



employment

Department:
Employment and Labour
REPUBLIC OF SOUTH AF

REPORT NO. 36 **OF 2025/26**

ISBN Number : 978-0-6398968-7-8

INVESTIGATION INTO ALLEGATIONS OF FAILURE BY THE FUNCTIONARIES OF THE DEPARTMENT OF EMPLOYMENT AND LABOUR TO PROCESS AND APPROVE THE UNEMPLOYMENT INSURANCE FUND BENEFIT CLAIM OF MR MATHEBULA AFTER SUBMITTING A CONDONATION APPLICATION AND PROOF OF INCARCERATION

UNEMPL
BENE

Application Form

TABLE OF CONTENTS		
ITEM	DESCRIPTION	PAGE
	LIST OF ACRONYMS/ABBREVIATIONS	3
1.	INTRODUCTION	4
2.	THE COMPLAINT	5
3.	POWERS AND JURISDICTION OF THE PUBLIC PROTECTOR	6
4.	THE ISSUES IDENTIFIED FOR INVESTIGATION	7
5.	THE INVESTIGATION	8
6.	THE DETERMINATION OF THE ISSUES IN RELATION TO THE EVIDENCE OBTAINED AND CONCLUSIONS MADE WITH REGARD TO THE APPLICABLE LAW AND PRESCRIPTS	11
7.	INTERVENTION AND REMEDY	24
8.	OBSERVATIONS	24
9.	RECOMMENDATIONS	26
10.	MONITORING	26

LIST OF ACCRONYMS AND ABBREVIATIONS

ACRONYMS AND ABBREVIATIONS	DESCRIPTIONS
Constitution	Constitution of the Republic of South Africa, 1996
Correctional Services	Department of Correctional Services
Nelspruit Correctional Centre	Correctional Centre
Investigation team	Public Protector's Investigation Team
The Court	Mbombela Regional Court
The Department	Department of Employment and Labour
UIF	Unemployment Insurance Fund
UI Act	Unemployment Insurance Act, 2001, as amended
Public Protector Act	Public Protector Act, 1994, as amended
The Rules	The Public Protector Rules Relating to Investigations by the Public Protector and Matters Incidental thereto, 2018, as amended

1. INTRODUCTION

- 1.1 This is a report of the Public Protector issued in terms of section 8(1) of the Public Protector Act, 1994 (Public Protector Act) which provides that “ *the Public Protector may, subject to the provisions of subsection (3), in the manner he or she deems fit, make known to any person any findings, point of view or recommendation, in respect of a matter investigated by the Public Protector*”.
- 1.2 This report relates to an investigation into allegations of failure by the functionaries of the Department of Employment and Labour (the Department) to process the Complainant's UIF benefit claim after submitting a condonation application and proof of incarceration.
- 1.3 The report is submitted in terms of section 8(1) read with section 8(3) of the Public Protector Act, which empowers the Public Protector to make known the findings of an investigation, to affected parties for such persons to note the outcome of the investigation and to implement the recommendations, where applicable:
- 1.3.1 Mr Tebogo Maruping, the Commissioner, Unemployment Insurance Fund;
- 1.3.2 Ms Judith Kumbi, the Chief Operations Officer, Unemployment Insurance Fund;
- 1.3.3 Mr Mandla Sibanyoni, the Chief Director: Provincial Operations, Mpumalanga; and
- 1.3.4 Mr Dumisani Gordon Mathebula, the Complainant.

- 1.4 The Public Protector's mandate is derived from section 182(1) of the Constitution of the Republic of South Africa, 1996 (the Constitution) and the Public Protector Act, 1994 (the Public Protector Act), to promote accountability, transparency, and fairness in the public sector. The Public Protector continuously reviews and monitors the information gathered from complaints lodged with the office, with the view to identify the underlying root causes of the problems, complaints, or undesired events within relevant public institutions or authorities.
- 1.5 The aim is to formulate and establish corrective actions to at least mitigate, if not eliminate, those root causes and to produce significant long-term improvements in public administration.
- 1.6 The point of departure is that any complaint might be a symptom of an underlying organisational failure, *inter alia* in areas such as systems, procedures, and human error. By addressing the underlying deficiencies in the systems that are the causes of complaints, in turn, working collaboratively with stakeholders to get the problems resolved and to provide constructive feedback that will enable it to address the root causes of complaints and prevent recurrence.

