitor and measure the performance of Lebogang Afrika Afrika Suppliers, she said. This contributed towards poor performance as the project could not be finalised within the contract period. The Municipality paid about 83 percent since the R1.9 million is 17 percent of the R11 million.

The Public Protector called on the municipality to, in future, ensure that the commencement and completion dates of projects are clearly stated in the tender and contract documents as provided in the Municipal Finance Management Act.

With regards to conduct failure allegations against the late Mayor Diniza, the Public Protector investigated, among others, claims that the Mayor was using a farm designated for the community to enrich herself and that the Mayor used a municipal truck to transport her parents’ furniture from Olifantshoek to Kathu.

It found that it was true that the Mayor’s husband was farming on communal land. He met all the requirements of the guidelines set by the committee that deal with the allocation of land for small farmers. However, the municipality did not have a policy to deal with allocation of communal land for farming, this constituted improper conduct and maladministration.

The allegation that the furniture of the Mayor’s parents was moved in a municipal truck was also substantiated. The municipality’s action in this regard constituted improper conduct and maladministration. The municipality was directed to formulate a comprehensive and detailed policy with clear criteria on who did or did not qualify to use municipal property and for what purpose in order to regulate all municipal properties including communal farm and municipal vehicles.

On allegations of employment irregularities, it was claimed that one Gilbert Molthaping, who was dismissed by the municipality for corruption, was re-employed by the same municipality and that officials of the municipality had been politically deployed and were without proper qualifications.

The municipality was found to have acted in an improper manner that constituted maladministration in that it omitted to conduct proper checks on Mr Molthaping before employing him, he had indeed been in the middle of a disciplinary hearing on allegation of theft when he resigned from his previous job. He also did not meet the two basic requirements for the post as advertised. These were a tertiai qualification in Administration and a Driver’s Licence. The municipality also did not have a recruitment policy.

In addition, out of the six officials whose appointments and qualifications were looked into, two Senior Managers did not possess the necessary qualifications.

As part of remedial action, the Public Protector directed the municipality to appoint a qualified Corporate Services Manager since the current Acting Manager did not possess the necessary qualifications. The municipality should also develop and implement a comprehensive Recruitment Policy which is in line with general norms and standards of recruitment.

For the full report, go to www.publicprotector.org
Department spends R15m on internal disciplinary hearings of three officials

Public Protector Adv. Thuli Madonsela has called for the recovery of all the funds spent unnecessarily in 2011 by the North West Department of Finance in the procurement of legal services for disciplinary enquiries of three officials at the cost of R15 million.

She was handing over her report, following an investigation into allegations of maladministration, abuse of power and irregular expenditure in the appointment of Morake Inc. as a service provider for the department, to the North West Standing Committee on Public Accounts (NWSCOPA).

The Public Protector was one of several agencies, including the Public Service Commission, the Auditor-General and the South African Police Services, that were requested by the NWSCOPA to investigate different aspects of the matter.

Addressing members of NWSCOPA at Madibeng Council Chambers in Brits, the Public Protector said disciplinary action should be taken against all the officials that were involved in the procurement process.

She urged the Law Society of the Northern Provinces to check the billing by Morake Inc. and check if it was consistent with professional requirements, with a view to having all the overbilled moneys repaid. In addition, action should be taken against the attorney in question if misconduct is found on his part.

Allegations of whether a corrupt relationship existed between the former MEC, Louisa Mabe, who was in charge of the department at the time, and Morake Inc. have been referred to the Directorate for Priority Crime Investigation (the Hawks).

There seemed to be sufficient evidence that the appointment of Morake Inc. was pre-empted because one of the documents indicated that Morake Inc. was to be appointed since the MEC preferred the company for the reason that the MEC and the owner came from Rustenburg, the Public Protector said.

She further urged the National Treasury to look at the possibility of not procuring services that are administrative from lawyers while the acting head of department was urged to take urgent and appropriate steps to prevent a recurrence.

In her investigation, the Public Protector found that R15 million was irregularly spent by the department to procure the legal services of Morake Inc. for disciplinary enquiries of three officials.

This effectively meant the department spent R5 million in respect of each of the three officials’ disciplinary hearing. In addition, R500 000 was spent just for drafting the charges against the officials.

The Public Protector said the amounts charged in this regard were unconscionable.

The Public Protector also found that services that resulted in the expenditure were not procured properly. She said the procurement process was flawed, unlawful and in violation of the Constitution and the National Treasury Regulations issued in terms of the Public Finance Management Act.

“Morake Inc. were initially procured for half a million for drafting the charges, thereafter their services were expanded. That was irregular. Morake Inc. further double-charged the department on some of the invoices, particularly for travelling.

