PUBLIC PROTECTOR
SOUTH AFRICA
OVERVIEW
Constitutional Mandate (1)

The Public Protector is an independent Constitutional institution whose mandate, derived from Section 182 of the Constitution read with Section 181, is to support and strengthen constitutional democracy by investigating and redressing maladministration or improper conduct in state affairs. Section 182 of the Constitution states that:

“(1) 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.
Institutions PPSA has jurisdiction to investigate

The Public Protector’s oversight extends to over 1000 organs of state and government agencies operating on all three spheres of government, as well as public institutions and bodies performing a public function.

**National Government**
- 47 National Depts

**Provincial Government**
- Northern Cape (11 Depts)
- North West (11 Depts)
- Western Cape (13 Depts)
- Mpumalanga (12 Depts)
- Kwazulu-Natal (16 Depts)
- Gauteng (13 Depts)
- Eastern Cape (12 depts)
- Free State (11 Depts)
- Limpopo (11 Depts)

**Local government**
- 8 Metropolitan Municipalities
- 205 Local Municipalities
- 44 district Municipalities

**Other Organs of State/**
- 26 Universities
- 533PublicEntities
- 9 Institutions/ commissions /Authorities
- Statutory Bodies
- Institutions performing public function
Additional Key Statutory Mandate Areas

1. Maladministration Mandate (Public Protector Act 23 of 1994)
4. Safe haven for whistle-blowers (Shared under Protected Disclosures Act 26 of 2000)
5. Review of decisions by the NHRBC (Housing Protection Measures Act 95 of 1998)
6. Resolving Access to Information Disputes until Information Regulator takes over
VISION 2023

taking the services of the Public Protector to the GRASSROOTS

The 8 Pillars

Access
Bringing services closer to the doorsteps of communities located at the grassroots, in the margins of society.

Safe haven
Being a stronghold for the poor and the marginalised.

Footprint
Exploring the use of courts, municipal premises and traditional offices to supplement the 19 office we already have across the land, with a view to increasing our reach.

Agreements
Signing Memoranda of Understand with stakeholders such as the South African Local Government Association (SALGA) for mutually beneficial partnerships.

Vernacular
Communicating to communities in their own languages and making use of media platforms - particularly radio stations - that use vernacular languages.

Rights
Empowering the public to enforce their rights by peacefully holding their leaders to account so that the Public Protector may focus on addressing systemic challenges.

Complaints resolution
Encouraging organs of state to establish own effective compliant resolution units or sector-specific Ombudsman institutions such as the Health and Military Ombudsman.

Self-protection
Empowering people to become their own liberators, who see themselves as Public Protector in their own right.

@PublicProtector www.publicprotector.org 0800 11 20 40 Public Protector South Africa
Complaints/ Request /Reports to the PP

Anyone (Does not need to be a victim)

National Assembly /MPL/Member of the Executive

Individuals/groups/organisations/political parties/civil society/communities

Own Initiative

Systemic Deficiencies /Trends from existing complaints

Information in the public domain including print and electronic media

Public Debate/Display of dissatisfaction or grievances (eg local govt.protests)
Processing of complaints
Institutions within jurisdiction

GOVERNANCE AND ETHICS - WHAT IS EXPECTED OF MEMBERS OF THE EXECUTIVE
Types of investigations

Service Delivery Failures
1. Undue Delay
2. Service Delayed or Service Denied
3. Administrative Lapses
4. Unfair, capricious or discourteous behaviour
5. Service Delivery Failures

Conduct Failures
1. Corruption
2. Fraud
3. Abuse of Power
4. Receipt of Improper Advantage
5. Improper Enrichment
6. Dishonesty or improper dealings with respect of Public Money
7. Unethical Behaviour
Investigation process

1. What happened?
   - Establish factual versions of complainant and organ of State
   - Proof on a balance of probabilities
   - Achieved through document and explanation requests and interviews or hearings.
   - Systemic Deficiencies/Trends from existing complaints

2. What Should have happened?
   - Determine Legal and regulatory framework used as benchmarks for standard that should have been complied with
   - Constitutional provisions (NB entitlements and ethical governance provisions), legislation (including Public regulations and Public Service and Treasury Directives/Guides), policies and other prescripts.
   - Sector and international good practice

3. Is there a discrepancy between the two?
   - Proper conduct test transcends lawfulness
   - Gap evaluated to ascertain if constitutes maladministration, unethical conduct or corruption.
   - Prejudice suffered assessed/quantified

4. What is the remedy?
   - In service failure civil remedies are underpinned by quest to place complainant or victim of maladministration as close as possible to where s/he would have been but for wrongful state action
## Provincial Office

<table>
<thead>
<tr>
<th>Province</th>
<th>Regional Office</th>
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<tbody>
<tr>
<td>Eastern Cape (Bisho)</td>
<td>Mthatha</td>
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<tr>
<td>Free State (Bloemfontein)</td>
<td>Phuthaditjhaba</td>
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<tr>
<td>Gauteng (Johannesburg)</td>
<td>-</td>
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<tr>
<td>KwaZulu Natal (Durban)</td>
<td>Pietermaritzburg</td>
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<tr>
<td>Limpopo (Polokwane)</td>
<td>Musina</td>
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<tr>
<td>Mpumalanga (Neslpruit)</td>
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<tr>
<td>Northern Cape (Kimberly)</td>
<td>Upington and Kuruman</td>
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<tr>
<td>North West (Mafikeng)</td>
<td>Rustenburg and Klerksdorp</td>
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<tr>
<td>Western Cape (Cape Town)</td>
<td>George</td>
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</tbody>
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1. PPSA is one of the 40+ members of AOMA, an umbrella body of Ombudsman and Mediators across the continent.

2. Through AOMA, Ombudsman and Mediators seek to entrench a culture of good governance, respect for human rights and the rule of law.

3. The PP is the President of AOMA since December 2018.

4. AOMA has a research, information-sharing, capacity-building and advocacy resource in the form of the AORC.

5. The center is based in Durban at the UKZN.

6. PP is the board chair of the center.
THANK YOU, NGIYATHOKOZA, DANKIE, ENKOSI, NGIYABONGA, KEA LEBOGA, KEA LEBOHA, NDIA LIVHUWA, NDZA KHENSA