



**Address by the Public Protector, Adv Thuli Madonsela, during the
National Stakeholder Consultative Dialogue and Public Hearing at the
Provincial Legislature in Mahikeng, North West Province 03 August
2012**

***Programme Director Adv. Johann Raubenheimer;
Speaker of the Provincial Legislature, Hon. Supra Mahumapelo;
Honourable Members of the Legislature;
Mayors present;
Councillors;
Senior government officials;
Representatives of political parties;
Community leaders;
People of the North West Province;
Members of the media;
Ladies and gentlemen;***

I bring you warm greetings from the Public Protector South Africa Team. As it is the third day of Women's Month, I extend a special greeting to the mothers, grandmothers, daughters and all women that are here today and those in the rest of the province. My team and I say happy women's month. We also salute and express our eternal gratitude to the women of South Africa that sacrificed a lot for our freedom and the rights we take for granted today.

I do believe that the greatest tribute we can ever pay to the women who sacrificed to get us where we are would be to ensure that the constitutional promise of a better life for all underpinned by the freed potential of everyone in our land, is realized sooner rather than later.

I trust that you are already aware that the interface with you today is part of our annual stakeholder dialogue, which is in its third year. You are also probably aware that this year's consultative process incorporates public hearings on two systemic investigations we are conducting.

The first relates to the delivery of social housing focusing on what we commonly refer to as RDP housing. The systemic investigation is in response to a flood of claims over the years ranging from alleged procurement irregularities, waiting periods, houses that are falling apart, missing title deeds, illegal sales and allegations of corruption and fraud in all aspects of the RDP programme.

The second focuses on the rather obscure and technical issue of panel vans that are said to have been illegally converted into minibuses, sold as taxis and resulting in accident prone passenger transport, which have allegedly cost lives and prejudiced affected persons regarding insurance claims.

The public hearing has space for voices and views on other public service failures that affect communities or groups.

What really is a systemic investigation, you may be asking. You may also be wondering how this fits into my mandate as Public Protector.

I will start with the mandate. By now you should have an idea that the Constitution gives the Public Protector power to support and strengthen constitutional democracy by investigating alleged or suspected improper or prejudicial conduct in all state affairs or the public administration. The Constitution further provides for the Public Protector to report on such conduct and take appropriate remedial action. As the Public Protector team we understand that mandate as requiring my office to exact accountability in the exercise of state power to ensure just and fair administrative actions and integrity in the control of state resources.

The Constitution states that the Public Protector has additional power as outlined in legislation. The Public Protector Act (PPA) is the main Act granting such additional powers. Referring to improper conduct as maladministration, abuse of power, abuse of state resources, etc, the PPA extends the powers to include the power to resolve disputes in state affairs through mediation, conciliation, negotiation and any other means deemed appropriate by the Public Protector. It further gives the Public Protector extensive investigation powers, which include subpoenas, search and seizure, referral for prosecution(similar to police), contempt of the public protector orders similar to contempt of court orders. There are also fines for failure to comply during an investigation.

Five other laws giving additional powers to the Public Protector are worth noting. These are the Executive Members Ethics Act, which appoints the Public Protector as the sole enforcement agency for the Executive Ethics Code; the Protected Disclosures Act, which nominates the Public Protector and the Auditor General as key agencies to receive protected disclosures from whistle-blowers; the Prevention and Combatting of Corrupt Activities Act, which sees the Public Protector as one of the anticorruption enforcement agencies; and the Housing Protection Measures Act, which grants the Public Protector the power to review decisions of the Home Builder's Registration Council. The Public Protector is currently also one of the information regulators under the Promotion of Access to Information Act. In addition, there are other laws that recognize the oversight role of the Public Protector and those that assign additional non-investigative responsibilities.

Going back to the question of a systemic investigation, it is an investigation under the PPA that goes beyond an individual complaint and remedy but includes a diagnostic process that seeks to uncover the root causes where there is a flood of complaints or an indication that more people are affected. It is like switching off a waterfall rather than using one bucket at a time to remove unwanted water.

For example, on the issue of RDP housing, we have been receiving a flood of complaints over the years. In this province alone last year we received a total of 2 305 cases, some of which relate to the RDP housing programme.