2. THE COMPLAINT

- 2.1 The complaint was lodged with the Mpumalanga Provincial Office of the Public Protector on 07 May 2024, by Mr Dumisani Gordon Mathebula (the Complainant). In essence, the Complainant alleged that:
 - 2.1.1 He worked at Bongani Mountain Lodge from 8 March 2018 to 11 January 2021;

- 2.1.2 On 11 January 2021, he was arrested and charged. He remained in custody until 24 May 2023, when the Court acquitted him due to a lack of evidence linking him to the charges that led to his arrest;
- 2.1.3 Following his acquittal, he returned to Bongani Lodge, only to discover it had been destroyed by fire;
- 2.1.4 His employer suggested that he apply for UIF through the Department, but his application was rejected because more than 12 months had passed since his employment contract ended; and
- 2.1.5 Despite the rejection of his application, he submitted an appeal seeking condonation due to his incarceration, which had delayed the UIF application. Despite providing proof of his imprisonment, his request for condonation was rejected.

3. POWERS AND JURISDICTION OF THE PUBLIC PROTECTOR

- 3.1. The Public Protector is an independent constitutional institution established in terms of 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) of the Constitution provides that the Public Protector has additional powers and functions prescribed by national legislation. The Public Protector's powers are regulated and amplified by the Public Protector Act which states, amongst others, that the Public Protector has the power to investigate and redress maladministration and related improprieties in the conduct of state affairs.

3.4. The Department of Employment and Labour is an organ of state as envisaged in section 239 of the Constitution and the conduct of its functionaries amounts to conduct in state affairs, as a result, the Public Protector is satisfied that the complaint falls within her competency to conduct an investigation as envisaged in section 182(1)(a) of the Constitution and section 6(4)(a)(ii) of the Public Protector Act. The jurisdiction of the Public Protector to investigate the matter was not disputed.

4. ISSUE IDENTIFIED FOR INVESTIGATION

4.1 **Based on the analysis of the complaint, the following issue was identified to inform and focus the investigation:**

4.1.1 Whether the functionaries of the Department of Employment and Labour failed to consider and approve the Complainant's appeal for UIF benefits after the submission of a condonation application and evidence of incarceration, if so, whether such conduct is improper in terms of section 182(1)(a) of the Constitution and amounts to maladministration in terms of section 6(4)(a)(i) of the Public Protector Act:

5. THE INVESTIGATION

5.1 Approach to the Investigation

5.1.1 The investigation was approached using an enquiry process that seeks to determine:

5.1.1.1 What happened?

5.1.1.2 What should have happened?

5.1.1.3 Is there a discrepancy between what happened and what should have happened and does that deviation amount to maladministration?

5.1.1.4 In the event of impropriety and/or maladministration, 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.

5.1.2 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. Evidence is evaluated and a determination made on what happened based on a balance of probabilities. In this particular case, the factual enquiry primarily focused on whether or not the functionaries of the Department failed to process the Complainant's UIF benefit claim application after he had submitted a condonation application and proof of incarceration

5.1.3 The enquiry regarding what should happen, focuses on the laws or rules that regulate the standard that should have been met by the functionaries of the Department in ensuring that the Complainant's UIF application is considered approved and processed without delay.

5.2 The Investigation Process

5.2.1 The investigation into the complaint was conducted in accordance with section 182(1) of the Constitution and sections 6 and 7 of the Public Protector Act.

5.2.2 The investigation process commenced on 09 May 2025, and it included an assortment of approaches such as the exchange of correspondences with the functionaries of the Department, analysis of the relevant documentation and consideration and application of the relevant laws, regulatory framework and prescripts.

