



**Address by the Public Protector, Adv Thuli Madonsela, during the
National Stakeholder Consultative Dialogue and Public Hearing at the
Provincial Legislature in Polokwane Limpopo 14 August 2012**

Programme Director

Deputy Public Protector, Adv Mamiki Shai;

MEC for Cooperative Government, Human Settlements and Traditional Affairs, Mr Clifford Motsepe;

Other MEC's in attendance;

The Executive Mayor of Polokwane, Councillor Freddy Greaver;

Other Councillors in attendance;

Commissioner Matome Mawasha from the Public Service Commission

Director-General Rachel Molepo-Modipa

Heads of Departments;

Municipal Managers

People of Limpopo

Members of the Media

Warm greetings from the Public Protector South Africa Team! We are honoured to be here. My team and I extend a special greeting to women of Limpopo on this 14th Day of our National Women's Month. Incidentally, this is the province that produced Charlotte Maxeke born Charlotte Manye, a ground breaking woman in every way. She was the first black female graduate and dedicated her life to uplifting the people, particularly women and children while challenging colonialism and later apartheid. As women and as a people, we stand tall today because we stand on the shoulders of giants like her who dislodged the boulders of oppression in pursuit of an inclusive society.

But we also owe it to Charlotte and others that sacrificed for our freedom to ensure that the frontiers of poverty, inequality and deprivation are pushed so that all our people fully enjoy the fruits of democracy.

We are here today as part of our invitation to you and the rest of the nation that we all join hands to end maladministration and replace it with good governance. We make this call in the belief that maladministration is a key factor undermining the delivery of the constitutional promise of a better life to many of our people.

Specifically, we are here as part of our third annual stakeholder consultative dialogue. This is the 6th province we have visited since our process began in Tshwane on 12 July 2012. By now

you've probably heard that this year's dialogue incorporates public hearings that form part of two systemic investigations my office is currently conducting.

The main systemic focuses on the delivery of RDP housing. We decided to embark on a systemic investigation in response to a flood of claims over the years ranging from alleged planning inadequacies, procurement irregularities, including corruption and fraud, leading to defective houses among many inadequacies, allocation irregularities and post allocation challenges such as missing title deeds and illegal sale of RDP houses.

You may be wondering what is a systemic investigation and how does it differ from a normal investigation? A systemic investigation covers what is done in a normal investigation and more.

In a normal investigation we generally focus on whether or not a complainant or complainants were wronged by conduct in state affairs or the public administration. If we conclude that the complainant or complainants were indeed wronged, we then endeavour to place them as close as possible had the state treated them right in the first instance. Where the investigation focuses on wrongdoing involving conduct failure such as unethical conduct, abuse of power, abuse of state resources and corruption, we seek to ensure individual accountability for such wrong doing. This includes clawing back public funds that may have been wrongfully appropriated.

In a systemic investigation we cover the accountability for specific wrongs plus more. We adopt a diagnostic systems approach with a view to establishing the causal factors behind a flood of complaints or potential flood of complaints. Going back to the RDP systemic investigation, we are trying to find out what factors or gaps are behind all of the problems that have been reported in all nine provinces. Why is it that until now our solutions, particularly when it comes to rectifying defective houses and addressing allocation irregularities, it appears as if we are pushing water up a waterfall? The outcomes include remedial action aimed at switching off the waterfall or preventing a recurrence.

Of the 1165 we received in this province in the year ending on 31 March 2012, 298 related to RDP housing grievances. A further 38 complaints have been received since then. The complaints included defective houses, poor workmanship, delays in delivering RDP houses, allegations that houses are being sold to foreign nationals by municipal officials, houses being allocated to people that were not beneficiaries for whom they were initially built. The majority of these are in the Thabazimbi area. In Phalaborwa alone, 162 applicants for RDP houses did not get their houses as these were allocated to non-beneficiaries.

The other systemic investigation focuses on allegations that certain panel vans were illegally converted and sold as minibus taxis resulting in accident prone taxis, which have allegedly cost lives and prejudiced affected persons regarding insurance claims. Although we had only received two complaints on this matter by the time we commenced the systemic investigation, the allegations suggested there were lots of people that may have been affected, including passengers and families of passengers.

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

You could say that systemic investigations are part of my office's role in promoting good governance beyond redressing state wrongs. By now you probably know that the Public Protector's role is to help people exact accountability, including justice, in the exercise of state power. Simply put, my office investigates and redresses people's grievances arising from

decisions and actions in state affairs or the public administration.

The Public Protector conducts systemic and other investigations in pursuit of his/her constitutional mandate to support and strengthen constitutional democracy by investigating alleged or suspected improper or prejudicial conduct in all state affairs or the public administration; reporting on that conduct; and taking appropriate remedial action.

The Public Protector's additional powers derive from legislation, key of which is the Public Protector Act (PPA). 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 designates 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.

We often compare the Public Protector to the Makhadzi. The office essentially serves as a buffer between people and government, giving people a voice and assisting government to hear effectively. An effective use of the Public Protector and other institutions supporting democracy means people need not take to the streets or destroy something to get government's attention. To make this a reality, organs of state and oversight bodies should join hands to identify and remedy maladministration expeditiously. Such would reinforce hope among our people and trust in institutions of democracy.

For additional information on the matters we are discussing today and to report further RDP and other grievances, my office may be contacted through our toll free line, number : **0800 11 20 40**, website: www.publicprotector.org , e-mail: registration2@pprotect.org and our 20 walk-in offices in all 9 provinces.

Joining hands to end maladministration, entrench good governance and ensure responsive service delivery is one of the ways we can meaningfully pay tribute to Charlotte Maxeke and other heroes of our country that sacrificed their lives in the pursuit of a better life for all. Together we can ensure public accountability, integrity and responsiveness.

Thank you.

Adv TN Madonsela

Public Protector of the Republic of South Africa