“We also dispute some of the charges like those for engaging Senior Counsel because Morake Inc. was not engaged as an attorney but on a consultancy basis for drafting the charges and chairing the proceedings. They should have charged for hearings and drafting of charges only,” the Public Protector said.

“The law society should check the billing by Morake Inc. and check if this was consistent with professional requirements and if any money was overbilled it should be repaid and if there was misconduct by the attorney in this regard it be dealt with because this was a junior attorney with four years’ experience.”

Condemning the conduct of the department, the Public Protector strongly denounced the use of external service providers for administrative duties while the department had the capacity to carry out the work internally.

She said the department had people that were employed to do the work in question but they were being reduced to clerks. The Public Protector implored officials to be circumspect before procuring services by exhausting internal capacity first.

She said government could make a lot of savings that could be used to assist communities that lived in squalid conditions. One such community, the Public Protector said, is Steneng informal settlement outside Polokwane, which she visited during her stakeholder dialogue at the invitation of Mayor, Freddy Greaver.

Two small children burnt to death at the settlement after their shack caught fire. They were alone at home at the time of the incident.
HOW DOES THE PUBLIC PROTECTOR HELP?

WHAT IS THE PUBLIC PROTECTOR?
The Public Protector is a high level Independent constitutional officer, appointed by the President on the recommendation of Parliament in terms of the Constitution. The Public Protector has the power to make findings, issue reports and take appropriate remedial action.

WILL ANYONE ELSE HEAR ABOUT MY COMPLAINT?
The Public Protector and staff will keep the name of a complainant confidential when necessary, and if at all possible.

HOW DOES THE OFFICE OF THE PUBLIC PROTECTOR WORK?
Anyone can complain to the Public Protector except under the Executive Members Ethics Act. Think of the Public Protector as a referee who can look at all sides of a problem. If the Public Protector finds that the complaint is justified, he/she will do whatever possible to find a solution to the problem. The Public Protector may also report the matter to Parliament, which will debate the matter and see to it that the remedial action is followed. Investigations are mostly done informally, but the Public Protector can subpoena people to give evidence under oath or affirmation when this becomes necessary.

WHAT CAN THE PUBLIC PROTECTOR NOT INVESTIGATE?
Court decisions by judges and magistrates, including sentences imposed by them. Conduct outside state affairs. However, staff of the Public Protector can help by advising you on where to complain or what to do in the above cases. In certain cases the Public Protector may refer you to a Court of Law. Since the Public Protector does not act as anyone’s legal representative, you will be advised to consult a lawyer if the matter must go to court.

WHAT CAN THE PUBLIC PROTECTOR INVESTIGATE?
Maladministration, including prejudice suffered by the complainant or another person, abuse of power, unfair, capricious, discourteous or other improper conduct and undue delay. Dishonesty or improper dealing with respect to public money and improper enrichment, receipt of improper advantage may also be investigated. The Public Protector also investigates corruption and violations of the Executive Ethics Code.

WHAT CAN BE INVESTIGATED BY THE PUBLIC PROTECTOR?
Conduct in government at any level. This includes central, provincial and local government and state owned enterprises. Any person performing a public function. This includes anyone performing any official duty which affects all, or part of, the people of South Africa such as an employee of the State such as a policeman or an electoral officer. Corporations or companies where the State is involved such as Eskom and Telkom. Statutory councils as well as the Human Sciences Research Council and the entities covered by the Public Service Management Act. Acts of private individuals involved in state business may also be investigated.

HOW DOES ONE COMPLAIN TO THE PUBLIC PROTECTOR?
You should try to solve the problem yourself before complaining to the Public Protector, for example by: Speaking to the officials involved and if that does not help you can write to the person in charge of the officials such as the Head of Department or the Chief Executive Officer or the Municipal Manager. You may also consider approaching a member of the National or Provincial Parliament or a safer oversight body such as the Independent Police Investigative Directorate. Only if you are still unable to solve the problem, should you approach the Public Protector.

HOW MUCH DOES IT COST TO GET HELP FROM THE PUBLIC PROTECTOR?
Services are free.

CAN THE PUBLIC PROTECTOR INVESTIGATE WITHOUT A COMPLAINT?
Yes, he or she may also add, to a complaint.
Vision
A trusted, effective and accessible Public Protector that rights administrative wrongs and consistently acts with integrity to ensure fair, accountable and responsive decision-making, service and good governance in all state affairs and public administration in every sphere of government.