5.3 Key Sources of Information

5.3 Correspondence and documents

5.3.1 Complaint letter to the Public Protector, dated 2 May 2024;

5.3.2 A proof of detention letter from Mbombela Correctional Centre dated 2 May 2024;

5.3.3 Notice in terms of Rule 23(1) issued by the Public Protector to Mr Mandla Sibanyoni (Mr Sibanyoni) Chief Director: Provincial Operations, Mpumalanga;

5.3.4 Email response from Ms Philisiwe Mabuza (Ms Mabuza), Assistant Director UI Beneficial Services Mpumalanga Provincial Office, on 6 June 2024;

5.3.5 Email correspondence dated 26 July 2024, sent by the Investigation Team to Ms Mabuza;

5.3.6 Email response from Mr Matlading Nchabeleng (Mr Nchabeleng) Administrative Officer Mpumalanga Provincial Office, on 27 July 2024;

-
- 5.3.7 Charge sheet from the Regional Division of Mpumalanga, Mbombela Magistrate Court, dated 29 July 2024;
 - 5.3.8 Email correspondence dated 29 July 2024, sent by the Investigation Team to Ms Mabuza;
 - 5.3.9 Acknowledgment of Receipt for UIF benefits Payment Letter from the Complainant, dated 4 June 2025;
 - 5.3.10 Copy of the Complainant bank statement, proof of payment, dated 4 June 2025;
 - 5.3.11 Response from Mr Sibanyoni to the Investigation Team of the Public Protector, dated 23 June 2025;
 - 5.3.12 Email response from Ms Mabuza to the Investigation Team of the Public Protector, dated 10 and 11 September 2025;
 - 5.3.13 Correspondence letter requesting for further information dated 16 September 2025, sent by the Investigation Team to Mr Sibanyoni; and
 - 5.3.14 Response from Mr Sibanyoni to the Investigation Team of the Public Protector, dated 29 September 2025.

Legislation and other prescripts

- 5.3.15 Constitution of the Republic of South Africa, 1996;
- 5.3.16 Public Protector Act, 1994;
- 5.3.17 Unemployment Insurance Act, 2001, as amended;

- 5.3.18 Unemployment Insurance Fund, Business Operations Standard Operating Guide Version 18; and
- 5.3.19 The White Paper on Transforming Public Service Delivery (“Batho Pele Principles”), 1997.

Case law

- 5.3.20 *Gordhan v Public Protector & Others* (48521/19) [2020] ZAGPPHC 743 (7 December 2020); and
- 5.3.21 *Public Protector v Mail & Guardian Ltd & Others* 2011 (4) SA 420 (SCA); [2011] ZASCA 2018, 422/10.

6. THE DETERMINATION OF THE ISSUE IN RELATION TO THE EVIDENCE OBTAINED AND CONCLUSIONS MADE WITH REGARD TO THE APPLICABLE LAW AND PRESCRIPTS

- 6.1 Whether the functionaries of the Department of Employment and Labour failed to consider and approve the Complainant’s appeal for UIF benefits after the submission of a condonation application and evidence of incarceration, if so, whether such conduct is improper as envisaged in section 182(1)(a) of the Constitution and amounts to maladministration as envisaged in section 6(4)(a)(i) of the Public Protector Act**

Common cause

- 6.1.1 On 20 June 2023, the Complainant applied for UIF benefits with the Department, but the application was rejected because it was submitted 12 months after his employment contract had been terminated. Subsequent to

the rejection, the Complainant then submitted an appeal explaining the reasons for the delay in submitting the application. Unfortunately, the appeal was also rejected.

Issue in dispute

- 6.1.2 The issue for the Public Protector's determination is whether the functionaries of the Department failed to consider and approve the Complainant's appeal for condonation of his UIF benefit application after he submitted evidence of his imprisonment.

The Complainant's version

- 6.1.3 The Complainant contends that he was arrested in 2021 and acquitted in 2023 due to a lack of evidence. Upon his return to work in 2023, he was informed that the lodge where he worked had been destroyed by fire, resulting in the termination of his employment. He applied for UIF benefits, but his application was denied. He then filed an appeal, supported by evidence of his incarceration, but the appeal was also rejected.

The Department's version

- 6.1.4 On 28 May 2024, the Public Protector's Investigation Team (the Investigation Team) issued a notice in terms of Rule 23(1) of the *Rules relating to Investigations by the Public Protector and Matters Incidental thereto, 2018* (the Rules) to Ms Philisiwe Mabuza (Ms Mabuza), Assistant Director of UI Beneficial Services, for the attention of Mr Mandla Sibanyoni (Mr Sibanyoni), the Chief Director: Provincial Operations, Mpumalanga at the Emalahleni Provincial Office, to determine the reasons for the rejection of the condonation of appeal and the cause of failure to approve the application.

