



Address by Public Protector Adv Thuli Madonsela on the occasion of a media briefing at Court Classique Hotel in Pretoria on Thursday, 10 June 2010.

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**Chairperson, Ms Doreen Gough
Members of the media;
Deputy Public Protector Adv Mamiki Shai;
Chief Executive Officer Mr Themba Mthethwa;
Senior Managers in My Office;
Ladies and Gentlemen**

It is an honour to reprise this platform which you generously afforded me shortly after my appointment. As a team, we are particularly honoured that you considered Public Protector affairs to be newsworthy on a critical day such today. In less than 36 hours FIFA's first World Cup on the African continent, will be kicking off. Within minutes thereafter, we'll experience another historical moment when our national pride, Bafana Bafana will vanquish Mexico.

As previously promised, my office intends to have these media briefings every three months. This is a valuable platform and opportunity to provide and you and hopefully members of the public with a brief account on the progress my office is making in delivering on its constitutional mandate and on the promises we have made since my assumption of office.

Chairperson;

We specifically want to account on the progress we have made in delivering on the promises made to Parliament and the people of South Africa since I took office in October last year.

The starting point was a thorough mandate analysis in response to concerns that you and other stakeholders, including Parliament, had raised about the office's full utilisation of its constitutional mandate. This process yielded two key outcomes, namely:

1. a book entitled "Constitutional and Legislative Mandate of the Public Protector"; and
2. a revised mandate which clarifies that the Public Protector's power and responsibility transcend investigating and incorporate the duty "to take appropriate remedial action" (section 182 (1)(c) of the Constitution).

The revised mandate became the key driver behind a process we then undertook to review our institutional vision and Medium Term Strategic Plan. The outcome of this process was a draft ten year vision, Public Protector 2020 and Medium Term Strategic Plan: 2010-13. This was then subjected to extensive stakeholder consultations that commenced with document circulation and invitation of stakeholder inputs in December 2009. We then had face-to-face stakeholder consultations in all nine provinces and a final one in Pretoria at the end of March 2010.

I thank you and other stakeholder once more for the valuable inputs that shaped the final product, Public Protector Vision 2020 and Medium Term Strategic Plan: 2010-2013. The valuable insights we gained from this process affirmed the Zulu proverb that says “Injobo ithungelwa ebandla”, which means a successful project requires collaboration.

The purpose of today’s interface is accordingly twofold. We seek to provide feedback on delivery against our constitutional mandate and promises, the focus being investigations and reports finalised during the period under review. We also seek to obtain feedback from you and the public on our performance against the mandate and promises.

You will recall that when I took office, I undertook to strike a balance between the bread and butter cases that impact people’s every day quality of life and the cases that deal with integrity and good governance. I also promised to strike a balance between promptness and rigor. This was premised on the understanding that the value of the institution of the Ombudsman, which is what the Public Protector is all about, is to promote access to justice for persons that feel wronged by the state bearing in mind the time and expense involved in pursuing justice through the courts, while transforming the state to promote good governance. I also undertook to enhance access for all and earn the trust of all persons and communities.

The strategic planning has crystallised our institutional commitments into the following three firm promises to the people of South Africa and Parliament:

1. to be **accessible to and trusted** by all persons and communities;
2. **Prompt remedial action**; and
3. **Promoting good governance** in the conduct of all state affairs

These service delivery promises, which are our strategic objectives for the next three years, are backed by two corporate objectives that seek to renew business systems and processes to ensure efficiency and effectiveness, while leveraging our people and stakeholder relationships to generate an optimal performance and service focused culture.

Our service delivery promises are further anchored on our new vision which is to be:

“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.”

The ultimate goal, as we’ve said before, is to play our role of strengthening democracy by ensuring that the state is accountable, operates with integrity and is responsive to needs of all of the people of South Africa regardless of diverse circumstances and needs.

Today's feedback primarily focuses on reports issued since I took office six months ago. You'll notice that there are many reports. Today we are specifically releasing 18 Reports.

However, in future as we live up to our promise of prompt remedial action, there'll be fewer reports. We'll focus on using the ADR powers given by the Public Protector Act (PPA) and other mandate statutes, to settle so that complainants can be assured of both promptness and a concrete remedy. We will only use a report as a last resort where the competent organ of state refuses to accept my findings or there's a disagreement on appropriate remedial action.

We've already started to prioritise complaints resolution, primarily through the early resolution mechanism established in November 2009 and general use of the ADR mandate under the PPA and the PDA.

Needless to say, we will not settle any conduct and/or integrity matters, without a report where there is proof of wrongdoing. This includes the mandate in terms of the Executive Members' Ethics Act (EMEA), where the Public Protector is compelled by law to investigate and report with recommendations.

The reports that we release today provides feedback on how we are addressing the promise of prompt remedial action while transforming the state to promote good governance. At the heart of the approach we are adopting is that there should be justice for every administrative wrong and that there should be no impunity for improper conduct. We also seek to ensure that all contact with the state strengthens good governance and respect for the rule of the law to avoid future similar service failures and/or improper conduct.

I must state upfront that some of the early cases do not fully comply with the promise of rigor and righting all administrative wrongs. But as we go forward, there are very clear improvements. The following provides a few examples you will find among the 18 cases released today and other key activities we have undertaken during the last six months.

Accessibility and trustworthiness

The Public Protector is compelled by Section 182 (4) of the Constitution of the Republic of South Africa to be accessible to all persons and communities. We consider accessibility as transcending physical proximity and as incorporating trustworthiness.

