



PUBLIC PROTECTOR
SOUTH AFRICA

Address by Public Protector Adv. Busisiwe Mkhwebane during the Public Protector Stakeholder Roadshow in Ixopo, KwaZulu-Natal on Thursday, September 20, 2018

**Programme Director, Adv. Mlandeli Nkosi;
Executive Mayor of Ubuhlebezwe Local Municipality, Cllr. Z.D. Nxumalo;
Public Protector SA CEO, Mr Vusi Mahlangu;
Provincial Representative of the SA Human Rights Commission, Ms. Tanuja Munnoo;
Public Protector SA Regional Representative, Mr. Sibekuza Dube;
Representatives of all Chapter 9 institutions present;
Municipal Councillors present;
Traditional Leaders present;
District Directors of Provincial Government Departments;
Municipal Managers present;
The Public Protector Team
Members of the media;
Ladies and gentlemen**

Good afternoon!

Thank for honouring our invite. We deem this an indication that you take the subject of the deliberations at this meeting seriously and, thus, you are keen to be active participants.

By now everybody, yourselves included, must be aware of my nationwide tour of provinces. We have spoken about it on television, on national radio and it has been reported on newspapers.

My team and I have been meeting your counterparts in other provinces as part of this tour, which we call the Public Protector Roadshow. We already been to Mpumalanga, Limpopo, North West, Eastern Cape, Northern Cape and Free State.

Today is the turn of the people of KwaZulu-Natal. Our next and last two stops will be in the Western Cape and Gauteng. The Roadshow is aptly themed: **“Towards Redress and a Public Sector that Puts People First”** and it will be clearer as to why this theme as the programme continues.

In 25 days, it will be exactly two years since I assumed duty as democratic South Africa's fourth Public Protector. You will recall that at the time, I indicated that my work for the entire seven years of my non-renewable term of office was going to be informed by what I call the Public Protector Vision 2023, which is essentially about taking the services of the Public Protector to the grassroots.

I said back then that this ambitious blueprint was underpinned by eight pillars, namely:

- (1) Enhancing access to the services of the Public Protector;
- (2) Using vernacular to improve our communication with the targeted audience;
- (3) Expanding our footprint to be closer to the targeted communities;
- (4) Leveraging stakeholder relations and formalizing those relationships in signed agreements;
- (5) Empowering people to understand their rights and entitlements;
- (6) Projecting an image of a safe haven for the poor and destitute;
- (7) Encouraging organs of state to establish effective internal complaints resolution units; and
- (8) Ultimately turning communities into being their own liberators.

That has not changed. For the purposes of this Roadshow, I would like to draw your attention to Pillar 7 of the Vision, which is about the need for organs of state to establish effective internal complaints resolution units or customer service units or sectoral ombudsman institutions; and, where such mechanisms exist, ensuring that they are beefed up and well resourced.

This is extremely important for us as the Public Protector South Africa. This is so because we struggle with a severe case of an overflowing workload. For instance, in the year that ended March 2018 we investigated in excess of 18 000 cases. This province's share of that load was 1828, of which 481 were carried over into the current financial year.

It is far worse for other service centres such as our Head Office in Pretoria, which had more than 5700 matters to deal with while the North West and the Western Cape, had over 2000 complaints each. Already in the 2018/19 financial year, this province received 381 new complaints, bringing the total workload to date to 862.

The type of cases we deal with in this province include alleged:

- Undue delays in issuing identity documents;
- Undue delays in acquiring permanent resident permit;
- The processing of criminal appeals;
- The processing of applications for RDP houses;
- Disputes pertaining to electricity and water bills; and
- Undue delays by the Government Employees Pension Fund to process pensions pay-outs to retired civil servants.

For an institution that has 177 Senior Investigators and Investigators, the issue of our work is untenable. If you were to divide the total 2017/18 caseload of 18 000 matters

by the number of Investigators and Senior Investigators, you will see that each of them will be sitting with and working on 101 different investigations at the same time.

My investigation staff in this province alone is comprised on three Senior Investigators, of whom two are based at the Durban office and one in the Pietermaritzburg Regional Office. Then there are seven Investigators, of which six are based in Durban while the other is in Pietermaritzburg. There is only one Trainee Investigator whose contract lapses this month.

This means, on average, each of them has a caseload of about 86 files. This is way above international best practice. Indeed my investigators are overwhelmed and things cannot and should not continue like this, hence the need to find another way.

While it is true that the Public Protector's mandate to investigate, report on and remedy alleged and suspected improper conduct in all state affairs, in the public administration and in all spheres of government is broad and covers any and every administrative action within state affairs to the exclusion of court decisions, it is also correct that not every case must necessarily be brought to my office.