- 6.1.5 On 6 June 2024, an email response was received from Ms Mabuza stating that the appeal remained refused in accordance with sections 16(1)(d) and (3) of the amended UI Act promulgated on 1 November 2019, which specifies that an unemployed contributor is entitled to unemployment benefits if they are capable of and available for work.
- 6.1.6 According to Ms Mabuza's response, the appeal was not considered because the Complainant was unable to work or be available for work due to being incarcerated at the time of contract termination. Therefore, even if a job opportunity had been available, the Complainant would not have been able to accept it. As a result, the appeal was rejected.
- 6.1.7 On 26 July 2024, the Investigation Team requested Ms Mabuza to advise on the condition under which the Department could consider approving the Complainant's application to be approved, given that it was submitted more than 12 months after the termination of his employment contract.
- 6.1.8 On 27 July 2024, a response email was received from the Unemployment Insurance Fund Administrator, Mr Matlading Nchabeleng (Mr Nchabeleng) from the Mpumalanga Provincial Office. He stated, *inter alia*, that:
- “Take note that on the matter of ID Number: ----- ---- ---, Mathebula Dumisani Gordon, the Fund is waiting for a confirmation letter from the court which indicates the dates on which the mentioned client was imprisoned and also indicates the final outcome of his matter. His appeal remains refused until the Fund is furnished with the mentioned document.” (sic)*
- 6.1.9 On 29 July 2024, the Investigation Team submitted the Complainant's charge sheet obtained from the Court, dated 29 July 2024. The charge sheet revealed

that the Complainant was arrested on 8 January 2021 and remained in custody until he was acquitted, on 24 May 2023.

Further submission from the Complainant, dated 4 June 2025

6.1.10 A letter submitted by the Complainant on 4 June 2025 states, amongst other things, that:

6.1.10.1 He received his UIF benefits claim amounting to sixteen thousand four hundred and thirty-nine rand and sixty-eight cents (R16,439.68) on 26 September 2024. He expressed gratitude to the Investigation Team for their assistance in resolving his complaint.

6.1.11 The Complainant also provided a copy of the bank statement showing a payment of R16,439.68 was made on 26 September 2024.

Interview conducted by the Investigation Team

6.1.12 An interview was conducted with Ms Mabuza on 11 June 2025, during which she stated among other things, that:

6.1.12.1 Section 17(2) of the UI Act, states that the application must be made within twelve (12) months from the date of the termination of the contract of employment. However, the Commissioner may accept applications made after the twelve-month period has expired "*on just cause shown.*" The Commissioner has the discretion to accept applications beyond the twelve-month limit if a valid reason is presented;

- 6.1.12.2 The decision of the appeal committee to approve or reject an application is based on the justification provided, referred to as "*just cause shown*," as there are no specific guidelines or criteria beyond the committee's discretion; and
- 6.1.12.3 The Department does not provide documentation or guidance to help applicants understand what constitutes just cause for an appeal application. The "*Know Your Rights and Obligations Guide*" aims to offer guidance to applicants on the appeal process.
- 6.1.12.4 Ms Mabuza further indicated that the Department is currently reviewing the outdated UIF Standard Operating Procedure and Handling Appeal Applications.

Additional response from the Department, dated 23 June 2025

- 6.1.13 Mr Mandla Sibanyoni, the Chief Director: Provincial Operations, Mpumalanga, submitted another response dated 23 June 2025 stating that:
- 6.1.13.1 The Complainant's claim was submitted on 20 June 2023 and was rejected under section 17(2) of the UI Act, citing that the client did not apply within 12 months from the date of termination of employment;
- 6.1.13.2 The Complainant submitted an appeal stating that he applied late because he was incarcerated. The appeal was rejected because he did not meet the qualifying condition of the UI Act, which states that the applicant should be capable and available for work;
- 6.1.13.3 The Complainant was not capable and available for work during the period for which the UI benefits were to be paid (from the date after the termination of employment). The Complainant's employment termination date was 11

November 2021, and he was arrested on 11 January 2021, as per the Public Protector's notice;

6.1.13.4 The Complainant's appeal was reviewed after the charge sheet dated 29 July 2024 was received from the Court, setting the judgment from the Court that the applicant was found not guilty;

6.1.13.5 According to the charge sheet, the Complainant was wrongfully arrested. If he had not been wrongfully arrested, he would have been capable and available for work and would have been able to apply on time; and

6.1.13.6 The Complainant's claim was reviewed, approved, and a one-time payment of sixteen thousand four hundred and thirty-nine rand and sixty-eight cents (R16,439.68) was processed on 19 September 2024, and the claim was paid in full.

