



Address by Deputy Public Protector Adv Mamiki Shai during the commemoration of Youth Month in Port Shepstone, KwaZulu-Natal on Friday, June 24, 2011.

**Programme Director, Mr. Mlandeli Nkosi;
Mayor of Ugu District Municipality, Cllr NH Gumede;
Mayor of Hibiscus Local Municipality, Cllr NCP Mqwebu;
Chairperson of Traditional Leaders in Ugu District, Nkosi Ndwalane;
Chairperson of Ugu District Youth Development Council, Mr Mlungisi Ngcobo;
Chief Executive Officer of the Public Protector SA, Mr Themba Mthethwa;
IEC District Manager, Mr S Yeni;
The Public Protector team;
Ladies and gentlemen;**

I wish to start by extending my sincerest greetings to all of you this morning.

I also wish to seize this opportunity to express my gratitude to you for taking time off from your daily activities and gracing this occasion with your presence.

We have paid you a visit as part of the Public Protector South Africa's nationwide drive to extend services closer to communities. This is in line with our constitutional mandate to be accessible to all persons and communities.

I am very hopeful that by the time we leave, you would have grasped as much information as you can about this important constitutional institution not only for yourself but also to share with many others who could not be here with us.

Today marks just six days after the commemoration of the National Youth Day on June 16, a momentous chapter indeed in the story of South Africa's struggle against the policies of the erstwhile apartheid regime.

As you would know, on that day 35 years ago thousands of young people swelled the streets of Soweto in Gauteng in a protest against the introduction of Afrikaans as a medium of instruction in local schools.

What started as a peaceful march that fateful morning saw as many as 176 people losing their lives as the then government's security forces opened fire, mowing down protestors in a tragedy that got the world up in arms.

Those young people who paid with their lives, among them 12-year-old Hector Pieterse, were very brave to take on that kind of government to address their challenges. Concerned about their future, they decided to do something about the situation, unfortunately it ended badly.

More than three decades later things have changed for the better. South Africa is a democratic state with one of the most progressive constitutions in the world.

Among other things, this constitution enshrines the Bill of Rights, which highlights the Human Rights that all people in the country are entitled to enjoy.

The reason I am mentioning this history is because our visit here should be seen within the context of Youth Month commemorations as we join the country to pay homage the youth of yesteryear.

Today's youth is, however, facing a different struggle. There is the scourge of HIV and AIDS, high levels of unemployment, limited opportunities within the sphere of higher learning and drugs and alcohol abuse, to mention but a few.

In emulation of the heroes and heroines of the 1976 Soweto Uprisings, the youth of today need to take the lead in the fight to against these challenges with the same resilience displayed by their counterparts from yesteryear.

Programme Director;

While we are here to commemorate Youth Month, we are also here to share information on what role the Public Protector can play in ensuring that young people manage to triumph against the challenges the face.

Last year the Public Protector was approached by a young person, who complained that he had lost out on a scholarship because the Department of Education had failed to produce his matric results.

At first the complainant, who is now in his mid-twenties, thought he had failed but got alarmed when the Department could not produce his results statement.

Upon a closer look, the Public Protector learned that they Department had cancelled the complainant's exam registration without informing him after discovering that he shared an ID number with somebody else.

Five years after battling to sort out the problem himself the complainant turned to us and upon our intervention he immediately got a new ID. The only thing outstanding now is the issue of his matric results, which the department can't produce or reconstruct because the records have been destroyed.

Looking at this complainant's ordeal, you will realise that he does not have a senior certificate; he will not be able to register with an institution of higher learning; he has lost out on a scholarship to study for free at a university and that; he will struggle to get a proper job.

As we speak, he is sitting at home looking helplessly as his peers, some of whom he went to school with, are furthering their studies at tertiary and earning their own money.

What is more saddening is the fact that none of the problems he is grappling with are of his own making. Organs of state involved are all to blame for the challenges he is battling with. Not only has the actions of state actors infringed on his right to education, it has also prevented him from accessing economic opportunities.

Many other young people have knocked on our doors, complaining about a host of challenges including failure by government to process applications for low cost housing and social grants that are discontinued without even being notified of such decisions.

As the Public Protector South Africa, we strongly believe in the protection of the Human Rights of young people and other sectors of our society. When these rights are trampled upon by organs of state or where competent organs of state neglect their duty to prevent or redress the violation of these rights, the Public Protector has a constitutional responsibility to act.

This brings me to important questions that might be springing to the minds of some of you. Who is this Public Protector and what does she/he do? What powers does the Public Protector have and when and how does she/he get involved? How can the Public Protector be accessed?

Let us start with the constitutional mandate. The Public Protector is a constitutional officer appointed under Chapter 9 of the Constitution to support and strengthen constitutional democracy by exacting accountability from those involved in state affairs.

Section 182(1) of the Constitution specifically places a responsibility on the Public Protector to investigate any conduct in state affairs or the public administration that is alleged to be improper or prejudicial, to report on that conduct and to take appropriate remedial action. The scope covers all three spheres of government and state entities such as ESKOM, SABC, TELKOM and Water Boards.

