

**CLOSING REPORT OF THE PUBLIC PROTECTOR IN TERMS OF SECTION 182(1)(b) OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996 AND SECTION 8(1) OF THE PUBLIC PROTECTOR ACT, 1994**



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**CLOSING REPORT: INVESTIGATION INTO ALLEGATIONS OF UNDUE DELAY AND/OR FAILURE BY THE SOUTH AFRICAN SOCIAL SECURITY AGENCY TO PAY SOCIAL GRANTS TO BENEFICIARIES AS WELL AS FAILURE TO PROPERLY IMPLEMENT THE NEW GRANT PAYMENT SYSTEM REGULATED BY THE SOUTH AFRICAN POST OFFICE**

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## 1. INTRODUCTION

- 1.1. This is a Closing Report issued in terms of section 182(1)(b) of the Constitution of the Republic of South Africa, 1996 (the Constitution) and published in terms of section 8(1) of the Public Protector Act, [Act No. 23 of 1994] (the Public Protector Act).
- 1.2. The investigation emanates from a complaint lodged by Ms M Mthimunye (the Complainant) on 3 September 2018, regarding allegations of failure by the South African Social Security Agency to properly implement the new grant payments system regulated by the South African Post Office resulting in undue delay and/or failure to pay social grants to beneficiaries.
- 1.3. A copy of the Closing Report is provided to Ms L Zulu, Minister of Social Development and Ms M Mthimunye (the Complainant), in terms of section 8(3) of the Public Protector Act, 1994.
- 1.4. The Complainant alleged the following:
  - 1.4.1 The South African Post Office system is not user friendly and efficient in paying out grants because the use of Automated Teller Machines (ATM) and pin numbers is disadvantageous to some elderly people and other beneficiaries that are not familiar with ATM usage, and
  - 1.4.2 Some of the post office branches are not accessible as they are located inside shopping malls, which are far away from other residential areas of the South African Social Security Agency beneficiaries; and
  - 1.4.3 The South African Social Security Agency beneficiaries are no longer supporting the small businesses that were established around erstwhile pay points of the previous service provider.

**2. Based on the analysis of the complaint and the allegations contained therein, the following issue was identified and investigated:**

2.1. Whether the South African Social Security Agency failed to properly implement the new grants payment system regulated by the South African Post Office resulting in undue delay and/or failure to pay social grants to beneficiaries?

**3. POWERS AND JURISDICTION OF THE PUBLIC PROTECTOR**

3.1 The Public Protector is an independent constitutional institution established under section 181(1)(a) of the Constitution to strengthen constitutional democracy through investigating and redressing improper conduct in state affairs.

3.2 Section 182(1) of the Constitution provides that:

*“The Public Protector has the power as regulated by national legislation –*

*(a) 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;*

*(b) to report on that conduct; and*

*(c) to take appropriate remedial action.”*

3.3 Section 182(2) directs that the Public Protector has additional powers and functions prescribed by national legislation.

3.4 The Public Protector is further mandated by the Public Protector Act to investigate and redress maladministration and related improprieties in the conduct of state affairs. The Public Protector is also given powers to resolve

disputes through conciliation, mediation, negotiation, advising the complainant regarding appropriate remedies or any other means that may be expedient under the circumstances.

- 3.5 The South African Social Security Agency is an organ of state and its conduct amounts to conduct in state affairs, as a result, the matter falls within the ambit of the Public Protector's mandate. The Public Protector's powers and jurisdiction to investigate, report and take appropriate remedial action was not disputed by any of the parties.

#### **4. THE PRELIMINARY INVESTIGATION**

##### **4.1. Methodology and approach to the investigation**

- 4.1.1. The investigation is conducted in terms of section 182 of the Constitution of the Republic of South Africa, 1996 (the Constitution), read with sections 6 and 7 of the Public Protector, 1994 (the Public Protector Act).
- 4.1.2. In this instance the Public Protector undertook the investigation through correspondence with the former Minister of Social Development, Ms S Shabangu and subsequent meeting with the current Minister, Ms L Zulu and further correspondence from the South African Social Security Agency.
- 4.1.3. All relevant documents and correspondence were obtained and analysed, in particular the report issued by the South African Social Security Agency, copy of Service Agreement between the South African Social Security Agency and South African Post Office signed on 28 September 2018. Relevant laws, policies and related prescripts were also considered and applied throughout the investigation.

## 4.2. Approach to the investigation

4.2.1. Like every Public Protector investigation, the investigation was approached using an enquiry process that seeks to find out:

4.2.1.1. What happened?

4.2.1.2. What should have happened?

4.2.1.3. Is there a discrepancy between what happened and what should have happened and does that deviation amount to maladministration or improper conduct?

4.2.1.4. In the event of maladministration or improper conduct what would it take to remedy the wrong or to place the Complainant as close as possible to where they would have been but for the maladministration or improper conduct?

4.2.2. The question regarding what happened is resolved through a factual enquiry relying on the evidence provided by the parties and independently sourced during the investigation. In this particular case, the factual enquiry principally focused on whether or not the conduct of the South African Social Security Agency constituted maladministration.