Core Values
• Independence and impartiality • Human Dignity and Ubuntu
• Transparency • Equality and Fairness • Redress •

Service Pledge
• Be accessible to and trusted by all persons and communities;
• Ensure prompt justice, including remedial action; and
• Promote good governance in the conduct of all state affairs
• Become an efficient and effective organisation
• Achieve an optimal performance and service

WHERE TO FIND THE PUBLIC PROTECTOR

HEAD OFFICE: PRETORIA
Private Bag X677, Pretoria 0001
175 Luneon Street
Hillcrest Office Park, 0083
Tel: (012) 366 7000
Fax: (012) 362 3473

PROVINCIAL OFFICES
EASTERN CAPE
P O Box 424, Bisho 5605
Ukhahlale House
Independent Avenue, Bisho
Behind Pick ‘n Pay
Tel: (040) 635 1286 / 7 / 1145 / 1126
Fax: (040) 635 1291

FREE STATE
P O Box 383, Bloemfontein 9300
Standard Bank House
Suit Office, 2nd Floor
15 West Burger Street, Bloemfontein
Tel: (051) 448 6172 / 6185
Fax: (051) 448 6070

GAUTENG
P O Box 32738, Braamfontein 2017
Lara’s Place
187 Bree Street
Corner Bree and Risik Street
Johannesburg
2000
Tel: (011) 492 2807/93/21/25
Fax: (011) 429 2365

KWAZULU-NATAL
P O Box 4267, Durban 4000
22nd Floor, Suite 2114
Commercial City Building
Durban
Tel:(031) 307 5300 / 5250 / 5251
LIMPOPO
P O Box 4533, Polokwane 0700
Unit 2301, Wyndom Park
23 Rabe Street, Polokwane
Tel: (015) 295 5712 / 5699 / 5956
Fax: (015) 295 2870

MPUMALANGA
P O Box 3773, Nelspruit 1200
Pinnacle Building, Suite 101
1 Parkin Street, Nelspruit
Tel: (013) 752 8543
Fax: (013) 752 7883

NORTHERN CAPE
P O Box 1965, Kimberley 8300
4 Sydney Street, Premax Building
2nd & 3rd Floor, Kimberley 5300
Tel: (053) 831 7766 / 832 5381 / 2
Fax: (053) 832 3404

NORTHERN WEST
P O Box 512, Maafikeng 2745
Public Protector’s Chambers
Cnr Martin & Robinson Streets, Maafikeng
Tel: (016) 381 106 / 11 / 2
Fax: (016) 381 2068

WESTERN CAPE
P O Box 712, Cape Town 8000
4th Floor, 51 Walter St / Bree St
Cape Town
Tel: (021) 423 8644
Fax: (021) 423 8708

REGIONAL OFFICES
GEORGE
P O Box 9481, George 6530
1st Floor South Wing
Bataleur Park Cnr Cathedral & Cradock Street, George 6259
Tel: (044) 874 2867 / 904
Fax: (044) 874 5992

KURUMAN
P O Box 79, Mthibistad 8474
1 Rose Avenue
Shop 1, Kuruman 8460
Tel: (053) 712 1762 / 2347
Fax: (053) 712 2417

RUSTENBURG
P O Box 371, Tlhabane 0309
Suite No 12, Old SARS Building
135 Klopper Street, Rustenburg
Tel: (014) 592 9023 / 6
Fax: (014) 592 9031

MTHATHA
P O Box 7208, Mthatha 5099
No 6 Knof Street, Fortpale, Mthatha
Tel: (047) 531 3773 / 4 / 5
Fax: (047) 531 3776

PHUTHADITJHABA
P O Box 5677, Phuthaditjhaba 9866
Mampol Street, Shop No 1, Naledi Mall
Tel: (058) 713 2974 / 5
Fax: (058) 713 2976

SIYABUSWA
P O Box 2391, SIYABUSWA 0472
Old Parliament Building
Job Skosana Street, Siyabuswa 0472
Tel: (013) 973 0033 / 6
Fax: (013) 973 0029

UPINGTON
P O Box 15, Upington 8800
Umbra Building
52-59 Mark Street, Upington 8800
Tel: (054) 338 5740
Fax: (054) 331 0036

VRYBURG
P O Box 891, Vryburg 8000
Old Mutual Building Market Street
Vryburg 8600
Tel: (055) 927 2221
Fax: (055) 927 2509

NEWCASTLE
P O Box 1169, Newcastle 2940
No 58 Corner Allen and Scott Street, Newcastle 2940
Tel: (034) 326 3450
Fax: (034) 326 3470

www.publicprotector.org
TOLL FREE: 0800 11 20 40