The only matters in state affairs that are excluded from the Public Protector's scrutiny are court decisions. Section 182 further enjoins the Public Protector to be accessible to all persons and communities. The Constitution further creates space for additional powers that may be conferred by legislation.

The Public Protector has six key mandate areas that can be discerned from 16 key pieces of legislation that provide further powers or regulate the office's work in pursuit of section 182(2) of the Constitution.

The first key mandate area is the power to redress maladministration within state affairs and the public administration. However, the Public Protector Act 23 of 1994, which regulates this mandate goes beyond service failure and requires the public protector to deal with conduct failure, including abuse of power and abuse of state resources. The powers under the Public Protector Act include the authority to resolve disputes or grievances against the state through mediation, conciliation, negotiation or any other means.

The second key mandate area is that of being the sole oversight agency on executive ethics as regulated by the Executive Members' Ethic Act of 1998 and the Ethic Code. In terms of these, the Public Protector is empowered to investigate the conduct of the Executive. This includes the President, Ministers, Deputy Ministers, Premiers and MECs. Unlike the Public Protector Act, this Act makes provision for complaints to be lodged only by the President, Premiers, Members of Parliament and Members of Provincial Legislatures.

The third and shared key mandate area involves acting as an anti corruption enforcement agency under the Prevention and Combating of Corrupt Activities Act 12 of 2004.

The fourth key mandate area positions the Public Protector as one of two key agencies to receive protected disclosures from whistle-blowers under the Protected Disclosures Act 26 of 2000. This mandate complements the mandate under the Prevention and Combating of Corrupt Activities Act.

The fifth mandate, which is another shared mandate, involves the power to resolve disputes regarding information requests under the Promotion of Access to Information Act (PAIA).

The sixth mandate area involves the power to review the decisions of the Home Builders Registration Council as envisaged in section 22(4) of the Housing Protection Measures Act 95 of 1998.

Other than in cases under the Executive Member's Ethics Act, anyone can lodge a complaint with the Public Protector against any organ of state. The complainant need not be a victim of the alleged improper conduct or maladministration.

Complaints can be lodged at any of our 20 walk-in offices across the country; in writing; telephonically (Toll free line: 0800 11 20 40); online (www.publicprotector.org); or at any of our mobile or outreach clinics that are held regularly at identified spots across the country. It is also important to note that to investigate, we need not necessarily receive a complaint.

We have a double-pronged approach to investigations. We promptly resolve each specific complaint, ensuring redress where appropriate while investing efforts in fixing the systemic deficiencies within the state with a view to curb a recurrence. Where there is service failure, our systemic solutions also incorporate correcting complaints handling arrangements of organs of state involved.

In taking appropriate remedial action, we are informed by the view that it is not enough for organs of state to simply provide the service that was delayed or denied before my office stepped in. Our view is that remedial action should bring the complainant as close as possible to where they would have been had the state acted properly. One of the ways to achieve this is financial compensation. At times a simple apology suffices.

Also worth noting is the fact that our services are free and the Public Protector is constitutionally obliged to investigate matters without fear, favour or prejudice and that she is independent and subject only to the Constitution and the law.

We have made three promises to the people of South Africa. These are:

- to be accessible to and trusted by all persons and communities;
- to provide prompt remedial action; and
- to promote good governance in the conduct of all state affairs.

Prompt remedial action is particularly important in "bread and butter" matters. In fact, most of the complaints that fall under this category are resolved from within hours to three months through our Early Resolution mechanisms.

In dealing with your complaints, we have employed a set of values, with which we seek to ensure customer satisfaction. These include Independence and Impartiality, Human Dignity, Equality, Ubuntu, Redress, Accountability, Integrity, Responsiveness, Transparency, and Justice and Fairness.

Programme Director;

I would like to call on communities not to hesitate to report any suspected disregard for human rights by organs of state.

In the event, you do not get joy from these institutions; our office will be there to assist you. Even right now, if you have complaints about government services or conduct, you can lodge it with my investigators at the back of this marquee as soon as the programme has ended.

As I draw towards my conclusion, I would like to reiterate the call on communities to report any complaints about government services or conduct to the Public Protector. This includes any suspected corrupt activities and other forms of maladministration.

Of course our ultimate goal is to strengthen constitutional democracy by promoting good governance, adherence to human rights and respect for the rule of law. This will help us realise our ideal of an accountable state that operates with the highest level of integrity while being responsive to the needs of its entire people, including the children.

I would like to extend an invitation to you as communities and important institutions in society such as schools to partner with us to raise awareness about the existence of the Public Protector South Africa and the services it offers

It is important that people know where to find help and not suffer in silence. We know that some of you cannot afford attorneys to help you take the state to court and free services such as the Public Protector are here for you.

We will continue working closely with stakeholders such as traditional authorities, government, fellow Chapter 9 Institutions, NGOs and the media among others to raise awareness about our existence so that we can reach and help more people.

Thank you.