Further engagement with the Department, dated 16 September 2025

6.1.14 On 16 September 2025, the Investigation Team sent a formal letter to the Department requesting additional information regarding the Standard Operating Procedures, Operating Guide, and any legislative documents pertaining to UIF Operations.

6.1.15 A response letter dated 29 September 2025, was received from Mr Sibanyoni, stating, *inter alia*, as follows:

6.1.15.1 The Department disagrees with the Complainant's allegations of a failure to process the appeal after the submission of the notice of appeal and proof of incarceration.

-
- 6.1.15.2 On 15 September 2023, the Department received a notice of appeal from the Complainant against the decision of the claims officer at the Mbombela Labour Centre;
- 6.1.15.3 The appeal was processed and rejected (not upheld) due to a lack of a clear explanation of the appellant's disagreement with the claims officer's decision (late application) and relevant supporting documents;
- 6.1.15.4 The Complainant's appeal did not meet the qualifying criteria of the UI Act, which requires the applicant to be registered as a work seeker and be capable and available for work during the claim approval period. The Complainant was notified of this decision on 26/04/2024;
- 6.1.15.5 On 29 July 2024, the Department received a "proof of verdict" obtained by the Investigation Team from the Court, which was reviewed as a just cause submission since it indicated a court verdict of not guilty. The application date was backdated to one day after the arrest/termination from work and subsequently approved on 16 September 2024. A payment of R16,439.68 was processed and transferred to Mr Mathebula's bank account upon receipt of the Continuation of Benefits request from the Complainant;
- 6.1.15.6 On 10 September 2025, the Department submitted the "Know Your UIF Rights" guide, which outlines the procedure for lodging applications and late applications; and
- 6.1.15.7 The UIF Standard Operating Guide/Procedure Version 18, which the Department is currently using or implementing to address UIF claims, is under review and has not yet been finalised.

Applicable Legal framework

Constitution of the Republic of South Africa, 1996

6.1.16 Section 195(1) of the Constitution provides, amongst others, that:

“Public Administration must be governed by the democratic values and principles enshrined in the Constitution, including the following principles:

- (a) A high standard of professional ethics must be promoted and maintained;*
- (b) ...;*
- (c) ...;*
- (d) ...;*
- (e) ...;*
- (f) Public administration must be accountable; and*
- (g) Transparency must be fostered by providing the public with timely, accessible and accurate information”.*

6.1.17 Section 237 requires that all constitutional obligations must be performed diligently and without delays.

Unemployment Insurance Funds Act, 2001 (as amended)

6.1.18 Section 17 which deals with applications for unemployment benefits, provides, among other things that:

- (1) “.....;*

-
- (2) *The application must be made within 12 months of the termination of the contract of employment, but the Commissioner may accept an application made after the 12-month time limit has expired on just cause shown.*
- (3) *The claims officer must investigate the application and, if necessary, request further information regarding the applicant's continued unemployment.*
- (4) *If the application complies with the provisions of this Chapter, the claims officer must—*
- (a) approve the application;*
 - (b) determine—*
 - (i) the amount of benefits for purposes of section 13(3);*
 - (ii) the benefits the applicant is entitled to in terms of section 13(4);*
 - (c) authorize the payment of the benefits; and*
 - (d) stipulate when the applicant must report to the employment office for purposes of confirming that the contributor—*
 - (i) has been unemployed for the period in respect of which the unemployment benefit has been claimed; and*
 - (ii) is capable of and available for work”*

Unemployment Insurance Fund, Business Operations Standard Operating Guide; SOG version 18, 2019

6.1.19 Section 19 of the Business Operations Standard Operating which deals with appeal process provides the manual steps to be followed when submitting the application as follows;

- (a) “Appellant completes UI 12 – Request for Notice of appeal*
- (b) UI 12 request form to be signed by the Appellant*
- (c) Supporting documents to be attached (where applicable)*
- (d) Form must have a date of receipts stamp*

Client Services Officer check for correctness and Completeness”

The White Paper on Transforming Public Service Delivery (“Batho Pele Principles”), 1997

6.1.20 Section 4(5) of the White Paper on Transforming Public Service Delivery which deals with providing more and better information provides amongst others, that:

“Information is one of the most powerful tools at the customer’s disposal in exercising his or her right to good service. National and provincial departments must provide full, accurate and up-to-date information about the services they provide, and who is entitled to them. This must be done actively, in order to ensure that information is received by all those who need it, especially those who have previously been excluded from the provision of public services. The consultation process should also be used to find out what customers and potential customers need to know, and then to work out how, where and when the information can best be provided.”