To this end, we are on a drive to encourage organs of state to establish effective complaints resolution units, customer service units or sector-specific ombudsman institutions in the mould of the Health, Tax and Military Ombudsman.

That way, individual cases that would ordinarily clog our systems would be handled by such institutions, allowing us to be the complaints body of last resort. This will see the public starting to complain at that level first and only escalating to us when all else has failed.

This does not mean we will send people away when they come directly to us. We have our ways of dealing with complaints, where we find that the complainants have not exhausted internal remedies. When we pick up at assessment stage that internal remedies have not been exhausted, we refer such matters to competent bodies and we inform the complainants accordingly.

We also encourage organs of state to develop Service Standards and Customer Service charters. It is important for members of the public to know exactly what level of service to expect when they approach your institutions and where to go when they are dissatisfied. This is not a novel idea because Batho Pele already provides for such an approach to public service.

As you would know, Batho Pele is about improving public service delivery while revitalising the quality and accessibility of services by enhancing efficiency and accountability to the electorate.

It is underpinned by eight principles, including the need to ensuring regular consultation with customers on the nature, quality and quantity of services to establish their needs and expectations, setting of service standards so as to let the public know what level of service they can anticipate; remedying failures and mistakes by ensuring that there is redress for service failure and giving the best

possible value for money in recognition of the fact that government does not have enough resources to cover the public's needs.

All these are done to give effect to provisions of the Public Service Act, which was itself meant to breathe life into some of the basic values and principles governing public administration, which you will find in section 195 of the Constitution, including that the people's needs must be responded to and that the public administration must be accountable.

At a higher level, we envisage that a successful implementation of Pillar 7 of the Vision will free my team and I's hands to be in a position to deal with systemic issues and to pursue own-initiative matters, which is something we can't do now because of the overflowing caseload. You will agree with me that it would not make sense to keep taking on new matter on own initiative when we are struggling to deal with the current caseload.

Programme Director, linked to Pillar 7 is Pillar 4 with which we seek to leverage stakeholder relations and formalizing those relationships in signed agreements. In terms of this particular pillar, we are engaged in a process signing Memoranda of Understanding with provincial legislatures across the country. The aim is encourage the use the legislature's public participation platforms and petition processes to deal with the issue of duplicate complaints and forum-shopping.

Those MOUs have been dispatched to the different offices of Provincial Speakers. We have signed our part and hoping that the Speakers will do likewise. My Provincial Representative will be following up to ensure that those are agreements are finalised without delay. Thus far, only the North West Provincial Legislature has signed. Gauteng is planning to sign during the Speakers' Forum and Limpopo is keen to sign but wants the duration of the agreement to be for two years only. We assume that the Speaker there does not want to bind his successor in title given that after next year's general election there will be a new administration in place and we have no qualms with that. I therefore call on the Office Provincial Speaker here in KwaZulu-Natal and its counterparts in the rest of the provinces to cooperate with my office in this regard.

The other important matter than I wish to bring to the attention of authorities in this province is that of cooperation with my investigations. My offices in this provinces inform me that, by and large, organs of state here cooperate with our processes although there is always room for improvement. I must say, however, that I am concerned with the City of eThekweni and the Provincial Department of Social Development.

Last month, I dispatched a team to the volatile Glebelands Hostel in Umlazi to conduct an inspection in loco with a view to verifying complaints from local activists that the remedial action I had taken in my report following an investigation into allegations that organs of state were not doing much to ensure the safety and welfare of the community of that dwelling as well as that there was a poor delivery of services was not being implemented.

The report I obtained from the team is that, contrary to the glowing remedial action implementation plans that I received from City of eThekweni and the Provincial Department of Social Development, the issues of welfare and service delivery have yet to be addressed. This leaves a bitter taste in the mouth. I am taking up the matter with the relevant authorities.

Everybody knows by now that my remedial action is binding and absent a decision of the court, setting aside my findings and remedial action, organs of state must implement. That report has neither been taken on review nor set aside by the court. Accordingly I expect nothing but full implementation of the remedial action. Failure to implement borders on contempt of the Public Protector, which is in terms of the Public Protector Act a punishable offence.

As I close, let me call on you all to seriously consider establishing effective internal complaints resolution units, Customer Service offices or sectoral ombudsman institution and develop Service Standards and Customer Service Charters as part of a long term plan towards a setting where communities will feel listened to and taken seriously. I am keen to hear your views on this proposal over the next hour.

Let us join hands towards redress and a public sector that puts people first.

Thank you.

Adv. Busisiwe Mkhwebane
Public Protector of South Africa