Having visited three provinces and one municipality in this province, it has become clear to us that the complaints we had received before were just the tip of an iceberg. In Matlosana where we were yesterday, we received more than a hundred RDP complaints. It would appear that the main allegations point to endemic corruption and fraud in the procurement of RDP housing settlements and the allocation of the houses. The majority of persons that spoke referred to two letter scams one called a "happy letter" and the other an allocation letter. The allegation is that many of the so called happy letters from beneficiaries are fraudulent, they were not obtained from the beneficiaries or were bought from beneficiaries.

The allocation letter allegation is that many who received such letters pursued the letter only to find that the stand referred to in the letter did not exist or had been allocated to someone else. Ms M, one of the complainants in Matlosana, told us a heart wrenching story of her trials and tribulations as she tried to access the house indicated in her allocation letter. For years Ms M has been trying to get an ESKOM employee evicted to no avail, she said. She had approached every conceivable oversight body but no one had been able to help her even to simply explain how the problem arose. I must say the double allocations have caused major community conflicts that could result in violence if this has not happened already.

Related allegations are that Councillors and officials have been selling RDP houses to non qualifying persons or to persons way down on the list. We've been told that such sales include sales to foreign nationals and that some have more than one RDP houses obtained through this malady.

Then there's the usual complaint of people, particularly older persons still waiting for allocations since the 90s. Some say they've been told their names are not on the list and they've since applied several times. There are those who claim the list says they got a house whereas they did not, probably due to the happy letter scam I referred to earlier. Some complain about houses not being disability friendly.

An endemic allegation relates to defective and incomplete houses. We've visited some in all provinces. In this province we visited extension 3 and 24. The interior of one of the houses we visited was not fit for a chicken run, let alone people, who are supposed to enjoy the constitutional right to human dignity. Lack of infrastructure such as electricity, water and sewerage is a recurring complaint. A unique complaint in Matlosana was that toilets were built in the veld and supplied with water and nothing happened since then, resulting in people vandalizing the toilets. We saw some of these on the way out.

There was also a complaint regarding people jumping the queue through hijacking new settlements and then becoming informal settlement dwellers upon eviction. We visited one such settlement with about 900 homes. What concerned us was an allegation that the evicted families had been allowed to occupy the houses unlawfully for over eight years and that that the homes had been vacant for a considerable amount of time before being "hijacked".

We have not found much on the panel van issue. Participants have simply raised questions regarding the regulatory responsibilities of the state.

Regarding community complaints, the main complaints relate to infrastructure, poverty and alleged discrimination in jobs. Of concern to us is that there are persistent allegations of political discrimination in jobs and contracts.

For additional information on the matters we are discussing today and to lodge complaints on

any other public grievance you or anyone you know may have, my office may be contacted in various ways. We have a toll free line, number **0800 11 20 40** and for those with access to internet and email, we are reachable on www.publicprotector.org and complaints can also be lodged on registration2@pprotect.org.

If you wish to contact the specific investigators helping me with the systemic investigations on RDP housing and the panel van conversions, their contact details are the following:

1. RDP Housing Challenges

Mr Nditsheni Raedani on 012 366 7102/7001

2. Panel Van Conversion Challenges

Mr Sebolecwe Sebolecwe on 012 366 7064

Let us have your views on these matters. You need not stop at telling us about the problems you have experienced or witnessed. We are also eager to hear your views on what has been the impact, particularly on the realization of socio-economic rights as promised in the Constitution and the achievement of our country's commitments on Millennium Development Goals. Your insights on possible root causes and how do we restore order, particularly in the delivery of RDP houses, will also be sincerely appreciated.

We are asking the nation to join hands with us to end maladministration in the belief that without maladministration public power will always be exercised with full accountability, integrity and responsiveness to the needs of all of South Africa's people. If this happens the dream of a South Africa depicted in the Constitution will soon be a reality for all and not just some of our people. As Madiba says, the power to make a difference lies in all our hands.

Joining hands to end maladministration, entrench good governance and ensure responsive service delivery is one of the ways we can pay tribute to the women who selflessly and courageously marched on the Union Buildings in 1956 and others that have sacrificed in the pursuit of a better life for all our people.

Thank you.

Adv TN Madonsela

Public Protector of the Republic of South Africa