Access enhancing activities in the last six months have included stakeholder engagements that have sought to elicit the needs and views of all communities with a view to enhancing our trustworthiness and responsiveness. You'll note this when our annual report is released. We've also continued to add more regional offices to improve the proximity of our services to historically marginalized communities, particularly, particularly rural communities. For example, we opened a Regional Office in New Castle, KwaZulu-Natal in December, 2009 and another in Phuthaditjhaba in the Free State, in April; this year. This brings the number of regional offices to 9 and the total number of Public Protector offices or service points to 19. We will be opening another regional office in Mthatha, shortly, although we are struggling with

accommodation. Our budget is also an impediment with regard to effective access and as such some of the provinces only have a provincial office as the only service centre.

The use of Mobile Clinics and the media, particularly radio, also continues and is being enhanced. We are also leveraging stakeholder relations to expand platforms for marketing our services. In this regard, we also thank you for the support you provide. Stakeholders that have offered platforms and other forms of assistance include Traditional Authorities, the South African Police, the South African Local Government Association (SALGA), some of the provincial law societies and one provincial Bar Counsel.

In October this year we'll launch the Public Protector Good Governance Week, we promised earlier. The idea is to have a focus week during which all eyes are on this institution and what it does to strengthen our constitutional democracy and how it does that. We've chosen October because it is the 15th Anniversary of the Public Protector. Advocate Selby Baqwa was appointed on the 15th of October in 1995.

With regard to projecting ourselves as a trustworthy institution, I am of the view that ordinary people with warranted complaints against government but that can't afford legal fees to challenge the state should see us as a dependable institution to help them fight their cause. Independence and impartiality are a must in this regard not only as a reality but also in terms of perceptions.

Prompt remedial action

Through our ADR focus and the Early Resolution Mechanism I alluded to earlier, we ensure that all the bread-and-butter cases such as those concerning social grants, identity documents, civil pensions of retired public servants and appeals to the High Court are resolved within a day and up to three months. Our ADR powers of conciliation, mediation and negotiation are primarily used for this purpose. The important thing is that the Complainants don't just get a report but get a rectification of the service that had failed before we came into the picture.

The driving belief behind our approach to righting administrative wrongs is restorative justice. When service fails and citizens hurt, we seek to restore complainants to as close as possible to where they would have been but for the service failure or improper conduct by the state. You'll agree with me that people cannot eat reports or use them as IDs.

Statistics from my office show that between November and December 2009, 254 of cases received (91.7%) were resolved within a record period of three months.

Between January and March 2010, 137 of the cases received were resolved within a months, 123 were finalised within two months while 37 matters were put to rest within one day.

I believe that our work not only brings a speedy end to the suffering of our people but will also helps government in its own quest for ending poverty and poor service delivery. It will also contribute towards government's achievement of its own service goals, including Millennium Development Goals (MDGs).

An example in this regard is the case of a pensioner who after 41 years of service reached a dead end when trying to get his pension pay-out from government. He was told that his pension had been paid to someone else. It took my office's intervention to release his pay while the state sorted out its mistakes as he was an innocent victim.

Who can forget the plight of a 22-year-old from Alexandra, who missed out on a bursary to further his studies after sitting for matric examinations in 2005 because the Department of Education in KwaZulu-Natal failed to release his matric results because, according to the Department of Home Affairs, he had a duplicate ID. Within a month of this office's Early Resolution (ER) intervention, he got the ID. However, we are still dealing with the systemic service failure that this case is merely a symptom of. In this regard, I've written to the Minister of Home Affairs and recommended a specific systemic intervention. The intervention seeks to balance the human rights of the Duplicate ID victims whose lives have come to a stand still, with the responsibilities of the Department of Home Affairs regarding the verification of identities. There are many other cases that you will note in the supplied CD, where ER and ADR are delivering on the promise of prompt remedial action.

Good Governance and Integrity

Good governance remains important. This is pursued primarily under our Executive Members' Ethics Act (EAMEA) mandate and mandates in terms of the Protected Disclosures Act (PDA) and the Protection of Access to Information Act (PAIA). Again there are several cases in this regard. One of them involves a Premier who failed to follow internal human resources policies. We'll be releasing more reports in the next few days.

It is also important to note that in every investigation we address the specific complaint and any systemic service, governance and administrative failures.

Included among the reports released today is are cases dealing with municipal services, where we have found the state wanting and ordered remedial action that incorporates compensation for consequential damages. A case in point is one where the municipality wrongfully awarded a title deed to a property belonging to a complainant. Another notable case involves failure by a provincial Department of Education to provide decent classrooms and toilet facilities.

A provincial case dealing with waste management combines issues of prompt remedial action and broader government responsibilities regarding environmental rights. In this particular case we settled on the immediate concerns of the complainant and made recommendations regarding the need for proper hospital waste management in province concerned.

As we've said before, a lot of service delivery failures a symptom of systemic governance and administrative failures within organs of state.

Chairperson;

In the words on my counterpart in the Canadian province of Ontario, "I have had to make some very tough decisions, to refocus the office...." in the last six months.

Fortunately I've been working with an amazing, professional and hard working team. The support of the public, media community and government has also been outstanding.

I'm the first to say that there's still a huge gap between the promise and our action, particularly on the issue of promptness and rigor.

With the kind of team I have and the restructuring we've just done, I believe we'll soon be making the difference we seek to make. I've also met my counterpart in the UK, the Parliamentary and Health Ombudsman. We have agreed to enter into a bilateral agreement that will see our institutions operate as partners to improve our services.

Thank you once more for the privilege to address you. Fact sheets of all the reports are in your packs with a limited number of hard copies available for browsing.

Finally, let's support Africa in addition to our unwavering support to Bafana Bafana.

Go Bafana Bafana Go!

Go Africa Go!

Thank you