Analysis

- 6.1.21 The evidence at the Public Protector's disposal indicates that the Complainant submitted his application for UIF benefits outside the 12-month period prescribed by section 17 of the Unemployment Insurance Fund. The delay in submission arose from the fact that the Complainant was incarcerated during the period within which the claim should have been lodged.
- 6.1.22 The investigation further established that the Complainant was acquitted on 24 May 2023 and subsequently lodged an appeal against the rejection of his UIF benefits claim on 15 September 2023. His appeal was dismissed on the basis that he did not meet the requirements of the Unemployment Insurance Act, which obliges a claimant to be capable of and available for work during the period for which the claim is considered.
- 6.1.17 During the investigation, it was noted that the Department failed to conduct a comprehensive inquiry into the circumstances surrounding the Complainant's detention in a Correctional Centre and the outcome of his incarceration, especially considering his acquittal. In assessing the Complainant's appeal application, the Department only considered section 17(4)(d)(i)&(ii) of the UI Act, which mandates that the applicant must be unemployed and available for work while claiming unemployment benefits.
- 6.1.18 This criterion should be aligned with the requirement set out in section 17(3) of the UI Act, which requires the claims officer to conduct a thorough investigation of the application and seek additional information regarding the applicant's continuous unemployment. However, the claims officer failed to enquire about the impact of the Complainant's detention and the Court's verdict of not guilty, which hindered his ability to meet the 12-month

application deadline. The Complainant's incarceration prevented him from working or pursuing job opportunities.

- 6.1.19 The Public Protector acknowledges that following the submission of the court verdict of not guilty, the Department reviewed the Complainant's appeal and deemed his incarceration a valid justification for the late submission of his UI benefits claim application. Consequently, the Department backdated the application to one day after the Complainant's arrest/termination from work and approved it on 16 September 2024. A payment of R16,439.68 was then processed to the Complainant's bank account. However, these steps were implemented only after the intervention by the Public Protector.
- 6.1.20 The prolonged delay resulted in significant prejudice to the Complainant. Absent the Public Protector's intervention, the Complainant's UIF benefit application would not have been reviewed or approved, notwithstanding his acquittal and confirmation by the Court that he was not guilty of the charges.
- 6.1.21 The Public Protector further notes that the challenges to thoroughly evaluate the Complainant's appeal application arise from the Department's failure to adequately review its guiding documents, such as the Unemployment Insurance Fund Business Operations Standard Operating Guide (SOG version 18, 2019), regulations, practice notes, or circulars. This lack of review hinders its ability to interpret the criteria for just cause under section 17 of the UI Act and address current trends to prevent future recurrence.
- 6.1.22 The Department's lack of thorough review of its guiding documents has led to a lack of clarity in explaining the processing of applications where just cause is applicable and the criteria for determining just cause. This oversight contravenes the principles and values set out in section 195(1) of the Constitution, particularly the obligation to promptly provide the public with

accurate information in a transparent manner, and the *Batho Pele* principles which obliges public service to provide citizens with complete and accurate information about their entitlement to services.

- 6.1.23 In the absence of clear guidelines on what constitutes "just cause," future applications submitted after 12 months could face rejection. The Department lacks defined criteria for determining "just cause" and the steps and procedures it follows to adjudicate applications of this nature. Even more concerning, is the Department's acknowledgement that no specific guidelines or criteria exist to the determination of "just cause," except the committee's discretion. This may lead to unfettered exercise of the discretion on what constitutes just cause, which may result in arbitrary and inconsistent decisions and lack of accountability, as decision-makers cannot be held accountable for irrational decisions where no standard exists to measure it against.
- 6.1.24 Following the intervention by the Public Protector, the Department has undertaken to review its guiding documents, such as SOPs, guidelines, or circulars, to enhance the interpretation of just cause in terms of the UI Act. Once the review is complete, the Department will implement and train UI operations officials to prevent a similar incident from recurring.
- 6.1.17 In this regard, the Department not only has a legal obligation to process UIF applications, adjudicate appeal applications, but to take an educative and preventative approach. This involves raising awareness among the public, private sectors, and employers about the Department's services and adjudication process for UIF applications to promote transparency and fairness for all applicants.