4.2.3. The enquiry regarding what should have happened, focuses on the law or rules that regulate the standard that should have been met by the South African Social Security Agency to prevent maladministration.

## 4.3. The Key Sources of Information

### 4.3.1. Documents

4.3.1.1. A copy of the Complainant's complaint document;

4.3.1.2. A copy of an investigation report on an investigation conducted by the South African Social Security Agency;

#### 4.4. **Correspondence Sent and Received**

4.4.1. A letter addressed to the former Minister of Social Development, Ms S Shabangu dated 29 February 2019;

4.4.2. A response letter from the former Minister of Social Development, Ms S Shabangu dated 29 March 2019;

4.4.3. Meeting between the Public Protector, current Minister of Social Development, Ms L Zulu and Investigation team on 18 December 2019;

4.4.4. A letter addressed to Minister Zulu dated 28 December 2019; and

4.4.5. Report from the South African Social Security Agency in response to a letter dated 28 December 2019;

#### 4.5. **Legislation and other prescripts**

4.5.1. The Constitution of the Republic of South Africa, 1996;

4.5.2. The Public Protector Act, 1994 (Act 23 of 1994).

4.5.3. South African Social Security Agency Act, 2004 (Act No. 9 of 2004).

4.5.4. A copy of the Master Service Agreement between the South African Social Security Agency and South African Post Office signed on 28 September 2018.

**5. THE DETERMINATION OF THE ISSUES IN RELATION TO THE EVIDENCE OBTAINED AND CONCLUSIONS MADE WITH REGARD TO THE APPLICABLE LAW AND PRESCRIPTS:**

**5.1. Regarding whether the South African Social Security Agency failed to properly implement the new grants payment system regulated by the South African Post Office resulting in undue delay and/or failure to pay social grants to beneficiaries:**

Common Cause Issues

5.1.1. It is not disputed that the South African Social Security Agency entered into a contract with the South African Post Office for the disbursement of social grants, on conclusion of the previous payment contract. The current contract is premised on amongst other things, a banking model of social grant payments, where beneficiaries receive the social grant directly in their bank accounts, whether this is their own personal bank account, or the South African Social Security Agency /South African Post Office card account.

Issues in Dispute

5.1.2. The issue for determination was whether the South African Social Security Agency failed to properly implement the new grants payment system regulated by the South African Post Office resulting in undue delay and/or failure to pay social grants to beneficiaries and whether the conduct constituted maladministration.

5.1.3. The Complainant alleged that, the South African Post Office system is not user friendly and efficient in paying out grants because the use of ATMs and pin numbers is disadvantageous to some elderly people and other beneficiaries that are not familiar with ATM usage and some of the post offices branches are not

accessible as they are located inside the malls, which are far away from other residential areas of the South African Social Security Agency beneficiaries; and

- 5.1.4. She further stated that the South African Social Security Agency beneficiaries are no longer supporting the small businesses.
- 5.1.5. It is clear from the information submitted by the South African Social Security Agency during the course of the preliminary investigation that the South African Social Security Agency entered into a contract with the South African Post Office for the disbursement of social grants, on termination of the previous payment contract. The current contract is premised on a banking model of social grant payments, where every beneficiary receives the social grant directly in their bank account, whether this is their own personal bank account, or the South African Social Security Agency /South African Post Office card account.
- 5.1.6. In the case of those beneficiaries who use the South African Social Security Agency /South African Post Office card, the beneficiaries may select the manner in which they wish to access funds, that is at a merchant point of sale to purchase goods, withdraw cash at any bank ATM or over the counter at post offices or at one of the remaining 1740 cash pay points in the country.
- 5.1.7. Since the start of the contract with the South African Post Office, funds have been deposited into the accounts on the first day of each month, and beneficiaries have been able to thereafter access their funds.
- 5.1.8. The South African Social Security Agency further stated that there has been no time when social grants were not paid.
- 5.1.9. Previously the South African Social Security Agency paid social grants using an outsourced model, through a contract with Cash Paymaster Services (CPS). This model entailed the South African Social Security Agency taking responsibility for the administrative processing of applications for social grants.



Once the application was approved, the monthly payments would be effected by CPS.

5.1.10. This payment method continued until 31 March 2018, when the payment contract with CPS came to an end.

5.1.11. The South African Social Security Agency's initial intention was to take responsibility for the administration, payment and management of social grants on expiry of the contract with CPS. However, it was then agreed that the South African Social Security Agency would implement a hybrid model of grant payments. In terms of this model, the South African Social Security Agency deposits the social grant money directly into the bank account of each beneficiary, monthly.

5.1.12. These bank accounts may either be the personal bank accounts of beneficiaries which are held with commercial banks, or the South African Social Security Agency /South African Post Office account. Currently, the South African Post Office, through Postbank, holds approximately 8 million of the total 11 million bank accounts of social grant beneficiaries.

5.1.13. The South African Social Security Agency, through direct deposits into beneficiaries' bank accounts, has assumed responsibility for the administration that is, processing of applications. However, the South African Social Security Agency is currently not responsible for the distribution of the social grants, that is, the provision of the access channels, other than the National Payment System (NPS) infrastructure.

