



Address by Public Protector Adv Thuli Madonsela delivered on the occasion of an outreach clinic in Delft, Western Cape

18 March 2010

**Programme Director;
Councillors present,
Community Leaders,
Members of the media
Distinguished guests,
Ladies and gentlemen;**

I thank you all for being here and extend my warmest greetings to you.

Over the last two days I had an opportunity to meet with various key stakeholders in this province. By stakeholders I mean all constituencies that have an interest in the Public Protector's discharge of its constitutional mandate. These include Parliament, the executive including its administrative apparatus parastatals, the judiciary, other Chapter 9 institutions, statutory bodies, state-owned enterprises, provincial administration, local government, political parties, the media, professional bodies, trade unions and other civil society entities.

The purpose of meeting these stakeholders was to introduce myself as the Public Protector. I was also using the opportunity to find out from stakeholders what do they expect from the Public Protector. Specifically, I was interested in establishing whether or not our internal interpretation of the constitutional mandate of the Public Protector is the same as that of stakeholders. I have also been asking stakeholders to comment on a draft vision of what we seek to achieve as the Public Protector over the next ten years and also to discuss cooperation.

Today's meeting has a different purpose. Our focus today is on the services of the Public Protector. I know that most of you know a lot about the Public Protector and have interfaced with this institution for many years. However, for the benefit of others let me briefly outline what is the Public Protector, what does it do, who can approach it and how and what can you expect from the Public Protector?

What is the Public Protector? The Public Protector was established by the Constitution. It is one of several institutions established by Chapter 9 of the Constitution to support and strengthen constitutional democracy. We ordinarily refer to these institutions as Chapter 9 Institutions.

However, each of these institutions plays a distinct and unique role in supporting and strengthening constitutional democracy.

Like all Chapter 9 institutions, the Public Protector is independent and subject only to the Constitution and the law. The Public Protector must be impartial and exercise its powers and perform its functions without fear, favour or prejudice.

The Public Protector is both an institution and a person. The person, who holds the same rank as a judge of the Supreme Court, is appointed on the basis of a parliamentary selection process, which culminates in a National Assembly vote followed by a Presidential appointment of whoever is recommended by Parliament.

The Public Protector is accountable to the National Assembly and must report on activities and performance of functions to the Assembly at least once a year. No person or organ of state may interfere with the functioning of the Public Protector.

What does the Public Protector do? More importantly how and when can it help who? The Public Protector is mandated by the Constitution and national legislation 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, to report on that conduct and to take appropriate remedial action.

There are two key pieces of legislation that regulate the operations of the Public Protector. These are the Public Protector Act of 1994, and the Executive Members Ethics Act. The powers under the Public Protector Act cover the conduct of all public authorities except court decisions. The Executive Members Ethics Act empowers the Public Protector to investigate all allegations of violations of the Act and Code by the members of the executive, that is Ministers, Premiers, MECs etc. Other legislation which include anti corruption legislation and the Protected Disclosures Act also recognise the role of the Public Protector with regard to investigating state action.

What does this mean for you? It means you can approach the Public Protector anytime you have a complaint regarding improper or prejudicial conduct of an organ of state or public official or public office bearer. Even if it is not a complaint but information or an allegation of impropriety, you may still approach the Public Protector.

What can you expect from your dealings with the Public Protector? Firstly it is important to remember that anything outside of the public sector and decisions of courts are off limits. Secondly, the services are free. Your complaint or allegation will be investigated with a view to establishing if the conduct in question was indeed improper or prejudicial. My office may decide to mediate, conciliate or negotiate to resolve the complaint. At all given times, it is important to us that justice is served.

In the past we focused a lot on the investigative powers. While continuing to use and even improving the depth of our investigations, we have consciously decided to harness the full powers of the Public Protector. Starting from the fiscal year 2010/11, we will be exhausting all the powers given to us by law to resolve your complaints in a manner that ensures justice.

Another area where we have committed ourselves to improve is that of turnaround times. Never again shall you wait for a year to be told what is delaying your pension pay out, social grant or any other service. We will use our power to subpoena if need be.

We have also introduced an early resolution mechanism to ensure that uncomplicated urgent matters are resolved within hours, days and weeks.

We are also planning to deepen the rigour of our investigations to ensure that improper conduct does not go unsanctioned simply because we could not dig deeper. To achieve this we are strengthening our specialisation arrangements. This includes separating simple and urgent matters from complex matters. We are also revisiting our investigation and dispute resolution methods, incorporating more ADR and strengthening our forensic capabilities. Our efforts towards improving good governance continue. In addition to systemic investigations we will be engaging in systemic interventions to ensure that government serves all people with accountability, integrity and responsiveness. Systemic interventions seek to respond to systemic malfunctions that breed poor service delivery and improper or prejudicial conduct.

I must also mention that the services of the Public Protector are free. The Public Protector is also specifically instructed by the Constitution to be accessible to all persons and communities. We have always tried to be accessible, through outreach, expansion of offices to provinces and regions within provinces and through using accessible language. We plan to do even more to enhance our accessibility. Our initiatives include expanded awareness and outreach activities, which will include a Public Protector Access to Good Governance and the use of stakeholder avenues to reach our people. The offers of assistance we have received include the Law Society of this province, the police in various provinces, traditional authorities, municipalities and provincial executives. We plan to take advantage of all these generous offers.

In conclusion, tell us your needs so that we can be of better assistance to you. With regard to any complaints or allegations you may have, our mobile service is right here at the back of this venue. Please approach the desks.

On a day-today basis you may approach the Public Protector through our toll free line, website, postal mail or visit one of our offices. Contact details are available on the information leaflets distributed at the desks I have just referred to.

Thank you.

Adv TN Madonsela