7. INTERVENTION AND REMEDY

7.1 Upon receiving notification from the Public Protector on 28 May 2024 and after submitting the court judgment on 29 July 2024, the Department reviewed the Complainant's appeal application and approved the UIF benefits payments for the Complainant on 16 September 2025, thereby effectively resolving the complaint.

7.2 In this case, the Department's handling of the appeal application, following a comprehensive review of the circumstances constituting just cause, demonstrated accountable and effective intervention to remedy the prejudice experienced by the Complainant.

7.3 The Department is currently in the process of reviewing its SOPs, guidelines, and circulars to improve the UI Act and provide clearer definitions of just cause as outlined in Section 17 of the UI Act. These updates will provide detailed guidance on processing UIF benefits appeal applications.

7.4 In light of these developments, the Public Protector acknowledges the Department's intervention to prevent any further harm to the Complainant. The complaint has been resolved, and an appropriate remedy has been provided in accordance with section 182(1)(c) of the Constitution.

8. OBSERVATIONS

8.1 Having regard to the evidence and the regulatory framework determining the standard that should have been complied with by the Department and the impact thereof on good administration, the Public Protector makes the following observations in terms of section 8(1) of the Public Protector Act:

-
- 8.1.1 The challenges to thoroughly evaluate the Complainant's appeal application arise from the Department's failure to adequately review its guiding documents, such as the Unemployment Insurance Fund Business Operations Standard Operating Guide (SOG version 18, 2019), regulations, practice notes, or circulars.
- 8.2 This lack of review hinders the ability of the functionaries of the Department to interpret the criteria for just cause under section 17 of the UI Act and address current trends to prevent future recurrence.
- 8.3 The Department's lack of thorough review of its guiding documents has led to a lack of clarity in explaining the processing of applications where just cause is applicable and the criteria for determining just cause. This oversight contravenes the principles and values set out in section 195(1) of the Constitution, particularly the obligation to promptly provide the public with accurate information in a transparent manner, and the *Batho Pele* principles which obliges public service to provide citizens with complete and accurate information about their entitlement to services.
- 8.4 The Department's reliance on the committee's discretion to determine "just cause" may lead to unfettered exercise of the discretion on what constitutes just cause, which may result in arbitrary and inconsistent decisions and lack of accountability, as decision-makers cannot be held accountable for irrational decisions where no standard exists to measure it against.
- 8.5 In the absence of clear guidelines on what constitutes "just cause," future applications submitted after 12 months could face rejection. The Department lacks defined criteria for determining "just cause" and the steps and procedures it follows to adjudicate applications of this nature.

9. RECOMMENDATIONS

Having identified the underlying root causes which gave rise to the complaint and with the aim to formulate and establish corrective actions to at least mitigate, if not eliminate, those root causes and to produce significant long-term improvements, the Public Protector recommends that:

The Commissioner of the Unemployment Insurance Fund

- 9.1 **Within sixty (60) calendar days** from the date of the report, review its SOPs, guidelines, and circulars to improve the UI Act and provide clearer definitions of just cause as outlined in Section 17 of the UI Act. The review should aim to provide detailed guidance on processing UIF benefits appeal applications.
- 9.2 **Within sixty (60) calendar days** from the date of the adoption of its reviewed SOPs, guidelines and circulars, train UI operations officials to prevent future recurrence of a similar incident.

10. MONITORING

- 10.1 The Public Protector will monitor the review and adoption of the SOPs, guidelines, and circulars to provide clear guidance to interpret the criteria for just cause under section 17 of the UI Act and to improve the interpretation of the UI Act, as well as the training of officials, until such time as it is fully implemented by the UI Fund.
- 10.2 The Commissioner must provide monthly progress reports to the Public Protector until such time as the Public Protector's recommendations are fully implemented.

ADV KHOLEKA GCALEKA
PUBLIC PROTECTOR
REPUBLIC OF SOUTH AFRICA
DATE: _____

Assisted by: Mr Talifhani Madi
Senior Investigator, Mpumalanga