5.1.14. Current payment process:

- 5.1.14.1 The South African Social Security Agency prepares the payment file, from information on Socpen, the computerized payment system, which contains all the information of all social grant beneficiaries;
- 5.1.14.2 The South African Social Security Agency then sends this electronic payment file to “Bankserv”, through National Treasury, using secure transfer protocols, for the approved grant amounts to be deposited directly into the individual social grant beneficiaries’ accounts, as elected by the social grant beneficiaries themselves, in accordance with Regulation 21(1)(a) of the Social Assistance Act, 13 of 2004;
- 5.1.14.3 The funds are available for every beneficiary on the 1<sup>st</sup> day of every month, regardless of the chosen method of payment (personal bank account of the South African Social Security Agency /South African Post Office card account); and
- 5.1.14.4 The beneficiaries are able to access their social grants at bank ATMs or point of sale devices at merchants, over the counter at post offices or at designated cash points.
- 5.1.14.5 The contract entered into with the South African Post Office is for the distribution of the social grants. The South African Post Office does this through various access channels namely, cash pay points (serving approximately 200 000 beneficiaries per month), over the counter at post office outlets (serving approximately 500 000 beneficiaries per month) or through the NPS infrastructure, that is bank ATMs or merchant point of sale devices. The South African Social Security Agency controls this through the contract entered into between South African Social Security Agency and the South African Post Office.
- 5.1.15. The account which the South African Post Office, through Postbank, maintains on behalf of social grant beneficiaries is subsidized by the South African Social Security Agency. This is a fully fledged debit card but, if beneficiaries access

their benefits through merchants, they can do so without any cost. The same benefits apply to withdrawals at cash pay points and post offices.

5.1.16. In addition, beneficiaries have other benefits such as not having to maintain a minimum balance to keep the account open or deposit money in order to open the account.

5.1.17. However, all beneficiaries using bank ATMs are liable to cover the costs of the transaction, as this is regulated by the banking industry.

5.1.18. The South African Social Security Agency stated that the long term vision for social grant payments and distribution is that all beneficiaries should eventually have a bank account into which the grants are deposited and that access is universal. Alternatives, in the form of carrying of cash to pay points and post offices, has been found to be extremely expensive and insecure.

5.1.19. The issue regarding the negative impact that the new South African Social Security Agency payment system has on small business was discussed during the meeting of 18 December 2019. Minister Zulu in brief suggested that the South African Social Security Agency could engage with the Department of Small Businesses Development, to see how the Department can assist small businesses in this regard.

#### Application of the relevant laws and prescripts

5.1.20. Payment of social grants is regulated by the South African Social Security Agency Act no. 9 of 2004. The principal aim of the Act is to make provision for the effective management, administration and payment of social assistance and service through the establishment of the South African Social Security Agency.

5.1.21. The Master Service Agreement between the South African Social Security Agency and the South African Post Office which was signed on 28 September 2018, sets out the services for an integrated grants payment system. As stated above, through this agreement, the South African Post Office distributes grants to qualifying beneficiaries as prescribed.

5.1.22. Section 7(1)(a) of the Public Protector Act, 1994, provides that:-

*“The Public Protector shall have the power, on his or her own initiative or on receipt of a complaint or an allegation or on the ground of information that has come to his or her knowledge and which points to conduct such as referred to in section 6(4) or (5) of this Act, to conduct a preliminary investigation for the purpose of determining the merits of the complaint, allegation or information and the manner in which the matter concerned should be dealt with”.*

### Conclusion

5.1.23. Based on the information and evidence obtained during the preliminary investigation and the application of the legal framework to the facts of the matter, this office notes that even though there may have challenges with the migration of the initial payment process from CPS to the South African Post Office, the current payment systems has brought more dignity to the beneficiaries as opposed to the long queues that were experienced in the past. Beneficiaries are able to access their funds through the various payment methods. Social grant recipients are also able to collect their pension at the Post Office thus minimising exposure at the ATMs.

5.1.24. Whilst this office acknowledges the effects of the closure of a number of social grants pay points on small business, the Minister of Social Development, Ms L Zulu has given an undertaking to engage the Department of Small Businesses Development to discuss possible solutions.

## 6. REASONS FOR CLOSURE

6.1 In terms of section 7(1)(a) of the Public Protector Act, this office had to determine how the matter should be dealt with on the basis of what was found from the preliminary investigation,.

6.2 Having regard to the evidence received, and for the reasons advanced herein above, this office is unable to pursue the matter any further and is inclined to conclude that the allegations of impropriety on the South African Social Security Agency by the Complainant, are unsubstantiated. This office will accordingly proceed to close the investigation file.



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**ADV. KHOLEKA GCALEKA**  
**ACTING PUBLIC PROTECTOR OF THE**  
**REPUBLIC OF SOUTH AFRICA**

**DATE:**

*Assisted by Ms Sylvia Van Wyk, Senior Investigator: Investigations Branch*

